

C-1

DEPARTMENT OF HEALTH SERVICES

Title 9, Chapter 7

Amend: R9-7-102, R9-7-433, R9-7-443, R9-7-445, R9-7-448, R9-7-454, R9-7-523,
R9-7-611.01, R9-7-702, R9-7-710, R9-7-711, R9-7-712, R9-7-723, R9-7-727, R9-7-744,
R9-7-745, R9-7-746, R9-7-904, R9-7-1512, R9-7-1723, R9-7-1927, R9-7-1957



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

MEETING DATE:

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

FROM: Council Staff

DATE: October 11, 2022

SUBJECT: DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 7

Amend: R9-7-102, R9-7-433, R9-7-443, R9-7-445, R9-7-448, R9-7-454, R9-7-523, R9-7-611.01, R9-7-702, R9-7-710, R9-7-711, R9-7-712, R9-7-723, R9-7-727, R9-7-744, R9-7-745, R9-7-746, R9-7-904, R9-7-1512, R9-7-1723, R9-7-1927, R9-7-1957

Summary:

This expedited rulemaking from the Department of Health Services (Department) relates to Title 9, Chapter 7 regarding Radiation Control.

For Title 9, Chapter 7, the Department is amending these rules to be in compliance with the U.S. Nuclear Regulatory Commission and ARS § 30-656. The U.S. Nuclear Regulatory Commission periodically issues changes, denoted as Regulation Toolbox: Review Summary Sheets for Regulation Amendments (RATS IDs), that are required to be incorporated by States. Several RATS IDs have not yet been incorporated into Arizona's rules related to radioactive material. After receiving an exception from the rulemaking moratorium established by Executive Order 2022-01, the Department is revising the rules in A.A.C. Title 9, Chapter 7, by expedited rulemaking to make changes to conform to the RATS IDs 2020-1, 2020-2, 2020-3, 2021-1, 2021-2, and 2022-1, and make corresponding changes elsewhere in the rules.

For clarification purposes, council staff asked the Department to elaborate in the NFER why subsection 8 was not applicable and the Department declined. Council staff encourages the

Council to follow up with the Department representative if additional details are needed regarding these items.

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

Yes. The Department states that the rules satisfy the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A), (3), (4), and (6).

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

Yes, the Department cites to both general and specific statutory authority.

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 indicates they did not receive any comments on the proposed rules.

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 between the proposed expedited rulemaking and the 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 rules are not more stringent than federal law.

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

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

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 any study for this rulemaking.

9. Conclusion

As mentioned above, the Department is seeking to amend the rules to comply with the U.S. Nuclear Regulatory Commission and ARS § 30-656.

If approved, this rulemaking would be effective immediately upon the Department filing the Notice of Final Expedited Rulemaking and Certificate of Approval with the Secretary of State. The Department meets the criteria for Expedited Rulemaking pursuant to A.R.S. § 41-1027(A)(3), (4), and (6). Council staff recommends approval of this expedited rulemaking.



ARIZONA DEPARTMENT OF HEALTH SERVICES

POLICY & INTERGOVERNMENTAL AFFAIRS

September 19, 2022

VIA EMAIL: 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. 7, Expedited Rulemaking

Dear Ms. Sornsins:

1. The close of record date: September 19, 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 adopts regulations of the U.S. Nuclear Regulatory Commission, related to the control of radioactive material, in a manner that is consistent with federal regulations and the Agreement negotiated between the U.S. Atomic Energy Commission (now U.S. Nuclear Regulatory Commission) and the Governor of Arizona in March 1967 under A.R.S. § 30-656. In addition, the rulemaking makes other changes to reduce the administrative burden of the rules by clarifying existing language in the rules, correcting cross-references, and making the rules easier to understand. Thus, the rulemaking complies with criteria for expedited rulemaking under A.R.S. § 41-1027(A)(3), (4), and (6).
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. 7 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
 - c. Current rule

The Department is requesting that the rules be heard at the Council meeting on November 1, 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.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephanie Elzenga', with a stylized, looping flourish at the end.

Stephanie Elzenga
Director's Designee

SE:rms

Enclosures

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

PREAMBLE

<u>1.</u>	<u>Article, Part, of Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
	R9-7-102	Amend
	R9-7-433	Amend
	R9-7-443	Amend
	R9-7-445	Amend
	R9-7-448	Amend
	R9-7-454	Amend
	R9-7-523	Amend
	R9-7-611.01	Amend
	R9-7-702	Amend
	R9-7-710	Amend
	R9-7-711	Amend
	R9-7-712	Amend
	R9-7-723	Amend
	R9-7-727	Amend
	R9-7-744	Amend
	R9-7-745	Amend
	R9-7-746	Amend
	R9-7-904	Amend
	R9-7-1512	Amend
	R9-7-1723	Amend
	R9-7-1927	Amend
	R9-7-1957	Amend
<u>2.</u>	<u>Citations to the agency's statutory authority for the rulemaking to include the authorizing statute (general) and the implementing statute (specific):</u>	
	Authorizing Statutes: A.R.S. §§ 30-654(B)(5) and 36-136(G)	

Implementing Statutes: A.R.S. §§ 30-654, 30-656, 30-657, 30-671 through 30-672.01, 30-681 through 30-689, and 30-721

3. The effective date of the rules:

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 rule:

Notice of Rulemaking Docket Opening: 28 A.A.R. 2125, August 26, 2022

Notice of Proposed Expedited Rulemaking: 28 A.A.R. 2259, September 9, 2022

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

Name: Brian D. Goretzki, Chief, Bureau of Radiation Control

Address: Arizona Department of Health Services
Public Health Licensing Services
4814 South 40th Street
Phoenix, AZ 85040

Telephone: (602) 255-4840

Fax: (602) 437-0705

E-mail: Brian.Goretzki@azdhs.gov

or

Name: Stephanie Elzenga, Interim Office 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: Stephanie.Elzenga@azdhs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41-1027, to include an explanation about the rulemaking:

Arizona Revised Statutes (A.R.S.) § 30-654(B)(5) requires the Arizona Department of Health Services (Department) to make rules deemed necessary to administer A.R.S. Title 30, Chapter 4, Control of Ionizing Radiation. The Department has adopted these rules in A.A.C. Title 9, Chapter 7. Arizona is an Agreement State by the Document negotiated between the U.S. Atomic Energy Commission (now U.S. Nuclear Regulatory Commission) and the Governor of Arizona in March

of 1967 under A.R.S. § 30-656. In order to remain in compliance with the Agreement, Arizona must adopt regulations related to the control of radioactive material in a manner that is consistent with federal regulations. The U.S. Nuclear Regulatory Commission periodically issues changes, denoted as Regulation Toolbox: Review Summary Sheets for Regulation Amendments (RATS IDs), that are required to be incorporated by Agreement States. Several RATS IDs have not yet been incorporated into Arizona's rules related to radioactive material. After receiving an exception from the rulemaking moratorium established by Executive Order 2022-01, the Department is revising the rules in A.A.C. Title 9, Chapter 7, by expedited rulemaking to make changes to conform to the RATS IDs 2020-1, 2020-2, 2020-3, 2021-1, 2021-2, and 2022-1, and make corresponding changes elsewhere in the rules. The Department believes that these changes are consistent with the purpose for A.R.S. § 41-1027 in that this rulemaking does not increase the cost of regulatory compliance, does not increase a fee, or reduce a procedural right of regulated persons, and either adopts or incorporates by reference, without material change, federal statutes and regulations, or clarifies language of a rule without changing its effect.

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

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

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

Not applicable

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

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

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

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

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

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

11. Agency's summary of the 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:

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

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

The rules are not more stringent than federal law. Applicable federal law includes: 10 CFR 20.1906; 10 CFR 20.2201; 10 CFR 20.2202; 10 CFR 20.2207; 10 CFR 30.50; 10 CFR 34.47; 10 CFR 34.83; 10 CFR 35.50; 10 CFR 35.55; 10 CFR 35.57; 10 CFR 35.390; 10 CFR 35.490; 10 CFR 35.690; 10 CFR 35.3045; 10 CFR 35.3047; 10 CFR 37.27; 10 CFR 39.65; Appendix A to 10 CFR part 37; 10 CFR 71.4; 10 CFR 71.97.

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

No such analysis was submitted.

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

- In R9-7-102: 21 CFR 1020.40, revised April 1, 2019, in the definition of “Certifiable cabinet x-ray system”; 21 CFR 1010.2 and 21 CFR 1020.40, revised April 1, 2019, in the definition of “Certified cabinet x-ray system”; 40 CFR 190, revised December 1, 1979, and 40 CFR 191, revised December 20, 1993, in the definition of “Generally applicable environmental radiation standards”; 49 CFR 173.403, revised January 8, 2015, in the definition of “Nuclear

waste”; 10 CFR 35.50(a) or (c)(1) and 10 CFR 35.59, revised March 27, 2006, in the definition of “Radiation Safety Officer”; and 49 CFR 107, revised April 19, 2017; 49 CFR 171, revised April 19, 2017; 49 CFR 172, revised November 23, 2015; 49 CFR 173, revised March 6, 2019; 49 CFR 174, revised February 28, 2019; 49 CFR 175, revised October 18, 2018; 49 CFR 176, November 7, 2018; 49 CFR 177, revised September 25, 2013; 49 CFR 178, revised November 7, 2018; 49 CFR 179, revised September 25, 2018; and 49 CFR 180, revised March 30, 2017, in the definition of “Regulations of the U.S Department of Transportation.”

- In R9-7-433: 10 CFR 71.4, January 1, 2005, in subsection (A); 49 CFR 172.403 and 172.436 through 172.440, October 1, 2004, in subsection (B)(1).
- In R9-7-454: 10 CFR 20.2207(a) through (e), revised August 9, 2021, and 10 CFR 20.2207(f), revised January 1, 2008, in subsection (A); 10 CFR 20.2207(f), revised August 9, 2021, in subsection (B); 10 CFR 20.2207(g), revised August 9, 2021, in subsection (C).
- In R9-7-702: 21 CFR 310.3(c) and 21 CFR 600.3, revised April 1, 2006, in the definition of “Radioactive drug;” 21 CFR 361.1, revised April 1, 2006, in the definition of “Radioactive Drug Research Committee” (RDRC).
- In R9-7-723: 10 CFR 35.392, revised January 1, 2013, in subsection (B); 10 CFR 35.394, revised January 1, 2013, in subsection (C); 10 CFR 35.396, revised January 1, 2013, in subsection (D).
- In R9-7-904: Radiation Oncology in Integrated Cancer Management, Report of the Inter-Society Council for Radiation Oncology, December 1991, in subsection (G).
- In R9-7-1512: 10 CFR 71.97, revised January 1, 2015, in subsection (A)
- In R9-7-1927: 10 CFR 73, revised December 12, 2018, in subsection(A)(4); and 10 CFR 37.7, revised November 29, 2019, in subsection (C)(1).
- In R9-7-1957: 10 CFR part 73, revised December 12, 2018, in subsection (A)(4); 10 CFR 37.7, revised November 29, 2019, in subsection (C)(1).

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 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

ARTICLE 1. GENERAL PROVISIONS

Section

R9-7-102. Definitions

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION

Section

R9-7-433. Procedures for Receiving and Opening Packages

R9-7-443. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation

R9-7-445. Notification of Incidents

R9-7-448. Additional Reporting

R9-7-454. Nationally Tracked Sources

ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY

Section

R9-7-523. Personnel Monitoring

ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS

Section

R9-7-611.01. Electronic Brachytherapy to Deliver Interstitial and Intracavitary Therapeutic Radiation Dosage

ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL

Section

R9-7-702. Definitions

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

R9-7-711. Authorized Medical Physicist Training

R9-7-712. Authorized Nuclear Pharmacist Training

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

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

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

R9-7-745. Report and Notification of a Medical Event

R9-7-746. Report and Notification of a Dose to an Embryo, Fetus, or Nursing Child

ARTICLE 9. PARTICLE ACCELERATORS

Section

R9-7-904. Registration of Particle Accelerators Used in the Practice of Medicine

ARTICLE 15. TRANSPORTATION

Section

R9-7-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste

ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES

Section

R9-7-1723. Personnel Monitoring

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

Section

R9-7-1927. Requirements for Criminal History Records Checks of Individuals Granted Unescorted

Access to Category 1 or Category 2 Quantities of Radioactive Material

R9-7-1957. Reporting of Events

ARTICLE 1. GENERAL PROVISIONS

R9-7-102. Definitions

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

“A1” means the maximum activity of special form radioactive material permitted in a type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A.

“A2” means the maximum activity of radioactive material, other than special form radioactive material, low specific activity (LSA) material, and surface contaminated object (SCO) material, permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedure prescribed in 10 CFR 71, Appendix A.

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

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

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

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

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

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

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

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

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

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

That an individual present in the area without respiratory protective equipment could

exceed, during the hours an individual is pre-sent in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

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

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

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

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

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

“Associate Radiation Safety Officer” means an individual who:

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

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

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

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

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

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

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

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

A permit issued by a NRC master material license broad scope medical use permittee.
“Authorized nuclear pharmacist” means a pharmacist who meets the requirements in R9-7-712;
or is:

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

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

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

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

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

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

“Authorized user” means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; or is identified as an authorized user on: The Department, NRC, or another Agreement State license that authorizes the medical use of radioactive material;

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

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

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

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

“Background radiation” means radiation from cosmic sources; not technologically enhanced naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of

nuclear explosive devices or from past nuclear accidents, such as Chernobyl, that contribute to background radiation and are not under the control of a licensee. "Background radiation" does not include sources of radiation regulated by the Department.

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

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

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

"Byproduct material" means:

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

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

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

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

"Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar

quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. A licensee or registrant shall not change the method of determining calendar quarters for purposes of this Chapter except at the beginning of a calendar year.

“Calibration” means the determination of:

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

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

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

“Certifiable cabinet x-ray system” means an existing uncertified x-ray system that meets or has been modified to meet the certification requirements specified in 21 CFR 1020.40, revised April 1, 2019, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

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

“Certificate of Compliance” (CoC) means the certificate issued by the NRC under 10 CFR 71, Subpart D, which authorizes the design of a package for the transportation of radioactive material.

“Certified cabinet x-ray system” means an x-ray system that has been certified in accordance with 21 CFR 1010.2, as being manufactured and assembled on or after April 10, 1975, in accordance with the provisions of 21 CFR 1020.40, both sections revised April 1, 2019, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

“CFR” means Code of Federal Regulations.

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

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

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

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

“Committed effective dose equivalent” (HE,50) is the sum of the products of the weighting

factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($HE,50 = S wT,HT,50$).

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

“Contamination” means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm² (1×10^{-5} μ Ci/cm²) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm² (1×10^{-6} μ Ci/cm²) for all other alpha emitters.

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

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

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

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

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

“Deep-dose equivalent” (Hd), which applies to external whole body exposure, is the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm²).

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

“Discrete source” means a radionuclide that has been processed so that its concentration within a

material has been purposely increased for use for commercial, medical, or research activities. “Dose” is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, “radiation dose” is an equivalent term. “Dose equivalent” (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

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

“Dosimeter” (See “Individual monitoring device”)

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

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

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

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

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

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

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

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

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

“Explosive material” means any chemical compound, mixture, or device which produces a

substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

“Exposure” means:

Being subjected to ionizing radiation or radioactive materials.

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

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

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

“Extremity” means the hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

“Fail-safe characteristics” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

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

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

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

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

“Generally applicable environmental radiation standards” means standards issued by the U.S. Environmental Protection Agency (EPA), 40 CFR 190, revised December 1, 1979, and 40 CFR 191, revised December 20, 1993, incorporated by reference, and available under R9-7-101, under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material. This incorporated material contains no future editions or amendments.

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

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

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

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

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

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

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

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

“Individual” means any human being.

“Individual monitoring” means the assessment of:

Dose equivalent

By the use of individual monitoring devices, or

By the use of survey data, or

Committed effective dose equivalent

By bioassay; or

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

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

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

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

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

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

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

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

“Irradiate” means to expose to radiation.

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

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

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

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

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

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

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

“Limits” (See “Dose limits”)

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

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

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

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

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

High-level waste, such as irradiated reactor fuel, liquid waste from reprocessing

irradiated reactor fuel, or solids into which any such liquid waste has been converted;

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

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

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

The LSA material must be in one of three groups:

LSA—I.

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

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

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

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

LSA—II.

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

Other radioactive material in which the activity is distributed throughout and the

estimated average specific activity does not exceed 10^{-4} A2/g for solids and gases, and 10^{-5} A2/g for liquids.

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

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

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

The estimated average specific activity of the solid, excluding any shielding material, does not exceed 2×10^{-3} A2/g.

“Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material or exceeding four times Type B quantities as sealed sources but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4.

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

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

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

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

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

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

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

Prefix	Multiplier Symbol	Value
eka	E	10 ¹⁸

peta	P	10^{15}
tera	T	10^{12}
giga	G	10^9
mega	M	10^6
kilo	k	10^3
milli	m	10^{-3}
micro	u	10^{-6}
nano	n	10^{-9}
pico	p	10^{-12}
femto	f	10^{-15}
atto	a	10^{-18}

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

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

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

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

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

“Nuclear waste” means any highway route controlled quantity (defined in 49 CFR 173.403, revised January 8, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments) of source, byproduct, or special nuclear material required to be in NRC-approved packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Additional requirements associated with transportation of radioactive material can be found in Article 15.

“Occupational dose” means the dose received by an individual in the course of employment in which the individual’s assigned duties involve exposure to sources of radiation, whether in the possession of a licensee, registrant, or other person. Occupational dose does not include a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in

accordance with R9-7-717, voluntary participation in a medical research program, or as a member of the public.

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

“Ophthalmic physicist” means an individual who:

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

Is identified as an ophthalmic physicist on a:

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

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

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

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

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

“Particle accelerator” (See “Accelerator”)

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

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

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

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

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

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

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

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

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

“Preceptor” means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an

authorized nuclear pharmacist, a Radiation Safety Officer, or an Associate Radiation Safety Officer.

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

“Promptly” means with little or no delay.

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

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

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

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

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

“Quarter” (See “Calendar quarter”)

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

“Radiation” means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed

electrons, high-speed protons, and other particles capable of producing ions. For purposes of these rules, this term is synonymous with ionizing radiation. Equivalent terminology for non-ionizing radiation is defined in Article 14.

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

“Radiation dose” (See “Dose”)

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

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

For license conditions:

Meets the requirements in 10 CFR 35.50(a) or (c)(1), revised July 16, 2018, and 10 CFR 35.59, revised March 27, 2006, incorporated by reference, available under R9-7-10, and containing no future editions or amendments; or

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

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

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

For license conditions:

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

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

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

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

registration conditions.

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

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

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

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

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

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

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

“Regulations of the U.S. Department of Transportation” means the federal regulations in 49 CFR 107, revised April 19, 2017; 49 CFR 171, revised April 19, 2017; 49 CFR 172, revised November 23, 2015; 49 CFR 173, revised March 6, 2019; 49 CFR 174, revised February 28, 2019; 49 CFR 175, revised October 18, 2018; 49 CFR 176, November 7, 2018; 49 CFR 177, revised September 25, 2013; 49 CFR 178, revised November 7, 2018; 49 CFR 179, revised September 25, 2018; and 49 CFR 180, revised March 30, 2017, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.

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

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

“Restricted area” means any area where the licensee or registrant controls access for purposes of

protecting individuals from exposure to radiation and radioactive material. A restricted area does not include any areas used for residential quarters, although a room or separate rooms in a residential building may be set apart as a restricted area.

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

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

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

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

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

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

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

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

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

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

“Source material” means:

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

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

Source material does not include special nuclear material.

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

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

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

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

The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and
It satisfies the test requirements specified in 10 CFR 71.75. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Uranium - natural, depleted, enriched.”

Natural uranium means uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent

uranium-235, and the remainder by weight essentially uranium-238).

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

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

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

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

“Waste” (See “Low-level waste”)

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

“Week” means seven consecutive days starting on Sunday.

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

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

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

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

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

“Worker” means any individual engaged in work under a license or registration issued by the

Department and controlled by employment or contract with a licensee or registrant.

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

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

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

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

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION

R9-7-433. Procedures for Receiving and Opening Packages

- A.** Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 10 CFR 71.4, January 1, 2005, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material incorporated by reference contains no future editions or amendments. The licensee shall make arrangements to receive:
1. The package when the carrier offers it for delivery; or
 2. The notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.
- B.** Each licensee shall:
1. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in 49 CFR 172.403 and 172.436 through 172.440, October 1, 2004, which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material incorporated by reference contains no future editions or amendments. The licensee shall test the package for radioactive contamination, unless the package contains only radioactive material in the form of gas or in special form, as defined in R9-7-102; and
 2. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in subsection (B)(1), for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, defined in 10 CFR 71, and referenced in subsection (A); and
 3. Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.
- C.** The licensee shall perform the monitoring required by subsection (B) as soon as practical after receipt of the package, but not later than three hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than three hours from the beginning of the next working day if it is received after working hours.
- D.** The licensee shall immediately notify by telephone the final delivery carrier and the Department by telephone at 480-202-4982:

1. ~~when~~ When:

- ~~1-a.~~ 1-a. Removable radioactive surface contamination exceeds 22 dpm/cm² for beta-gamma emitting radionuclides or 2.2 dpm/cm² for alpha-emitting radionuclides, wiping a minimum surface area of 300 square centimeters (46 square inches), or the entire surface if less than 300 square centimeters (46 square inches); or
- ~~2-b.~~ 2-b. External radiation levels exceed the limits of 2 millisieverts (200 millirem) per hour; and

2. Include in the notification the following information:

- a. The caller's name, official title, and call back telephone number;
- b. The date and time of monitoring;
- c. A description of how the limits in subsection (D)(1) were exceeded, including the amount of radiation detected;
- d. The isotopes, quantities, and chemical and physical form of the licensed material in the package; and
- e. Any personnel radiation exposure data available.

E. Each licensee shall:

- 1. Establish, maintain, and retain written procedures for safely opening packages that contain radioactive material, and
- 2. Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.

F. Licensees transferring special form sources in vehicles owned or operated by the licensee to and from a work site are exempt from the contamination monitoring requirements of subsection (B) but are not exempt from the monitoring requirement in subsection (B) for measuring radiation levels that ensures that the source of radiation is still properly lodged in its shield.

R9-7-443. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation

A. Each licensee or registrant shall report to the Department by telephone, as specified in R9-7-448(C), as follows:

- 1. Immediately after it becomes known to the licensee that licensed radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C is stolen, lost, or missing under circumstances that indicate to the licensee that an exposure could result to individuals in unrestricted areas;
- 2. Within 30 days after it becomes known to the licensee that licensed radioactive material in

an aggregate quantity greater than 10 times the quantity specified in Appendix C is stolen, lost, or missing, and is still missing; and

3. Immediately after it becomes known to the registrant that a radiation machine is stolen, lost, or missing.
- B.** Each licensee or registrant required to make a report according to subsection (A) shall, within 30 days after making the telephone report, make a written report to the Department that contains the following information:
1. A description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model, serial number, type, and maximum energy of radiation emitted;
 2. A description of the circumstances under which the loss or theft occurred;
 3. A statement of disposition, or probable disposition, of the licensed or registered source of radiation;
 4. Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;
 5. Actions that have been taken, or will be taken, to recover the source of radiation; and
 6. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.
- C.** After filing the written report required in subsection (B), the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of the information.
- D.** The licensee or registrant shall provide the Department with the names of individuals who may have received an exposure to radiation as a result of an incident reported to the Department under subsection (B).

R9-7-445. Notification of Incidents

- A.** Immediate notification: Each licensee or registrant shall immediately report to the Department, as specified in R9-7-448(C), any event involving a radiation source that may have caused or threatens to cause any of the following conditions:
1. An individual to receive:
 - a. A total effective dose equivalent of 0.25 Sv (25 rem) or more;
 - b. A lens dose equivalent of 0.75 Sv (75 rem) or more; or
 - c. A shallow-dose equivalent to the skin or extremities of 2.5 Gy (250 rads) or

more; or

2. The release of radioactive material, inside or outside of a restricted area but not including a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure, so if an individual had been present for 24 hours, the individual could have received five times the annual limit on intake (~~this subsection do not apply to a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure~~).
- B.** Twenty-four hour notification: Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Department, as specified in R9-7-448(C), any event involving loss of control of a radiation source possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:
1. An individual to receive, in a period of 24 hours
 - a. A total effective dose equivalent exceeding 0.05 Sv (5 rem);
 - b. A lens dose equivalent exceeding 0.15 Sv (15 rem); or
 - c. A shallow-dose equivalent to the skin or extremities exceeding 0.5 Gy (50 rads);or
 2. The release of radioactive material, inside or outside of a restricted area but not including a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure, so, if an individual had been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit of intake (~~this subsection does not apply to a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure~~).
- C.** A licensee or registrant shall prepare any report filed with the Department according to this Section so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.
- ~~**D.** A licensee or registrant shall report to the Department by telephone in response to the requirements of this Section.~~
- E.D.** If the Department does not respond to the initial telephone call made according to subsection (A) or (B) and R9-7-448(C), the licensee or registrant shall report to the Department of Public Safety and continue with reasonable efforts to contact the Department Duty Officer until contact is made.
- ~~**E.E.**~~ The provisions of this Section do not apply to a dose that results from a planned special exposure, if the dose is within the limits for planned special exposures and reported according to R9-7-413(C).

R9-7-448. Additional Reporting

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

- C. Each licensee shall make reports ~~required by subsections (A) and (B) above~~ by telephone to the Department at 480-202-4982 and, ~~To to~~ to the extent that the information is available at the time of notification, include the following information ~~provided in these reports shall include~~:
1. The ~~callers's~~ caller's name, official title, and call back telephone number;
 2. A description of the event, including date and time;
 3. The exact location of the event;
 4. The isotopes, quantities, and chemical and physical form of the licensed material involved;
and
 5. Any personnel radiation exposure data available.
- D. Each licensee who makes a report required by subsection (A) or (B) shall submit to the Department a written follow-up report within 30 days of the initial report. Written reports prepared as required by other rules may be submitted to fulfill this requirement if the reports contain all of the required information in this subsection. The report shall include the following:
1. A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;
 2. The exact location of the event;
 3. The isotopes, quantities, and chemical and physical form of the licensed material involved;
 4. Date and time of the event;
 5. Corrective actions taken or planned and the results of any evaluations or assessments; and
 6. The extent of personnel exposure to radiation or to radioactive materials without identification of each exposed individual by name.
- E. Each licensee that makes a report required by subsection (A) or (B) shall submit a written follow-up report to the Department within 30 days after the initial report.

R9-7-454. Nationally Tracked Sources

- A. A licensee who manufactures, receives, transfers, disassembles, or disposes of a nationally tracked source shall complete and submit to the Nuclear Regulatory Commission's National Source Tracking System and the Department, a National Source Tracking Transaction Report that contains the information required in 10 CFR 20.2207(a) through (e), revised ~~January 1, 2008~~ August 9, 2021, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The report shall be submitted by the close of the next business day after the transaction using a reporting method specified in 10 CFR 20.2207(f), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

- B.** The initial National Source Tracking Transaction Report shall contain the information required in subsection (A), be submitted using a method specified in 10 CFR 20.2207(f) ~~and include the additional information required by 10 CFR 20.2207(h)(1) through (6), revised January 1, 2008~~ August 9, 2021, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C.** A licensee shall correct any error in previously filed National Source Tracking Transaction Reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction in accordance with 10 CFR 20.2207(g), revised ~~January 1, 2008~~ August 9, 2021, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- D.** A licensee who receives a nationally tracked sealed source shall not disassemble the source unless specifically authorized to do so by the Department.

ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY

R9-7-523. Personnel Monitoring

- A. A licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter ~~that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor~~. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarm rate meter is not required. A licensee shall:
1. Use a pocket dosimeter with a range from zero to 2 millisieverts (200 millirems). ~~The licensee shall~~ and ensure that each dosimeter is recharged at the start of each shift. Electronic ~~personal~~ personnel dosimeters are permitted in place of ion-chamber pocket dosimeters.;
 2. Assign a personnel dosimeter to each individual, who shall wear the assigned equipment.;
 3. Replace film badges at least monthly and ensure that all other personnel dosimeters that require replacement ~~are processed and evaluated by an accredited NVLAP processor and replaced at periods that do not exceed three months~~ least quarterly.; and
 4. Ensure that all personnel dosimeters are evaluated at least quarterly or promptly after replacement, whichever is more frequent.
 4. ~~After replacement, ensure that each personnel dosimeter is processed as soon as possible.~~
- B. A licensee shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic ~~personal~~ personnel dosimeters, at the beginning and end of each shift. The licensee shall maintain the records for at least three years after the Department terminates the license.
- C. A licensee shall check pocket dosimeters and electronic ~~personal~~ personnel dosimeters for correct response to radiation at periods that do not exceed 12 months. The licensee shall record the results of each check and maintain the records for three years after the dosimeter check is performed. The licensee shall discontinue use of a dosimeter if it is not accurate within plus or minus 20 percent of the true radiation exposure.
- D. If an individual's pocket dosimeter ~~has an~~ is found to be off-scale ~~reading~~, or the individual's electronic ~~personal~~ personnel dosimeter reads greater than 2 millisieverts (200 millirems), and the possibility of radiation exposure cannot be ruled out as the cause, a licensee shall ~~process~~ ensure that:

1. If the individual's personnel dosimeter requires processing, the personnel dosimeter is sent for processing and evaluation within 24 hours of after the suspect suspected exposure;
 2. If the individual's personnel dosimeter does not require processing, the evaluation of the personnel dosimeter is started within 24 hours after the suspected exposure;
 3. ~~The licensee shall not allow the~~ The individual is not allowed to resume work associated with ~~sources of radiation~~ licensed material until the individual's radiation exposure has been determined. ~~Using information from the dosimeter, by~~ the licensee's RSO or the RSO's designee; and
 4. ~~shall calculate the affected individual's cumulative radiation exposure as prescribed in Article 4 of this Chapter and include the~~ The results of this the determination in subsection (D)(2) is included in the personnel monitoring records maintained in accordance with subsection (B).
- E.** If the personnel dosimeter that is required by subsection (A) is lost or damaged, the licensee shall ensure that the worker ceases work immediately until the licensee provides a replacement personnel dosimeter that meets the requirements in subsection (A) and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of the lost or damaged personnel dosimeter. The licensee shall maintain a record of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged in accordance with subsection (B).
- F.** The licensee shall maintain dosimetry reports ~~received from the accredited NVLAP personnel dosimeter processor~~ in accordance with subsection (B).
- G.** For each alarm rate meter a licensee shall ensure that:
1. At the start of each shift, the alarm functions (sounds) properly before an individual uses the device;
 2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20 percent of the true radiation dose rate;
 3. A special means is necessary to change the preset alarm function on the device; and
 4. Each device is calibrated at periods that do not exceed 12 months for correct response to radiation. The licensee shall maintain records of alarm rate meter calibrations in accordance with subsection (B).

ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS

R9-7-611.01. Electronic Brachytherapy to Deliver Interstitial and Intracavitary Therapeutic Radiation Dosage

- A. Electronic brachytherapy devices used to deliver interstitial and intracavitary therapeutic radiation dosage shall be subject to the requirements of this Section, and unless otherwise specified in this Section shall be exempt from the requirements of R9-7-611.
1. An electronic brachytherapy device that does not meet the requirements of this Section shall not be used for irradiation of patients; and
 2. An electronic brachytherapy device shall only be utilized for human use applications specifically approved by the U.S. Food and Drug Administration (FDA), unless participating in a research study approved by the registrant's Institutional Review Board (IRB).
- B. Each facility location authorized to use an electronic brachytherapy device in accordance with this Section shall possess appropriately calibrated portable monitoring equipment. At a minimum, such equipment shall include a portable survey instrument capable of measuring dose rates over the range 10 μ Sv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instrument shall be capable of measuring as low as 10 μ Sv (1 mrem) per hour in the energy range of the electronic brachytherapy unit for which the survey instrument is to be used. Published correction factors utilized in conjunction with the instrument's readings may be used to achieve sensitivity. The survey instrument or instruments shall be operable and calibrated before first use, at intervals not to exceed 12 months, and after survey instrument repairs.
- C. Facility Design Requirements for Electronic Brachytherapy Devices. In addition to shielding adequate to meet requirements of R9-7-603(C), the treatment room shall meet the following design requirements:
1. If applicable, provision shall be made to prevent simultaneous operation of more than one therapeutic radiation machine in a treatment room.
 2. Access to the treatment room shall be controlled by a door at each entrance.
 3. Each treatment room shall have provisions to permit continuous oral communication and visual observation of the patient from the treatment control panel during irradiation. The electronic brachytherapy device shall not be used for patient irradiation unless the patient can be observed.
 4. For electronic brachytherapy devices capable of operating below 150 kVp, radiation shielding for the staff in the treatment room may be available, either as a portable shield or as

localized shielded material around the treatment site or both, in lieu of the requirements for room shielding. The shielding shall meet the requirements of R9-7-603(C).

5. For electronic brachytherapy devices capable of operating at or greater than 150 kVp, the facility must meet the requirements of R9-7-611(B)(4).

D. Control Panel Functions. The control panel, in addition to the displays required by other provisions in this Section, shall:

1. Provide an indication of whether electrical power is available at the control panel and if activation of the electronic brachytherapy source is possible;
2. Provide an indication of whether x-rays are being produced;
3. Provide a means for indicating electronic brachytherapy source potential and current;
4. Provide the means for terminating an exposure at any time; and
5. Include an access control (locking) device that will prevent unauthorized use of the electronic brachytherapy device.

E. Timer. A suitable irradiation control device (timer) shall be provided to terminate the irradiation after a pre-set time interval or integrated charge on a dosimeter-based monitor.

1. A timer shall be provided at the treatment control panel. The timer shall indicate the planned setting and the time elapsed or remaining;
2. The timer shall not permit an exposure if set at zero;
3. The timer shall be a cumulative device that activates with an indication of "BEAM-ON" that retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it shall be necessary to reset the elapsed time indicator;
4. The timer shall terminate irradiation when a pre-selected time has elapsed, if any dose monitoring system has not previously terminated irradiation.
5. The timer shall permit setting of exposure times as short as 0.1 second; and
6. The timer shall be accurate to within one percent of the selected value or 0.1 second, whichever is greater.

F. Qualified Medical Physicist Support.

1. The services of a Qualified Medical Physicist shall be required in facilities having electronic brachytherapy devices. The Qualified Medical Physicist shall be responsible for:
 - a. Evaluation of the output from the electronic brachytherapy source;
 - b. Generation of the necessary dosimetric information;
 - c. Supervision and review of treatment calculations prior to initial treatment of any treatment site;

- d. Establishing the periodic and day-of-use quality assurance checks and reviewing the data from those checks as required in subsection (J);
 - e. Consultation with the authorized user in treatment planning, as needed; and
 - f. Performing calculations/assessments regarding patient treatments that may constitute a medical event.
2. If the Qualified Medical Physicist is not a full-time employee of the registrant, then the operating procedures required by subsection (G) shall also specifically address how the Qualified Medical Physicist is to be contacted for problems or emergencies, as well as the specific actions, if any, to be taken until the Qualified Medical Physicist can be contacted.

G. Operating Procedures.

1. Only individuals approved by the authorized user, Radiation Safety Officer, or Qualified Medical Physicist shall be present in the treatment room during treatment;
2. Electronic brachytherapy devices shall not be made available for medical use unless the requirements of subsections (A), (H), and (I) have been met;
3. The electronic brachytherapy device shall be inoperable, either by hardware or password, when unattended by qualified staff or service personnel;
4. During operation, the electronic brachytherapy device operator shall monitor the position of all persons in the treatment room, and all persons entering the treatment room, to prevent entering persons from unshielded exposure from the treatment beam;
5. If a patient must be held in position during treatment, mechanical supporting or restraining devices shall be used;
6. Written procedures shall be developed, implemented, and maintained for responding to an abnormal situation. These procedures shall include:
 - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions; and
 - b. The names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally.
7. A copy of the current operating and emergency procedures shall be physically located at the electronic brachytherapy device control console;
8. Instructions shall be maintained with the electronic brachytherapy device control console to inform the operator of the names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally; and

9. The Radiation Safety Officer, or the Radiation Safety Officer's designee, and an authorized user shall be notified immediately if the patient has a medical emergency, suffers injury or dies. The Radiation Safety Officer or the Qualified Medical Physicist shall inform the manufacturer of the event.

H. Safety Precautions for Electronic Brachytherapy Devices.

1. Any person in the treatment room, other than the person being treated, shall wear personnel monitoring devices;
2. An authorized user and a Qualified Medical Physicist shall be physically present during the initiation of all new patient treatments involving the electronic brachytherapy device;
3. After the first treatment one of the following individuals shall be physically present during continuation of all patient treatments involving the electronic brachytherapy device:
 - a. A Qualified Medical Physicist, or
 - b. An authorized user, or
 - c. A certified therapy technologist (CTT) certified by the Arizona Medical Radiologic Technology Board of Examiners, under the direct supervision of an authorized user, who has been trained in the operation and emergency response for the electronic brachytherapy device;
4. When shielding is required by subsection (C)(4), surveys shall be conducted to ensure that the requirements of R9-7-408, R9-7-414, and R9-7-416 are met. Alternatively, a Qualified Medical Physicist shall designate shield locations sufficient to meet the requirements of R9-7-603(C) and R9-7-607(C) for any individual, other than the patient, in the treatment room; and
5. All personnel in the treatment room are required to remain behind shielding during treatment. A Qualified Medical Physicist shall approve any deviation from this requirement and shall designate alternative radiation safety protocols, compatible with patient safety, to provide an equivalent degree of protection.

I. Electronic Brachytherapy Source Calibration Measurements.

1. Calibration of the electronic brachytherapy source output shall be performed by, or under the direct supervision of, a Qualified Medical Physicist. If the control console is integral to the electronic brachytherapy device, the required procedures shall be kept where the operator is located during electronic brachytherapy device operation;
2. Calibration of the electronic brachytherapy source output shall be made for each electronic brachytherapy source, or after any repair affecting the x-ray beam generation, or when indicated by the electronic brachytherapy source quality assurance checks;

3. Calibration of the electronic brachytherapy source output shall utilize a dosimetry system appropriate for the energy output of the unit and calibrated by the National Institute for Standards and Technology (NIST) or by an American Association of Physicists in Medicine (AAPM) Accredited Dosimetry Calibration Laboratory (ADCL). The calibration shall have been performed within the previous 24 months and after any servicing that may have affected system calibration;
 4. Calibration of the electronic brachytherapy source output shall include, as applicable, determination of:
 - a. The output within two percent of the expected value, if applicable, or determination of the output if there is no expected value;
 - b. Timer accuracy and linearity over the typical range of use;
 - c. Proper operation of back-up exposure control devices;
 - d. Evaluation that the relative dose distribution about the source is within five percent of that expected; and
 - e. Source positioning accuracy to within one millimeter within the applicator;
 5. Calibration of the x-ray source output required shall be in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of a calibration protocol published by a national professional association, the manufacturer's calibration protocol shall be followed.
 6. The registrant shall maintain a record of each calibration in an auditable form for the duration of the registration. The record shall include: the date of the calibration; the manufacturer's name, model number and serial number for the electronic brachytherapy device and a unique identifier for its electronic instrument or instruments brachytherapy source; the model numbers and serial numbers of the instrument or instruments used to calibrate the electronic brachytherapy device; and the name and signature of the Qualified Medical Physicist responsible for performing the calibration.
- J. Periodic and Day-of-Use Quality Assurance Checks for Electronic Brachytherapy Devices.**
1. Quality assurance checks shall be performed on each electronic brachytherapy device:
 - a. At the beginning of each day of use;
 - b. Each time the device is moved to a new room or site; and
 - c. After each x-ray tube installation.
 2. The registrant shall perform periodic quality assurance checks required in accordance with procedures established by the Qualified Medical Physicist;

3. To satisfy the requirements of this subsection, radiation output quality assurance checks shall include at a minimum:
 - a. Verification that output of the electronic brachytherapy source falls within three percent of expected values, as appropriate for the device, as determined by:
 - i. Output as a function of time, or
 - ii. Output as a function of setting on a monitor chamber.
 - b. Verification of the consistency of the dose distribution to within three percent (or the manufacturer's or Qualified Medical Physicist's documented recommendation not to exceed five percent), observed at the source calibration required by subsection (I); and
 - c. Validation of the operation of positioning methods to ensure that the treatment dose exposes the intended location within one millimeter; and
4. The registrant shall use a dosimetry system that has been intercompared within the previous 12 months with the dosimetry system described in this Section to make the quality assurance checks required in subsection (J)(3);
5. The registrant shall review the results of each radiation output quality assurance check to ensure that:
 - a. An authorized user and Qualified Medical Physicist ~~is~~ are immediately notified if any parameter is not within its acceptable tolerance, and the electronic brachytherapy device is not used until the Qualified Medical Physicist has determined that all parameters are within their acceptable tolerances;
 - b. If all radiation output quality assurance check parameters appear to be within their acceptable range, the acceptable quality assurance checklist shall be reviewed and signed by either the authorized user or Qualified Medical Physicist prior to the next patient use of the unit. In addition, the Qualified Medical Physicist shall review and sign the results of each radiation output quality assurance check at intervals not to exceed 30 days.
6. To satisfy the requirements of subsection (J)(1), safety device quality assurance checks shall, at a minimum, assure:
 - a. Proper operation of radiation exposure indicator lights on the electronic brachytherapy device and on the control console;
 - b. Proper operation of viewing and intercom systems in each electronic brachytherapy facility, if applicable;
 - c. Proper operation of radiation monitors, if applicable;

- d. The integrity of all cables, catheters or parts of the device that carry high voltages;
and
 - e. Connecting guide tubes, transfer tubes, transfer-tube-applicator interfaces, and treatment spacers are free from any defects that interfere with proper operation.
 - 7. If the results of the safety device quality assurance checks required in subsection (J)(6) indicate the malfunction of any system, a registrant shall secure the control console in the OFF position and not use the electronic brachytherapy device except as may be necessary to repair, replace, or check the malfunctioning system.
 - 8. The registrant shall maintain a record of each quality assurance check required by this Section in a legible form for three years.
 - a. The record shall include the date of the quality assurance check; the manufacturer's name, model number and serial number for the electronic brachytherapy device; the name and signature of the individual who performed the periodic quality assurance check and the name and signature of the Qualified Medical Physicist who reviewed the quality assurance check;
 - b. For radiation output quality assurance checks required by subsection (J)(3), the record shall also include the unique identifier for the electronic brachytherapy source and the manufacturer's name; model number and serial number for the instrument or instruments used to measure the radiation output of the electronic brachytherapy device.
- K. Therapy-related Computer Systems.** The registrant shall perform acceptance testing on the treatment planning system of electronic brachytherapy-related computer systems in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of an acceptance testing protocol published by a national professional association, the manufacturer's acceptance testing protocol shall be followed.
 - 1. Acceptance testing shall be performed by, or under the direct supervision of a Qualified Medical Physicist. At a minimum, the acceptance testing shall include, as applicable, verification of:
 - a. The source-specific input parameters required by the dose calculation algorithm;
 - b. The accuracy of dose, dwell time, and treatment time calculations at representative points;
 - c. The accuracy of isodose plots and graphic displays;

- d. The accuracy of the software used to determine radiation source positions from radiographic images; and
 - e. If the treatment planning system is different from the treatment delivery system, the accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.
2. The position indicators in the applicator shall be compared to the actual position of the source or planned dwell positions, as appropriate, at the time of commissioning.
 3. Prior to each patient treatment regimen, the parameters for the treatment shall be evaluated for correctness and approved by the authorized user and the Qualified Medical Physicist through means independent of that used for the determination of the parameters.

L. Training for e-brachytherapy Authorized Users.

1. The registrant for any therapeutic radiation machine subject to this Section shall require the authorized user to be a physician who is:
 - a. Certified in:
 - i. Radiation oncology or therapeutic radiology by the American Board of Radiology or radiology (combined diagnostic and therapeutic radiology program) by the American Board of Radiology prior to 1976; or
 - ii. Radiation oncology by the American Osteopathic Board of Radiology; or
 - iii. Radiology, with specialization in radiotherapy, as a British “Fellow of the Faculty of Radiology” or “Fellow of the Royal College of Radiology”; or
 - iv. Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
 - b. In the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic radiation techniques applicable to the use of an external beam radiation therapy unit, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
2. To satisfy the requirement in subsection (L)(1)(b) for:
 - a. Instruction, the classroom and laboratory training shall include:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of ionization radiation;
 - and
 - iv. Radiation biology;

- b. Supervised work experience, training shall be under the supervision of an authorized user and shall include:
 - i. Review of the full calibration measurements and periodic quality assurance checks;
 - ii. Evaluation of prepared treatment plans and calculation of treatment times or patient treatment settings or both;
 - iii. Using administrative controls to prevent medical events as described in R9-7-444;
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of an external beam radiation therapy unit or console; and
 - v. Checking and using radiation survey meters; and
 - c. A period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the ~~Committee~~ Council on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user. The supervised clinical experience shall include:
 - i. Examining individuals and reviewing their case histories to determine their suitability for external beam radiation therapy treatment, and any limitations or contraindications or both;
 - ii. Selecting proper dose and how it is to be administered;
 - iii. Calculating the therapeutic radiation machine doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses or treatment plans as warranted by patients' reaction to radiation or both; and
 - iv. Post-administration follow-up and review of case histories.
3. A physician shall not act as an authorized user until such time as the physician's training has been reviewed and approved by the Department.
4. Notwithstanding the requirements of subsections (L)(1) through (L)(3), the registrant for any therapeutic radiation machine subject to this Section may also submit the training of the prospective authorized user physician for Department review on a case-by-case basis if the training includes substantially equivalent training as that listed in subsections

(L)(1)(b) and (L)(2) and the training includes dosimetry calculation training and experience.

M. Training for Qualified Medical Physicist. The registrant for any therapeutic radiation machine subject to this Section shall require the Qualified Medical Physicist to:

1. Be certified with the Department, as a provider of radiation services in the area of calibration and compliance surveys of external beam radiation therapy units; and
2. Be certified by the American Board of Radiology in:
 - a. Therapeutic radiological physics; or
 - b. Roentgen-ray and gamma-ray physics; or
 - c. X-ray and radium physics; or
 - d. Radiological physics; or
3. Be certified by the American Board of Medical Physics in Radiation Oncology Physics; or
4. Be certified by the Canadian College of Physicists in Medicine; or
5. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university, and have completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a Qualified Medical Physicist at a medical institution. This training and work experience shall be conducted in clinical radiation facilities that provide high-energy external beam radiation therapy (photons and electrons with energies greater than or equal to one MV/one MeV). To meet this requirement, the individual shall have performed the tasks listed in this subsection under the supervision of a Qualified Medical Physicist during the year of work experience.

N. Qualifications of Operators.

Individuals who will be operating a therapeutic radiation machine for medical use shall be certified by the Department as a CTT by the Arizona Medical Radiologic Technology Board of Examiners.

O. Additional training requirements.

1. A registrant shall provide instruction, initially and at least annually, to all individuals who operate the electronic brachytherapy device, as appropriate to the individual's assigned duties, in the operating procedures identified in subsection (G). If the interval between patients exceeds one year, retraining of the individuals shall be provided.
2. In addition to the requirements of subsection (L) for therapeutic radiation machine authorized users and subsection (M) for Qualified Medical Physicists, these individuals shall also receive device-specific instruction initially from the manufacturer, and annually from

either the manufacturer or other qualified trainer. The training shall be of a duration recommended by a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of any training protocol recommended by a national professional association, the manufacturer's training protocol shall be followed. The training shall include, but not be limited to:

- a. Device-specific radiation safety requirements;
- b. Device operation;
- c. Clinical use for the types of use approved by the FDA;
- d. Emergency procedures, including an emergency drill; and
- e. The registrant's quality assurance program.

3. A registrant shall retain a record of individuals receiving manufacturer's instruction for three years. The record shall include a list of the topics covered, the date of the instruction, the name or names of the attendee or attendees, and the name or names of the individual or individuals who provided the instruction.

P. Mobile Electronic Brachytherapy Service. A registrant providing mobile electronic brachytherapy service shall, at a minimum:

1. Check all survey instruments before medical use at each address of use or on each day of use, whichever is more restrictive;
2. Account for the electronic brachytherapy x-ray tube in the electronic brachytherapy device before departure from the client's address; and
3. Perform, at each location on each day of use, all of the required quality assurance checks specified in this Section to assure proper operation of the device.

Q. Medical events shall be reported to the Department. For purposes of this Section "medical event" means a therapeutic radiation dose from a machine:

1. Delivered to the wrong patient;
2. Delivered using the wrong mode of treatment;
3. Delivered to the wrong treatment site; or
4. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but greater than 130 percent of the prescribed weekly dose; or

R. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final, prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a medical event.

S. Reports of therapy medical events:

1. Within 24 hours after discovery of a medical event, a registrant shall notify the Department by telephone by speaking to a Department staff member. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient, or that in his or her medical judgment, telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. If the Department staff member, referring physician, or the patient's responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.
2. Within 15 days following the verbal notification to the Department, the registrant shall report, in writing, to the Department and individuals notified under subsection (S)(1). The written report shall include the registrant's name, the referring physician's name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient's responsible relative or guardian, and if not, why not. The report shall not include the patient's name or other information that could lead to identification of the patient.
3. Each registrant shall maintain records of all medical events for Department inspection. The records shall:
 - a. Contain the names of all individuals involved in the event, including:
 - i. The physician,
 - ii. The allied health personnel,
 - iii. The patient,
 - iv. The patient's referring physician,
 - v. The patient's identification number if one has been assigned,
 - vi. A brief description of the event,
 - vii. The effect on the patient, and
 - viii. The action taken to prevent recurrence.
 - b. Be maintained for three years beyond the termination date of the affected registration.

ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL

R9-7-702. Definitions

“Authorized medical physicist” means an individual who meets the requirements in R9-7-711.

For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a “qualified expert” as defined in Article 1.

“Authorized nuclear pharmacist” means a pharmacist who meets the requirements in R9-7-712.

“Authorized user” means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744.

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

“CT” means computerized tomography.

“High dose rate afterloading brachytherapy” means the treating of human disease using the radiation from a radioactive sealed source containing more than 1 curie of radioactive material. The radioactive material is introduced into a patient’s body using a device that allows the therapist to indirectly handle the radiation source during the treatment. For purposes of the requirements in this Article “pulse dose rate afterloading brachytherapy” is included in this definition.

“Human research subject” means an individual who is or becomes a participant in research overseen by an IRB, either as a recipient of the test article or as a control. A subject may be either a healthy human, in research overseen by the RDRC, or a patient.

“Institutional review board” (IRB) is defined in R9-7-704(B).

“Manual brachytherapy” means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

“Medical event” means an event that meets the criteria in R9-7-745.

“Medical institution” means an organization in which several medical disciplines are practiced.

“Medical use” means the intentional internal or external administration of radioactive material, or the radiation from it, to an individual under the supervision of an authorized user.

“Nuclear cardiology” means the diagnosis of cardiac disease using radiopharmaceuticals.

“PET” means positron emission tomography.

“Physically present” means that a supervising medical professional is in proximity to the patient during a radiation therapy procedure so that immediate emergency orders can be communicated

to ancillary staff, should the occasion arise.

“Prescribed dosage” means the specified activity or range of activity of unsealed radioactive material as documented:

In a written directive; or

In accordance with the directions of the authorized user for procedures performed in accordance with the uses described in Exhibit A.

“Prescribed dose” means:

For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

For teletherapy, the total dose and dose per fraction as documented in the written directive;

For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

“Radiation Safety Officer” (RSO) for purposes of this Article, and in addition to the definition in Article 1 means an individual who:

Meets the requirements in R9-7-710, or

Is identified as a radiation safety officer on:

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

A medical use permit issued by a NRC master material ~~license~~ licensee.

“Radioactive drug” is defined in 21 CFR 310.3(c) and includes a “radioactive biological product” as defined in 21 CFR 600.3, April 1, 2006, both of which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. These incorporated materials contain no future editions or amendments.

“Radioactive Drug Research Committee” (RDRC) means the committee established by the licensee to review all basic research involving the administration of a radioactive drug to human research subjects, taken from 21 CFR 361.1, April 1, 2006, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. Research is considered basic re-search if it is done for the purpose of advancing scientific knowledge, which includes basic information regarding the metabolism (including kinetics, distributions, dosimetry, and localization) of a radioactive drug or

regarding human physiology, pathophysiology, or biochemistry. Basic research is not intended for immediate therapeutic or diagnostic purposes and is not intended to determine the safety and effectiveness of a radioactive drug in humans.

“Radiopharmaceutical” means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such sub-stance. For purposes of this Article radiopharmaceutical is equivalent to radioactive drug.

“Remote afterloading brachytherapy device” means a device used in radiation therapy that allows the authorized user to insert, from a remote location, a radiation source into an applicator that has been previously inserted in an individual requiring treatment.

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

“Stereotactic radiosurgery” means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose.

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

“Therapeutic dosage” means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

“Therapeutic dose” means a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

“Treatment site” means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

“Unit dosage” means a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

“Written directive” means an authorized user’s written order for the administration of radioactive material or radiation from radioactive material to a specific patient or human research subject, as specified in R9-7-707.

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

- A. A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer, described in R9-7-705, to be an individual who:

1. Is certified by a specialty board whose certification process includes all of the requirements in subsection (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Meet the following minimum requirements:
 - i. Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or bio-logical science with a minimum of 20 college credits in physical science;
 - ii. Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and
 - iii. Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or
 - b. Meet the following minimum requirements:
 - i. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
 - ii. Have two years of full-time practical training and/or supervised experience in medical physics;
 - (1) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Department, the NRC, or another Agreement State; or
 - (2) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users qualified under subsection (B), R9-7-721, or R9-7-723; and
 - iii. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety;
2. Has:

- a. Completed a structured educational program consisting of both:
 - i. 200 hours of didactic and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Radiation biology; and
 - (5) Radiation dosimetry; and
 - ii. One year of full-time radiation safety experience under the supervision of the individual identified as the Radiation Safety Officer on a Department, a NRC, or an Agreement State license or permit issued by a NRC master material licensee that authorizes similar type(s) of use(s) of radioactive material involving the following:
 - (1) Shipping, receiving, and performing related radiation surveys;
 - (2) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;
 - (3) Securing and controlling radioactive material;
 - (4) Using administrative controls to avoid mistakes in the administration of radioactive material;
 - (5) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;
 - (6) Using emergency procedures to control radioactive material; and
 - (7) Disposing of radioactive material; and
- b. Obtained written certification, signed by a preceptor Radiation Safety Officer or Associate Radiation Safety Officer, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and has achieved a level of radiation safety knowledge sufficient to function independently as a Radiation Safety Officer or as an Associate Radiation Safety Officer for a medical use licensee;

3. Is:

- a. A medical physicist who has been certified by a specialty board whose certification process has been recognized by the Department, the NRC, or another Agreement State under R9-7-711(A) or equivalent, has experience with radiation

safety aspects of similar types of use of radioactive material for which the licensee seeks the approval of the individual as Radiation Safety Officer or an Associate Radiation Safety Officer, and meets the requirements in subsection (B); or

b. An authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has Radiation Safety Officer responsibilities; or

4. Has experience with the radiation safety aspects of the types of use of radioactive material for which the individual is seeking simultaneous approval both as the Radiation Safety Officer and the authorized user on the same new medical license and meets the requirements in subsection (B).

B. A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer to have training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which the licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, an Associate Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.

C. Exceptions.

1. An individual identified as a Radiation Safety Officer or as an Associate Radiation Safety Officer on a Department, a NRC, or another Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license ~~permit~~ ~~permittee~~ or by a master material broad scope license permittee ~~of broad scope~~ ~~May 5, 2007~~ on or before January 14, 2019, need not comply with the training requirements in subsections (A)(1) through (4).

2. A physician, dentist, or podiatrist identified as an authorized user for the medical use of radioactive material on a license issued by the Department, the NRC, or an Agreement State, a permit issued by a NRC master material licensee, a permit issued by the Department, the NRC, or an Agreement State broad scope licensee, or a permit issued ~~by~~ in accordance with a NRC master material broad scope license ~~broad scope permittee~~ ~~May 5, 2007~~ on or before October 24, 2005, need not comply with the training requirements in this Article.

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

experience since the required training and experience was completed.

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

F. Records Retention.

1. The licensee shall retain both a copy of the authority, duties, and responsibilities of the Radiation Safety Officer, as required by this Section, and a signed copy of each Radiation Safety Officer's agreement to be responsible for implementing the radiation safety program for the duration of the license. The records must include the signature of the Radiation Safety Officer and licensee management.
2. For each Associate Radiation Safety Officer appointed under this Section, the licensee shall retain, for five years after the Associate Radiation Safety Officer is removed from the license, a copy of the written document appointing the Associate Radiation Safety Officer, signed by the licensee's management.

R9-7-711. Authorized Medical Physicist Training

A. A licensee shall require an authorized medical physicist to be an individual who:

1. Is certified by a specialty board whose certification process includes all of the training and experience requirements in subsections (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
 - b. Have two years of full-time practical training and/or supervised experience in medical physics:
 - i. Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the NRC or an Agreement State; or
 - ii. In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in R9-7-710,

R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; and

- c. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or
2. Meets the following alternative training requirements:
- a. Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services and must include:
 - i. Performing sealed source leak tests and inventories;
 - ii. Performing decay corrections;
 - iii. Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
 - iv. Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
 - b. Has obtained written attestation that the individual has satisfactorily completed the requirements in both subsections (A)(2)(a) and (B); and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this Section, or equivalent Agreement State or NRC requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status.
- B.** A licensee shall require an authorized medical physicist to be an individual who has training for

the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training super-vised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

- C. Exceptions. An individual identified as a teletherapy or medical physicist on a Department, a NRC, or another Agreement State license or a permit issued by the NRC or another Agreement State broad scope licensee or master material license ~~permit~~ permittee or by a master material broad scope license permittee ~~of broad scope on or before May 5, 2007~~ January 14, 2019, need not comply with the training requirements in subsection (A).
- D. The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- E. Individuals who, under subsection (C), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

R9-7-712. Authorized Nuclear Pharmacist Training

- A. A licensee shall require the authorized nuclear pharmacist to be a pharmacist who:
 - 1. Is certified as a nuclear pharmacist by a specialty board whose certification process has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Have graduated from a pharmacy program accredited by the Accreditation Council for Pharmacy Education (ACPE) (previously named the American Council on Pharmaceutical Education), ~~(ACPE)~~ or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;
 - b. Hold a current, active license to practice pharmacy in Arizona;
 - c. Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and
 - d. Pass an examination in nuclear pharmacy administered by diplomates of the specialty board, that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient

outcomes, research and development; or

2. Has completed 700 hours in a structured educational program consisting of both:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Chemistry of radioactive material for medical use; and
 - v. Radiation biology; and
 - b. Supervised practical experience in a nuclear pharmacy involving:
 - i. Shipping, receiving, and performing related radiation surveys;
 - ii. Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;
 - iii. Calculating, assaying, and safely preparing dosages for patients or human research subjects;
 - iv. Using administrative controls to avoid medical events in the administration of radioactive material; and
 - v. Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and
3. Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in subsection (A)(2) and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

- B.** Exceptions. An individual identified as a nuclear pharmacist on a Department, a NRC, or an Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license ~~permit permittee~~ or by a master material broad scope license permittee ~~of broad scope on or before the effective date of these rules January 14, 2019~~, need not comply with the training requirements in subsections (A)(1) through (A)(3).
- C.** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- D.** Individuals who, under subsection (B), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

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

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article to be a physician who:
1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(2). To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Successfully complete residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty. These residency training programs must include 700 hours of training and experience as described in (A)(2) subsection (A)(2)(a). Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the ~~Committee on Post-Graduate~~ Council on Postdoctoral Training of the American Osteopathic Association; and
 - b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, and quality assurance, and clinical use of unsealed radioactive material for which a written directive is required; or
 2. Has:
 - a. Completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material requiring a written directive. The training and experience must include:
 - i. Classroom and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and

- (5) Radiation biology; and
- ii. Work experience, under the supervision of an authorized user who meets the requirements in this Article, NRC, or equivalent Agreement State requirements, involving:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
 - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
 - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
 - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
 - (6) Administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:
 - (a) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131, for which a written directive is required (Experience with at least three cases in the Category specified in subsection (A)(2)(a)(ii)(6)(b) also satisfies this requirement;
 - (b) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131;
 - (c) Parenteral administration of any beta emitter, or a photon-emitting radionuclide with a photon energy less than 150 keV, for which a written directive is required; and/or
 - (d) Parenteral administration of any other radionuclide, for which a written directive is required; and
- b. Obtained written attestation, that the individual has satisfactorily completed the

requirements in subsection (A)(2)(a) and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article for which the individual is requesting authorized user status. The attestation must be obtained from either:

- i. A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements and has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status; or
- ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a).

- B.** Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.392, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C.** Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.394, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- D.** Except as provided in R9-7-710, a licensee shall require an authorized user for the parenteral administration of unsealed radioactive material requiring a written directive to be a physician who

has completed the training requirements in 10 CFR 35.396, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

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

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

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of a manual brachytherapy source for the uses authorized under this Article to be a physician who:
1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State and who meets the requirements in subsection (A)(2). The names of board certifications that have been recognized by the NRC or an Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the ~~Committee on Post-Graduate~~ Council on Postdoctoral Training of the American Osteopathic Association; and
 - b. Pass an examination, administered by diplomates of the specialty board, that tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of manual brachytherapy; or
 2. Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachy-therapy sources that includes:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Radiation biology;
 - b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, or equivalent NRC or Agreement State

requirements at a medical institution, involving:

- i. Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - ii. Checking survey meters for proper operation;
 - iii. Preparing, implanting, and removing brachytherapy sources;
 - iv. Maintaining running inventories of material on hand;
 - v. Using administrative controls to prevent a medical event involving the use of radioactive material;
 - vi. Using emergency procedures to control radioactive material;
- c. Completing three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in this Section, or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the ~~Committee on Post-Graduate~~ Council on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
- d. Obtaining written attestation that the individual has satisfactorily completed the requirements in subsections (A)(2)(a) through (c) and is able to independently fulfill the radiation safety-related duties as an authorized user of manual brachytherapy sources for the medical uses authorized under Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
- i. A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic

Association and must include training and experience specified in subsection (A)(2)(a) and (b).

B. A licensee who uses strontium-90 for ophthalmic treatments must ensure that certain activities as specified in subsection (C) are performed by either:

1. An authorized medical physicist; or
2. An individual who:
 - a. Is identified as an ophthalmic physicist on a:
 - i. Specific medical use license issued by the Department, the NRC, or another Agreement State,
 - ii. Permit issued by an NRC or other Agreement State broad scope medical use licensee,
 - iii. Medical use permit issued by ~~an~~ a NRC master material licensee, or
 - iv. Permit issued by ~~an~~ a NRC master material ~~licensee~~ license broad scope medical use permittee;
 - b. Holds a master's or doctor's degree in physics, medical physics, other physical sciences, engineering, or applied mathematics from an accredited college or university;
 - c. Has successfully completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a medical physicist; and
 - d. Has documented training in:
 - i. The creation, modification, and completion of written directives;
 - ii. Procedures for administrations requiring a written directive; and
 - iii. Performing the calibration measurements of brachytherapy sources as detailed in R9-7-726.

C. The individuals who are identified in subsection (B)(1) or (2) shall:

1. Calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under R9-7-726; and
2. Assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the administration is in accordance with the written directive. These procedures must include the frequencies that the individual meeting the requirements in paragraph (a) of this Section will observe treatments, review the treatment methodology, calculate treatment time for the prescribed dose, and review

records to verify that the administrations were in accordance with the written directives.

- D. Licensees shall retain a record of the activity of each strontium-90 source in accordance with R9-7-313.
- E. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

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

- A. Except as provided in R9-7-710, a licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to be a physician who:
 - 1. Is certified by a medical specialty board whose certification process has been recognized by the Department, the NRC or another Agreement State and who meets the requirements in subsection (A)(2)(e). The names of board certifications that have been recognized by the Department, the NRC or another Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates to:
 - a. Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the ~~Committee on Post-Graduate~~ Council on Postdoctoral Training of the American Osteopathic Association; and
 - b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote after-loaders and external beam therapy; or
 - 2. Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Chemistry of radioactive material for medical use; and

- v. Radiation biology;
- b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements at a medical institution, involving:
 - i. Reviewing full calibration measurements and periodic spot-checks;
 - ii. Preparing treatment plans and calculating treatment doses and times;
 - iii. Using administrative controls to prevent a medical event involving the use of radioactive material;
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;
 - v. Checking and using survey meters; and
 - vi. Selecting the proper dose and how it is to be administered;
- c. Completing three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the ~~Committee~~ Council on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
- d. Obtaining written attestation that the individual has satisfactorily completed the requirements in subsections (A)(2)(a) through (c) and (B), and is able to independently fulfill the radiation safety-related duties as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State

requirements, for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) through (c).

- B. A licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to receive training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.
- C. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

R9-7-745. Report and Notification of a Medical Event

- A. A licensee shall report any “medical” event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:
 - 1. A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and
 - a. The total dose delivered differs from the prescribed dose by 20 percent or more;
 - b. The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or
 - c. The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.
 - 2. A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:

- a. An administration of a wrong radiopharmaceutical containing radioactive material;
 - b. An administration of a radiopharmaceutical containing radioactive material by the wrong route of administration;
 - c. An administration of a dose or dosage to the wrong individual or human research subject;
 - d. An administration of a dose or dosage delivered by the wrong mode of treatment;
or
 - e. A leaking sealed source.
3. A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).
- B.** A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radio-active material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.
- C.** The licensee shall notify by telephone the Department no later than the next calendar day after discovery of the medical event.
- D.** The licensee shall submit a written report to the Department within 15 days after discovery of the medical event.
1. The written report shall include:
 - a. The licensee's name;
 - b. The name of the prescribing physician;
 - c. A brief description of the event;
 - d. Why the event occurred;
 - e. The effect, if any, on each individual who received the administration;
 - f. What actions, if any, have been taken or are planned to prevent recurrence; and
 - g. Certification that the licensee notified each individual (or the individual's responsible relative or guardian), and if not, why not.
 2. The report may not contain an individual's name or any other information that could lead to identification of the individual.
- E.** The licensee shall provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless

the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this subsection, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

- F. Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.
- G. A licensee shall:
 - 1. Annotate a copy of the report provided to the Department with the:
 - a. Name of the individual who is the subject of the event; and
 - b. Identification number or, if no other identification number is available, the Social Security number or other identification number, if one has been assigned, of the individual who is the subject of the event; and
 - 2. Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

R9-7-746. Report and Notification of a Dose to an Embryo, Fetus, or Nursing Child

- A. A licensee shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radioactive material or radiation from radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.
- B. A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breast-feeding individual that:
 - 1. Is greater than 50 mSv (5 rem) total effective dose equivalent; or
 - 2. Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.

- C.** The licensee shall notify the Department by telephone no later than the next calendar day after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B).
- D.** The licensee shall submit a written report to the Department within 15 days after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B). The written report shall include:
1. The licensee's name;
 2. The name of the prescribing physician;
 3. A brief description of the event;
 4. Why the event occurred;
 5. The effect, if any, on the embryo/fetus or the nursing child;
 6. What actions, if any, have been taken or are planned to prevent recurrence; and
 7. Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.
- E.** The report, required in subsection (D), shall not contain the individual's or child's name or any other information that could lead to identification of the individual or child.
- F.** The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both here-after referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under subsections (A) or (B), unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee shall not delay any appropriate medical care for the embryo, fetus, or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide the written description upon request.
- G.** A licensee shall:
1. Make a copy of the report provided to the Department and include with it the:
 - a. Name of the pregnant individual or the nursing child who is the subject of the

event; and

- b. Identification number or, if no other identification number is available, the Social Security number or other identification number, if one has been assigned, of the pregnant individual or the nursing child who is the subject of the event; and
2. Provide the copy of the information required in subsection (G)(1) to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

ARTICLE 9. PARTICLE ACCELERATORS

R9-7-904. Registration of Particle Accelerators Used in the Practice of Medicine

- A.** The requirements in this Section supplement the registration requirements in R9-7-903.
- B.** An applicant that is a “medical institution,” as defined in 9 A.A.C. 7, Article 7, and performing human research shall appoint a radiation safety committee that meets the following requirements:
1. The committee shall consist of at least four individuals and shall include:
 - a. An authorized user of each type of use permitted by the registration,
 - b. The Radiation Safety Officer,
 - c. A representative of the nursing service, and
 - d. A representative of management who is neither an authorized user nor a Radiation Safety Officer, and
 - e. Any other members the registrant selects;
 2. The committee shall meet at least once in each 12-month period, unless otherwise specified by registration condition;
 3. To conduct business at least 50 percent of the membership of the committee shall be present including the Radiation Safety Officer and the management representative;
 4. The minutes of each radiation safety committee meeting shall include a reference of any discussion or documents related to the review required in R9-7-407(C);
 5. Review the radiation safety program for all sources of radiation as required in R9-7-407(C);
 6. Establish a table that contains investigational levels for occupational and public dose that, when exceeded, will initiate an investigation and consideration of actions by the Radiation Safety Officer; and
 7. Establish the safety objectives of the quality management program required by subsection (E).
- C.** The applicant shall ensure that an individual designated as an authorized user is an Arizona licensed physician; approved by the radiation safety committee, if applicable; and is:
1. Certified in:
 - a. Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; or
 - b. Radiation oncology by the American Osteopathic Board of Radiology; or
 - c. Radiology, with specialization in radiotherapy, as a British “Fellow of the Faculty of Radiology” or “Fellow of the Royal College of Radiology”; or

- d. Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
2. Engaged in the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic techniques applicable to the use of a particle accelerator, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
 - a. To satisfy the requirement for instruction, the classroom and laboratory training shall include all of the following subjects:
 - i. Radiation physics and instrumentation,
 - ii. Radiation protection,
 - iii. Mathematics pertaining to the use and measurement of radiotherapy, and
 - iv. Radiation biology.
 - b. To satisfy the requirement for supervised work experience, training shall occur under the supervision of an authorized user at a medical institution and shall include:
 - i. Reviewing full calibration measurements and periodic spot checks,
 - ii. Preparing treatment plans and calculating treatment times,
 - iii. Using administrative controls to prevent misadministration,
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of a particle accelerator, and
 - v. Checking and using survey meters.
 - c. To satisfy the requirement for a period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the ~~Committee~~ Council on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:
 - i. Examining individuals and reviewing their case histories to determine their suitability for treatment, noting any limitations or contraindications;
 - ii. Selecting the proper dose and how it is to be administered;
 - iii. Calculating the therapy doses and collaborating with the authorized user in the review of patients' or human research subjects' progress and consideration of the need to modify originally prescribed doses, as

warranted by patients' or human research subjects' reaction to radiation;
and

iv. Post-administration follow up and review of case histories.

- D.** With the application the applicant shall provide the name of each authorized user to the Department so the names can be listed on the registration form, and so that the Department can determine whether the authorized user's training and experience satisfies the requirements in subsection (C).
- E.** Each registrant shall establish and maintain a written quality management program to provide high confidence that the radiation produced by the particle accelerator will be administered as directed by an authorized user. The quality management program shall include, at minimum, the tests and checks listed in Appendix A.
- F.** Each registrant shall ensure that a particle accelerator is calibrated by an authorized medical physicist who meets the training and experience qualifications in R9-7-711.
- G.** At the time of application for registration or when a therapy program is expanded to multiple sites, each applicant or registrant shall provide the Department with a description of the quality management program, a listing of the professional staff assigned to the facility, and the expected ratio of patient workload to staff member for programs involving multiple therapy sites. If the staffing ratio exceeds the recommended levels in Radiation Oncology in Integrated Cancer Management, Report of the Inter-Society Council for Radiation Oncology, December 1991, the applicant shall provide to the Department for approval the justification for the larger ratio and the safety considerations that have been addressed in establishing the program. This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The report is available from the American Association of Physicists in Medicine: online at <http://www.aapm.org/pubs/reports>; print copies may be purchased from Medical Physics Publishing, 4513 Vernon Blvd., Madison, WI 53705; toll free at (800) 442-5778.

ARTICLE 15. TRANSPORTATION

R9-7-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste

- A.** A licensee shall provide advance notification to the Governor, or the Director of the Department, of the shipment of licensed material as specified in 10 CFR 71.97, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B.** After June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of 10 CFR 71.97, or the Tribal official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.
- C.** Advance notification is also required under this Section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:
1. The licensed material is required by this ~~part~~ Chapter to be in Type B packaging for transportation;
 2. The licensed material is being transported to or across a State boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and
 3. The quantity of licensed material in a single package exceeds the least of the following:
 - a. 3000 times the A1 value of the radionuclides as specified in appendix A, Table A-1 for special form radioactive material;
 - b. 3000 times the A2 value of the radionuclides as specified in appendix A, Table A-1 for normal form radioactive material; or
 - c. 1000 TBq (27,000 Ci).
- D.** Procedures for submitting advance notification. ~~(4)~~
1. The advance notification ~~must~~ shall be made in writing to:
 - ~~1-a.~~ The office of each appropriate ~~governor~~ Governor or ~~governor's~~ Governor's designee;
 - b. For the portion of the route through Arizona, the Department;
 - ~~2-c.~~ The office of each appropriate Tribal official or Tribal official's designee; and
 - ~~3-d.~~ The Director, Division of Security Policy, Office of Nuclear Security and Incident Response.
 2. A notification delivered by:
 - a. Mail must be postmarked at least seven days before the beginning of the

- seven-day period during which departure of the shipment is estimated to occur;
and
- b. Any means other than mail must reach the Office of the Governor or of the Governor's designee or the Tribal official or Tribal official's designee at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur.
3. Contact information for each State and participating Tribes, including telephone and mailing addresses of Governors and Governors' designees and of Tribal officials and Tribal official's designees, including telephone and mailing addresses, is available:
- a. At <https://scp.nrc.gov/special/designee.pdf>; or
- b. Or on request from the Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.
4. Notification to the Department:
- a. By mail addressed to: ATTN: Arizona Department of Health Services; Bureau of Radiation Control; Radioactive Materials Program; 4814 South 40th Street, Phoenix, Arizona 85040;
- b. By hand delivery to the Department's offices at 4814 South 40th Street, Phoenix, Arizona 85040;
- c. By electronic submission, ram@azdhs.gov; and
- d. By telephone at 480-202-4982.
5. Each advance notification shall contain the following information:
- a. The name, address, and telephone number of the shipper, carrier, and receiver of the irradiated reactor fuel or nuclear waste shipment;
- b. The license numbers of the shipper and receiver;
- c. A description of the irradiated reactor fuel or nuclear waste contained in the shipment, including the radionuclides and quantity;
- d. The point of origin of the shipment and the estimated time and date that departure of the shipment will occur;
- e. The estimated time and date that the shipment is expected to enter each State or Tribal reservation boundary along the route;
- f. The destination of the shipment, and the estimated time and date of arrival of the shipment at the destination; and
- g. A point of contact, with a telephone number, for current shipment information.

- E.** Revision notice: A licensee shall contact by telephone each individual previously notified according to subsection (D)(1) to provide any information not previously available at the time of the initial notification or any changes to the information previously provided as soon as the information becomes available.
- F.** Cancellation notice: Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice:
1. To each individual previously notified according to subsections (D)(1) through (4).
 2. Before the shipment would have commenced or as soon thereafter as possible, and
 3. Identifying the advance notification to which the notice of cancellation pertains and stating in the notice that the shipment is cancelled.
- G.** Records: A licensee shall retain a copy of the advance notification and any revision notices or cancellation notices as a record for at least three years.

ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES

R9-7-1723. Personnel Monitoring

- A. A licensee shall not permit an individual to act as a logging supervisor or logging assistant unless that person wears, ~~at all times during the handling of licensed radioactive materials,~~ a personnel dosimeter at all times during the handling of licensed radioactive materials ~~that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.~~
- B. A licensee shall assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
- C. A licensee shall replace film badges at least monthly and replace all other personnel dosimeters that require replacement at least quarterly. After replacement, a licensee shall evaluate all personnel dosimeters at least quarterly or promptly process each personnel dosimeter after replacement, whichever is more frequent.
- D. A licensee shall provide bioassay services to each individual who uses licensed materials in subsurface tracer studies if required by the license.
- E. A licensee shall record exposures noted from personnel dosimeters required by subsection (A) and bioassay results and maintain these records for three years after the Department terminates the radioactive material license.

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

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

A. General performance objective and requirements:

1. Except for those individuals listed in R9-7-1929 and those individuals grandfathered under R9-7-1925(B), each licensee subject to the provisions of this Article shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.
2. The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.
3. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:
 - a. The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and
 - b. The previous access was terminated under favorable conditions.
4. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under this Article, the Fingerprint Orders, or 10 CFR part 73, revised December 12, 2018, incorporated by reference, available under R9-7-101, and containing no future editions or amendments. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of R9-7-1931(C).
5. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access

authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

B. Prohibitions:

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

C. Procedures for processing of fingerprint checks:

1. For the purpose of complying with this Article, licensees shall use an appropriate method listed in 10 CFR 37.7, revised November 29, 2019, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; to submit to the U.S. Nuclear Regulatory Commission, Division of Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop ~~T-8B20~~ T-07D04M, Rockville, MD 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by emailing MAILSVS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <https://www.nrc.gov/security/chp.html>.
2. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Division of Physical and Cyber Security Policy by e-mailing Crimhist.Resource@NRC.gov.) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public website. (To find the current fee amount, go to the Licensee

Criminal History Records Checks & Firearms Background Check information page at <https://www.nrc.gov/security/chp.html> and see the link for “How do I determine how much to pay for the request?.”)

3. The U.S. Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee’s application or applications for criminal history records checks.

R9-7-1957. Reporting of Events

A. General performance objective and requirements:

1. Except for those individuals listed in R9-7-1929 and those individuals grandfathered under R9-7-1925(B), each licensee subject to the provisions of this Article shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.
2. The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.
3. Fingerprinting is not required if a licensee is reinstating an individual’s unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:
 - a. The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and
 - b. The previous access was terminated under favorable conditions.
4. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safe-guards information-modified handling by another licensee, based upon a background investigation conducted under this Article, the Fingerprint Orders, or 10 CFR part 73, revised December 12, 2018, incorporated by reference, available under R9-7-101, and containing no future editions or amendments. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance

with the provisions of R9-7-1931(C).

5. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

B. Prohibitions:

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

C. Procedures for processing of fingerprint checks:

1. For the purpose of complying with this Article, licensees shall use an appropriate method listed in 10 CFR 37.7, revised November 29, 2019, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; to submit to the U.S. Nuclear Regulatory Commission, Division of Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-8B20, Rockville, MD 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by emailing MAILSVS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <https://www.nrc.gov/security/chp.html>.
2. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made pay-able to "U.S. NRC." (For guidance on making electronic payments, contact the Division of Physical and Cyber Security Policy by e-mailing

Crimhist.Resource@NRC.gov.) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC’s public website. (To find the current fee amount, go to the Licensee Criminal History Records Checks & Firearms Background Check information page at <https://www.nrc.gov/security/chp.html> and see the link for “How do I determine how much to pay for the request?”.)

3. The U.S. Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee’s application or applications for criminal history records checks.

Appendix A. - Table 1 - Category 1 and Category 2 Threshold

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270

Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

Note: Calculations Concerning Multiple Sources or Multiple Radionuclides

The “sum of fractions” methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this part.

1. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides shall be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this part apply.
2. First determine the total activity for each radionuclide from Table 1. This is done by robbing the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation.

Calculations shall be performed in metric values (i.e., TBq) and the numerator and denominator values shall be in the same units.

~~R₁~~ R₁ = total activity for radionuclide 1

~~R₂~~ R₂ = total activity for radionuclide 2

~~R_n~~ R_n = total activity for radionuclide n

~~AR₁~~ AR₁ = activity threshold for radionuclide 1

~~AR₂~~ AR₂ = activity threshold for radionuclide 2

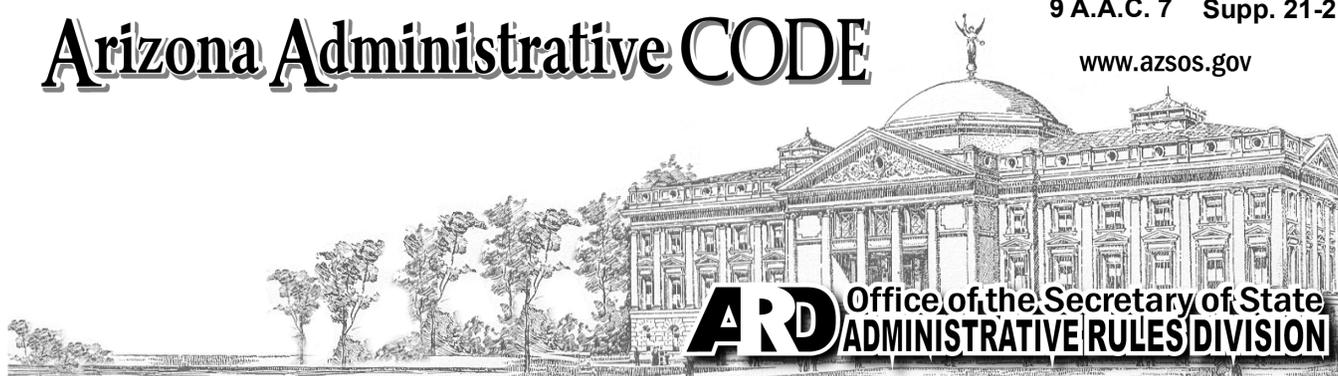
~~AR_n~~ AR_n = activity threshold for radionuclide n

n

$$\sum_i \left[\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \frac{R_n}{AR_n} \right] \geq 1.0$$

i

$$\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \dots + \frac{R_n}{AR_n} \geq 1.0$$



TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

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 expired on November 3, 2020. The Notice of Rule Expiration was filed on May 3, 2021.

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Questions about these rules? Contact:

Name: Brian D. Goretzki, Chief, Bureau of Radiation Control
Address: Department of Health Services
Public Health Licensing Services
4814 S. 40th St.
Phoenix, AZ 85040

Telephone: (602) 255-4840

Fax: (602) 437-0705

E-mail: Brian.Goretzki@azdhs.gov

or

Name: Robert Lane, Office Chief
Address: Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Ave., Suite 200
Phoenix, AZ 85007

Telephone: (602) 542-1020

Fax: (602) 364-1150

E-mail: Robert.Lane@azdhs.gov

The release of this Chapter in Supp. 21-2 replaces Supp. 20-4, 1-272 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. 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, 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

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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 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Laws 1964, Chapter 30, established the Arizona Atomic Energy Commission. Laws 1980, Chapter 206, abolished the Commission, and created the Arizona Radiation Regulatory Agency (ARRA) and the Radiation Regulatory Hearing Board.

Laws 2017, Ch. 313, transferred the Radiation Regulatory Agency to the Arizona Department of Health Services and renamed it the Bureau of Radiation Control. The rules in this Chapter (9 A.A.C. 7) were originally promulgated under 12 A.A.C. 1 and were recodified at 24 A.A.R. 813 with Section and agency references revised under Laws 2017, Ch. 313. The historical notes of the rules as codified in 12 A.A.C. 1 remain in the Chapter; therefore 12 A.A.C. 1 as released in Supp. 18-1 should be archived with this Chapter (Supp. 18-1).

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ARTICLE 1. GENERAL PROVISIONS

R9-7-101. Scope and Incorporated Materials

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

Historical Note

New Section R9-7-101 recodified from R12-1-101 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-102. Definitions

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

“A1” means the maximum activity of special form radioactive material permitted in a type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A.

“A2” means the maximum activity of radioactive material, other than special form radioactive material, low specific activity (LSA) material, and surface contaminated object (SCO) material, permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedure prescribed in 10 CFR 71, Appendix A.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Associate Radiation Safety Officer” means an individual who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a licensee. “Background radiation” does not include sources of radiation regulated by the Department.

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

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

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

“Byproduct material” means:

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

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

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

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

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

“Calibration” means the determination of:

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

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

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

“Certifiable cabinet x-ray system” means an existing uncertified x-ray system that meets or has been modified to meet the certification requirements specified in 21 CFR 1020.40, revised April 1, 2019, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

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

“Certificate of Compliance” (CoC) means the certificate issued by the NRC under 10 CFR 71, Subpart D, which authorizes the design of a package for the transportation of radioactive material.

“Certified cabinet x-ray system” means an x-ray system that has been certified in accordance with 21 CFR 1010.2, as being manufactured and assembled on or after April 10, 1975, in accordance with the provisions of 21 CFR 1020.40, both sections revised April 1, 2019, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

“CFR” means Code of Federal Regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Dosimeter” (See “Individual monitoring device”)

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

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

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

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

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

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

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

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

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

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

“Exposure” means:

Being subjected to ionizing radiation or radioactive materials.

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

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

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

“Extremity” means the hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

“Fail-safe characteristics” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

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

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

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

“Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities”

means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

“Generally applicable environmental radiation standards” means standards issued by the U.S. Environmental Protection Agency (EPA), 40 CFR 190, revised December 1, 1979, and 40 CFR 191, revised December 20, 1993, incorporated by reference, and available under R9-7-101, under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material. This incorporated material contains no future editions or amendments.

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

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

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

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

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

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

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

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

“Individual” means any human being.

“Individual monitoring” means the assessment of:

Dose equivalent

By the use of individual monitoring devices, or

By the use of survey data, or

Committed effective dose equivalent

By bioassay; or

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

“Individual monitoring device” means a device designed to be worn by a single individual for the assessment of dose equivalent. For purposes of this Chapter, “dosimeter” and “personnel

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dosimeter,” are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, optical stimulation devices, and personal (“lapel”) air sampling devices.

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

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

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

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

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

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

“Irradiate” means to expose to radiation.

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

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

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

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

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

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

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

“Limits” (See “Dose limits”)

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

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

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

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

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

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

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

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

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

LSA—I.

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

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

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

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

LSA—II.

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

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

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

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

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

The estimated average specific activity of the solid, excluding any shielding material, does not exceed $2 \times 10^{-3} A2/g$.

“Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material or exceeding four times Type B quantities as sealed sources but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4.

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

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

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

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

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

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

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

Prefix	Multiplier Symbol	Value
eka	E	10^{18}
peta	P	10^{15}
tera	T	10^{12}
giga	G	10^9
mega	M	10^6
kilo	k	10^3
milli	m	10^{-3}
micro	u	10^{-6}
nano	n	10^{-9}
pico	p	10^{-12}
femto	f	10^{-15}
atto	a	10^{-18}

“NARM” means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material. This term should not be

confused with “NORM” which is defined as naturally occurring radioactive material.

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

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

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

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

“Nuclear waste” means any highway route controlled quantity (defined in 49 CFR 173.403, revised January 8, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments) of source, byproduct, or special nuclear material required to be in NRC-approved packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Additional requirements associated with transportation of radioactive material can be found in Article 15.

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

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

“Ophthalmic physicist” means an individual who:

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

Is identified as an ophthalmic physicist on a:

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

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

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

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

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

“Particle accelerator” (See “Accelerator”)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

rized medical physicist; however, an authorized medical physicist is included within the definition of “qualified expert.”

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

“Quarter” (See “Calendar quarter”)

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

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

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

“Radiation dose” (See “Dose”)

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

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

For license conditions:

Meets the requirements in 10 CFR 35.50(a) or (c)(1), revised July 16, 2018, and 10 CFR 35.59, revised March 27, 2006, incorporated by reference, available under R9-7-10, and containing no future editions or amendments; or

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

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

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

For license conditions:

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

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

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

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

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

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

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

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

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

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

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

“Regulations of the U.S. Department of Transportation” means the federal regulations in 49 CFR 107, revised April 19, 2017; 49 CFR 171, revised April 19, 2017; 49 CFR 172, revised November 23, 2015; 49 CFR 173, revised March 6, 2019; 49 CFR 174, revised February 28, 2019; 49 CFR 175, revised October 18, 2018; 49 CFR 176, November 7, 2018; 49 CFR 177, revised September 25, 2013; 49 CFR 178, revised November 7, 2018; 49 CFR 179, revised September 25, 2018; and 49 CFR 180, revised March 30, 2017, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.

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

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

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

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

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

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

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

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

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

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

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

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

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

“Source material” means:

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

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

Source material does not include special nuclear material.

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

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

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

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

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

It satisfies the test requirements specified in 10 CFR 71.75. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

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

$$\frac{XgmsU235}{350} + \frac{YgmsU233}{200} + \frac{ZgmsPu}{200} \leq 1$$

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Uranium - natural, depleted, enriched.”

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

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

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

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

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

“Waste” (See “Low-level waste”)

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

“Week” means seven consecutive days starting on Sunday.

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

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

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

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

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

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

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

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

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

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

Historical Note

New Section R9-7-102 recodified from R12-1-102 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

When the Department recodified Section R9-7-102 it inadvertently left out the definition for “Tribal Official;” the definition has been added; the definitions of “Extremity” “Registration” and “Worker” were also corrected with language as originally codified in 12 A.A.C. 1 (Supp. 18-2). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). An amendment to the definition “Extremity” was inadvertently omitted when codifying changes to this Section by final expedited rulemaking in Supp 18-3. The definition has been listed as filed at 24 A.A.R. 2151 and is effective July 12, 2018 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-103. Exemptions

A. Common and contract carriers, freight forwarders, and warehousemen who are subject to 49 CFR 107.109, 107.111, 107.113, 171.2, 171.3, 172.200, 173.1, 173.3, 173.4, 173.401, 175.3, 175.10, 176.3, 176.5, 176.11, 176.24, 176.27, and 177.801, revised October 1, 2007, of the U.S. Department of Transportation, or 39 CFR 111.1 of the U.S. Postal Service, revised July 1, 2007, incorporated by reference, and available under R9-7-101, and who if need be, store radioactive mate-

rial, for periods of less than 72 hours, in the regular course of their carriage for another, are exempt from this Chapter. The incorporated materials above contain no future editions or amendments.

- B. Any U.S. Department of Energy contractor or subcontractor and any U.S. Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within this state are exempt from this Chapter to the extent that such contractor or subcontractor under the contract receives, possesses, uses, transfers, or acquires sources of radiation:
1. Prime contractors performing work for the Department of Energy at U.S. Government-owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;
 2. Prime contractors of the Department of Energy performing research or development, manufacture, storage, testing or transportation of nuclear weapons or components thereof;
 3. Prime contractors of the Department of Energy using or operating nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel; and
 4. Any other prime contractor or subcontractor of the Department of Energy or of the Nuclear Regulatory Commission when the state and the Nuclear Regulatory Commission jointly determine:
 - a. That the exemption of the prime contractor or subcontractor is authorized by law; and
 - b. That under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.
- C. Any licensee who delivers to a carrier for transport any package which contains radioactive material having a specific activity of 74 kBq/kg (2 nanocuries per gram) or less, is exempt from the provisions of this Chapter with respect to that package.
- D. Any physician licensed by a State to dispense drugs in the practice of medicine is exempt from 10 CFR 71.5 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under 10 CFR part 35 and/or R9-7-703.

Historical Note

New Section R9-7-103 recodified from R12-1-103 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3).

R9-7-104. Prohibited Uses

- A. A person shall not use the following fluoroscopic devices:
1. Hand-held fluoroscopic screens,
 2. Shoe-fitting fluoroscopic devices.
- B. Except as specifically authorized by law, a person shall not use sources of ionizing radiation for the purpose of screening an individual or inspecting an individual for:
1. Concealed weapons,
 2. Hazardous materials,
 3. Stolen property, or
 4. Contraband.
- C. Unless there is a medical or dental indication for the exposure and the exposure is prescribed by a licensed practitioner, a person shall not deliberately expose an individual to the useful beam from:
1. An ionizing radiation machine; or

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- 2. A non-ionizing radiation source, having a radiation beam known to be harmful to human tissue.

5	8	23E+6	23E+8
7	7	24E+6	24E+8
10	6.5	24E+6	24E+8
14	7.5	17E+6	17E+8
20	8	16E+6	16E+8
40	7	14E+6	14E+8
60	5.5	16E+6	16E+8
1E+2	4	20E+6	20E+8
2E+2	3.5	19E+6	19E+8
3E+2	3.5	16E+6	16E+8
4E+2	3.5	14E+6	14E+8

Historical Note

New Section R9-7-104 recodified from R12-1-104 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-105. Quality Factors for Converting Absorbed Dose to Dose Equivalent

- A. As used in these rules, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I. QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent ^a
X, gamma, or beta radiation and high-speed electrons		1
Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

^a The absorbed dose in gray is equal to 1 Sv or the absorbed dose in rad is equal to 1 rem.

- B. If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in sievert per hour or rem per hour, 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these rules, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II. MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

	Neutron Energy (meV)	Quality Factor (Q)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² Sv ⁻¹)
(thermal)	2.5E-8	2	980E+6	980E+8
	1E-7	2	980E+6	980E+8
	1E-6	2	810E+6	810E+8
	1E-5	2	810E+6	810E+8
	1E-4	2	840E+6	840E+8
	1E-3	2	980E+6	980E+8
	1E-2	2.5	1010E+6	1010E+8
	1E-1	7.5	170E+6	170E+8
	5E-1	11	39E+6	39E+8
	1	11	27E+6	27E+8
	2.5	9	29E+6	29E+8

^a Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

^b Monoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

Historical Note

New Section R9-7-105 and Tables 1 and 2 recodified from R12-1-105, Tables 1 and 2 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-106. Units of Activity

For purposes of these rules, activity is expressed in the SI unit of becquerel (Bq) or in the special unit of curie (Ci), or their multiples, or disintegrations or transformations per unit of time. The definitions for these units are located in R9-7-102.

Historical Note

New Section R9-7-106 recodified from R12-1-106, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-107. Misconduct

- A. A licensee, registrant, applicant for a license or certificate of registration, or employee of a licensee, registrant, or applicant; or any contractor (including a supplier or consultant), subcontractor, or employee of a contractor or subcontractor of any licensee or certificate of registration holder who provides to any licensee, registrant, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, registrant's, or applicant's activities in this Chapter, shall not:
 1. Knowingly engage in conduct that violates or will result in a violation by a licensee, registrant, or applicant, of any statute, rule, regulation, or order; or any term, condition, or limitation of any license or registration issued by the Department; or
 2. Knowingly submit to the Department, or a licensee, registrant, or applicant, or a licensee's, registrant's, or applicant's contractor or subcontractor, information that is incomplete or inaccurate.

- B. The Board shall impose the applicable civil penalty listed in R9-7-1216 on a person who violates subsection (A)(1) or (A)(2). For this purpose the person is classified as a Division II licensee and the violation is classified as a Severity II violation.
- C. For the purposes of this Section, "misconduct" means conduct prohibited under subsection (A).
- D. A person who is not a licensee, registrant, or applicant and knowingly violates a rule for the safe use of radiation sources in 9 A.A.C. 7 is subject to the enforcement actions in 9 A.A.C. 7, Article 12.

Historical Note

New Section R9-7-107 recodified from R12-1-107, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES**R9-7-201. Exemptions**

- A. Electronic equipment that produces X-radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this Article, provided that an exposure rate, from any accessible surface, averaged over an area of 10 centimeters squared (1.55 inches squared) does not exceed 5 microsieverts (0.5 milliroentgen) per hour at 5 centimeters (2.0 inches).
- B. The production, testing, or factory servicing of the electronic equipment in subsection (A) is not exempt from the requirements of this Article.
- C. Radiation machines in storage or in transit to or from storage are exempt from the requirements of this Article.
- D. Radiation machines rendered incapable of producing radiation are exempt from the requirements of this Article.

Historical Note

New Section R9-7-201 recodified from R12-1-201, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-202. Application for Registration of Ionizing Radiation Producing Machines

- A. A person shall not use a radiation machine except as authorized in this Article.
- B. A person possessing a nonexempt radiation machine shall apply for registration of the machine with the Department within 30 days after its installation. The person applying for registration of a radiation-producing machine shall use the application forms provided by the Department. The applicant shall provide the information identified in Appendix A of this Article.
- C. In addition to the application form or forms, the applicant shall remit the appropriate registration or licensing fee in R9-7-1306 and provide other information required by R9-7-208.
- D. Each applicant that applies for registration of a stationary x-ray system, with the exception of applicants from bone densitometry, cabinet radiography, podiatry, dental, bone mineral analyzer and mammography facilities, shall provide a scale drawing of the room in which the x-ray system is located, or provide measurements from the radiation source to the surrounding barrier surfaces. The drawing shall denote the type of materials and the thickness (or lead equivalence) of each barrier of the room (walls, ceilings, floors, doors, windows). The drawing shall also denote the type and frequency of occupancy in adjacent areas, including those above and below the x-ray room of concern (e.g., hallways, offices, parking lots, and lavatories). Estimates of workload shall also be provided with the drawing.
- E. An applicant proposing to use a particle accelerator for medical purposes shall not use the particle accelerator until the Department inspection required in R9-7-914 has been completed.

Historical Note

New Section R9-7-202 recodified from R12-1-202, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-203. Application for Registration of Servicing and Installation

- A. Each person who is engaged in the business of installing or offering to install radiation machines shall apply for registration. For purposes of this Chapter, install includes selling and servicing, or offering to sell or service, x-ray machines in Arizona.

- B. The applicant shall complete the application for registration on forms that request information required by A.R.S. § 30-672.01, provided by the Department.

Historical Note

New Section R9-7-203 recodified from R12-1-203, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-204. Issuance of Notice of Registration

- A. Upon determining that the application meets the requirements of the Act and this Article, the Department shall issue a Notice of Registration.
- B. All radiation machines located at the same facility may be registered using one Notice of Registration.

Historical Note

New Section R9-7-204 recodified from R12-1-204, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-205. Expiration of Notice of Registration or Certification

- A. Except as provided in subsection (B), a Notice of Registration, issued according to R9-7-204, or a certificate issued according to R9-7-208, expires at the end of the day on the expiration date stated in the Notice of Registration or certificate.
- B. If an application for renewal is filed by the registrant or certificate holder not less than 30 days prior to the expiration of the Notice of Registration or certificate, the Notice of Registration or certificate does not expire until a final determination is made by the Department on the renewal application.

Historical Note

New Section R9-7-205 recodified from R12-1-205, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-206. Assembly, Installation, Removal from Service, and Transfer

- A. A person who assembles, or installs ionizing radiation machines in this state shall notify the Department in writing within 15 days of:
 1. The name and address of the person possessing the machine that was assembled or installed;
 2. The manufacturer, model, and serial number of each radiation machine with the tube housing model number and serial number, maximum kVp, and maximum mA, assembled or installed; and
 3. The date each machine was assembled or installed, or the first clinical procedure is performed.
- B. Any person who possesses a radiation machine registered by the Department shall notify the Department within 15 days of the machine being taken out of service. The written notification shall contain the name and address of the person receiving the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.
- C. In the case of diagnostic x-ray systems that contain certified components, an assembler shall, within 15 days following completion of the assembly, submit to the Department a copy of the assembler's report (FDA Report No. 2579) prepared in compliance with requirements in 21 CFR 1020.30(d), revised April 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The report shall suffice in lieu of any other report by the assembler, if it contains the information required in subsection (A).
- D. A person shall not make, sell, lease, transfer, lend, assemble, service, or install radiation machines or the supplies used in connection with radiation machines unless the supplies and

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equipment when properly placed in operation and used, meet the requirements of these rules.

Historical Note

New Section R9-7-206 recodified from R12-1-206, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-207. Reciprocal Recognition of Out-of-state Radiation Machines

- A. If any radiation machine is to be brought into the state for temporary use, the person proposing to bring the radiation machine into the state shall provide written notice to the Department at least three working days before the radiation machine is to be used in the state. The notice shall include the type of radiation machine; the nature, duration, and scope of use; and the exact location where the radiation machine is to be used. If, for a specific case, the three working-day period would impose an undue hardship, the person may upon application to the Department, obtain permission to proceed sooner.
- B. In addition, the owner of the radiation machine and the person possessing the machine while in the state shall:
 1. Comply with all applicable rules of the Department;
 2. Upon request, supply the Department with a copy of the machine's registration and other information regarding the safe operation of the machine while it is in the state; and
 3. Upon request, supply the Department with the work authorization from the Department, machine registration, operating and emergency procedures, utilization log, survey instrument and associated calibration record, and training records for all users.
- C. A radiation machine shall not be operated within the state on a temporary basis in excess of 180 calendar days per year.

Historical Note

New Section R9-7-207 recodified from R12-1-207, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-208. Certification of Mammography Facilities

An applicant seeking certification of a facility according to A.R.S. § 30-672(J) shall:

1. Provide evidence with the application that a quality assurance program has been established and is in use under R9-7-614(B)(1) and (2),
2. Provide evidence with the application that physicians reading mammographic images have the training and experience required in A.R.S. § 32-2842, and
3. Provide evidence with the application that physicians reading mammographic images have met the minimum criteria established by their respective licensing boards, as required in A.R.S. § 32-2842(C).

Historical Note

New Section R9-7-208 recodified from R12-1-208, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-209. Notifications

- A. A registrant shall notify the Department within 30 days of any change to the information contained in the notice of registration or a certificate issued according to R9-7-208.
- B. A person who possesses a radiation machine registered by the Department shall notify the Department within 15 days if the machine is discarded or transferred to another person. In the notice, the person shall provide the name and address of the person who receives the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.

Historical Note

New Section R9-7-209 recodified from R12-1-209, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Application Information

An application shall contain the following information as required in R9-7-202(B), before a registration will be issued. The Department shall provide an application form to an applicant with a guide, if available, or shall assist the applicant to ensure that only correct information is provided on the application.

Name and mailing address of applicant	Use location
Person responsible for radiation safety program	Telephone number
Type of facility	Facility subtype
Legal structure and ownership	Signature of certifying agent
Radiation machine information	Equipment identifiers
Shielding information	Scale drawing, if applicable
Equipment operator instructions and restrictions	Physicist name and training, if applicable
Classification of professional in charge	
Record of calibration for therapy units	Type of request: amendment, new, or renewal
Protection survey results, if applicable	
Type of industrial radiography program, if applicable	
Radiation Safety Officer name, if applicable	Contact person
Other registration requirements listed in Articles 2, 6, 8, 9, and 11	Appropriate fee listed in Article 13 schedule

Historical Note

New Article 2, Appendix A recodified from 12 A.A.C. 1, Article 2, Appendix A, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 3. RADIOACTIVE MATERIAL LICENSING

R9-7-301. Ownership, Control, or Transfer of Radioactive Material

- A. In addition to the requirements of this Article, all licensees are subject to the requirements of 9 A.A.C. 7, Article 1, Article 4, and Article 10. Licensees engaged in industrial radiographic operations are subject to the requirements of 9 A.A.C. 7, Article 5; licensees using radioactive material in the practice of medicine are subject to the requirements of 9 A.A.C. 7, Article 7; licensees transporting radioactive material are subject to the requirements contained in 9 A.A.C. 7, Article 15; and licensees using radioactive material in well logging operations are subject to the requirements in 9 A.A.C. 7, Article 17.
- B. Notwithstanding any other provisions of this Article, any person may own radioactive material, provided that the ownership does not include the actual possession, custody, use, or physical transfer of radioactive material or the manufacture or production of any article that contains radioactive material without the applicable certification, license, or registration.
- C. A manufacturer, processor, or producer of any equipment, device, commodity, or other product that contains source material or radioactive material whose subsequent possession, use, transfer, or disposal by all other persons is exempt from regulatory requirements may only obtain authority to transfer

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possession or control of the material from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Historical Note

New Section R9-7-301 recodified from R12-1-301, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-302. Source Material; Exemptions

- A.** Any person is exempt from this Article to the extent the person receives, possesses, uses, delivers or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20th of 1 percent (0.0005) of the mixture, compound, solution, or alloy.
- B.** Any person is exempt from this Article to the extent the person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material, provided that, the person does not refine or process the ore except as authorized in a specific license.
- C.** Any person is exempt from the requirements for a license set forth in this Article if the person receives, possesses, uses, or transfers:
1. Any quantities of thorium contained in:
 - a. Incandescent gas mantles;
 - b. Vacuum tubes;
 - c. Welding rods;
 - d. Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;
 - e. Germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting, provided that each lamp does not contain more than 2 grams of thorium;
 - f. Rare earth metals, compounds, mixtures, or products containing not more than 0.25 percent by weight thorium, uranium, or any combination of thorium and uranium; or
 - g. Individual neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium;
 2. Source material contained in the following products:
 - a. Glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent source material by weight;
 - b. Glassware containing not more than 2 percent by weight source material or, for glassware manufactured before August 27, 2013, 10 percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction; or
 - c. Piezoelectric ceramic containing not more than 2 percent source material by weight;
 3. Photographic film, negatives, and prints containing uranium or thorium;
 4. Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the exemption contained in this subsection does not authorize the chemical, physical, or metallurgical treatment or processing of the finished product or part;
 5. Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of counterweights, provided that:
 - a. Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";
 - b. Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED";
 - c. The exemption contained in subsection (C)(5) does not authorize the chemical, physical, or metallurgical treatment or processing of any counterweight other than repair or restoration of any plating or other covering; and
 - d. The requirements specified in subsections (C)(5)(a) and (b) need not be met by counterweights manufactured prior to December 31, 1969; provided, that these counterweights were manufactured under a specific license issued by the Atomic Energy Commission and were impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM";
 6. Natural or depleted uranium metal used as shielding and constituting part of any shipping container; provided that:
 - a. The shipping container is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM," and
 - b. The uranium metal is encased in mild steel or equally fire resistant metal with minimum wall thickness of 1/8 inch (3.2 mm);
 7. Thorium or uranium contained in or on finished optical lenses, provided that each lens or mirror does not contain more than 10 percent by weight thorium or uranium or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium; and that the exemption contained in this Section does not authorize either:
 - a. The shaping, grinding, or polishing of such lens or mirror or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror; or
 - b. The receipt, possession, use, or transfer of uranium or thorium contained in contact lenses, spectacles, or the eyepieces of binoculars or other optical instruments;
 8. Uranium contained in detector heads of fire detection units, provided that each detector head contains not more than 5 nanocuries (185 Bq) of uranium; or
 9. Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:
 - a. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide), and
 - b. The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.
- D.** No person may initially transfer for sale or distribution a product containing source material to persons exempt under subsection (C), or equivalent regulations of the NRC or another Agreement State, unless authorized by a license issued under R9-7-318 to initially transfer such products for sale or distribution.
- E.** Persons authorized to manufacture, process, or produce these materials or products containing source material by an Agreement State, and persons who import finished products or parts, for sale or distribution must be authorized by a license issued under R9-7-318 for distribution only and are exempt from the requirements of Articles 4 and 10 of this Chapter, and R9-7-309(1) and (2).
- F.** The exemptions in subsections (C), (D), and (E) do not authorize the manufacture of any of the products described.

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Historical Note

New Section R9-7-302 recodified from R12-1-302, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-303. Radioactive Material Other Than Source Material; Exemptions**A. Exempt concentrations**

1. Except as provided in subsection (A)(3) and (A)(4), a person is exempt from this Article if the person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in Exhibit A.
2. This Section shall not be deemed to authorize the import of radioactive material or products containing radioactive material.
3. A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license issued under R9-7-311(A) or the requirements of this Article to the extent that this person transfers radioactive material contained in a product or material in concentrations not in excess of those specified in Exhibit A of this Article and introduced into the product or material by a licensee holding a specific license issued by the NRC expressly authorizing such introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.
4. A person shall not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under subsection (A)(1) or equivalent Regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State, except in accordance with a license issued under 10 CFR 32.11.

B. Exempt items

1. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, or persons who initially transfer for sale or distribution the following products, a person is exempt from this Chapter to the extent that the person receives, possesses, uses, transfers, owns, or acquires the following products:
 - a. Timepieces, hands, or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:
 - i. 925 megabecquerels (25 millicuries) of tritium per timepiece;
 - ii. 185 megabecquerels (5 millicuries) of tritium per hand;
 - iii. 555 megabecquerels (15 millicuries) of tritium per dial (bezels when used shall be considered part of the dial);
 - iv. 3.7 megabecquerels (100 microcuries) of promethium-147 per watch or 7.4 megabecquerels (200 microcuries) of promethium-147 per any other timepiece;
 - v. 740 kBq (20 microcuries) of promethium-147 per watch hand or 1.48 megabecquerels (40 microcuries) of promethium-147 per other timepiece hand;
 - vi. 2.22 megabecquerels (60 microcuries) of promethium-147 per watch dial or 4.44 MBq (120 microcuries) of promethium-147 per other timepiece dial (bezels, when used, shall be considered part of the dial);
 - vii. The levels of radiation from hands and dials containing promethium-147 shall not exceed, when measured through 50 milligrams per square centimeter of absorber:
 - (1) For wrist watches, 1.0 μ Gy (0.1 millirad) per hour at 10 centimeters from any surface of the watch;
 - (2) For pocket watches, (0.1 millirad) per hour at 1 centimeter from any surface;
 - (3) For any other timepiece, 2.0 μ Gy (0.2 millirad) per hour at 10 centimeters from any surface;
 - viii. 37 kBq (1 microcurie) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007;
- b. Static elimination devices which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 μ Ci) of polonium-210 per device.
 - i. Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 μ Ci) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.
 - ii. Such devices authorized before October 23, 2012 for use under the general license then provided in R9-7-306 and equivalent regulations of the NRC or Agreement State and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the NRC.
- c. Balances of precision containing not more than 37 megabecquerels (1 millicurie) of tritium per balance or not more than 18.5 megabecquerels (0.5 millicurie) of tritium per balance part manufactured before December 17, 2007;
- d. Marine compasses containing not more than 27.75 gigabecquerels (750 millicuries) of tritium gas and other marine navigational instruments containing not more than 9.25 gigabecquerels (250 millicuries) of tritium gas manufactured before December 17, 2007;
- e. Ionization chamber smoke detectors containing not more than 37 kBq (1 microcurie) of americium-241 per detector in the form of a foil and designed to protect life and property from fires;
- f. Electron tubes: Provided that each tube does not contain more than one of the following specified quantities of radioactive material:
 - i. 5.55 GBq (150 millicuries) of tritium per microwave receiver protector tube or 370 megabecquerels (10 millicuries) of tritium per any other electron tube;
 - ii. 37 kBq (1 microcurie) of cobalt 60;
 - iii. 185 kBq (5 microcuries) of nickel 63;
 - iv. 1.11 megabecquerels (30 microcuries) of krypton 85;
 - v. 185 kBq (5 microcuries) of cesium 137;

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- vi. 1.11 megabecquerels (30 microcuries) of promethium-147;
 - vii. And provided further, that the level of radiation due to radioactive material contained in each electron tube does not exceed 10 μ Gy (1 millirad) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber. The term "electron tubes" includes spark gap tubes, power tubes, gas tubes, including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical current;
 - g. Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material provided that:
 - i. Each source contains no more than one exempt quantity set forth in Exhibit B of this Article; and
 - ii. Each instrument contains no more than 10 exempt quantities. For the purposes of this subsection, an instrument's source or sources may contain either one type or different types of radionuclide and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Exhibit B of this Article, provided the sum of the fractions do not exceed unity;
 - iii. For the purposes of subsection (B)(1)(h) only, 185 kBq (50 nanocurie) of americium-241 is considered an exempt quantity under Exhibit B of this Article;
 - h. Any person who desires to apply radioactive material to, or to incorporate radioactive material into, the products exempted in subsection (B)(1)(a), or who desires to initially transfer for sale or distribution such products containing radioactive material, should apply for a specific license pursuant to R9-7-311 of this Article, which license states that the product may be distributed by the licensee to persons exempt from the rules pursuant to subsection (A)(1).
2. Self-luminous products containing tritium, krypton-85, or promethium-147:
- a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce self-luminous products containing tritium, krypton-85, or promethium-147, and except as provided in subsection (B)(2)(c), a person is exempt from this Chapter if the person receives, possesses, uses, owns, transfers or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported, initially transferred for sale or distribution, or transferred under a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.22, and the license authorizes the transfer of the products to persons who are exempt from regulatory requirements.
 - b. Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under subsection (B)(2)(a), should apply for a license:
 - i. Under 10 CFR 32 and for a certificate of registration in accordance with 10 CFR 32.210, and
 - ii. As described in R9-7-311.
 - c. A person is exempt from this Chapter if the person receives, possesses, uses, or transfers articles containing less than 3.7 kBq (100 nanocuries) of radium-226, manufactured prior to October 1, 1978.
3. Gas and aerosol detectors containing byproduct material
- a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce gas and aerosol detectors containing radioactive material, a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, provided that detectors containing radioactive material shall be manufactured, imported, or transferred according to a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.26, or equivalent regulations of an Agreement or Licensing State, this exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007 in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or equivalent regulations of an Agreement or Licensing State and the license authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.
 - b. Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State are exempt under subsection (B)(3)(a), provided that the device is labeled in accordance with the specific license authorizing distribution of the general licensed device, and that the detectors meet the requirements of the regulations of the U.S. Nuclear Regulatory Commission.
 - c. Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer such products for use under subsection (B)(3)(a), should apply for a license under 10 CFR 32.26 and for a certificate of registration in accordance with 10 CFR 32.210.
4. Certain industrial devices
- a. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in this Chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under R9-7-311 of this Article, which license authorizes the initial transfer of

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the device for use under this Section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

- b. Any person who desires to manufacture, process, produce, or initially transfer, for sale or distribution, industrial devices containing byproduct material for use under subsection (B)(4)(a), shall apply for a license described in R9-7-311 and for a certificate of registration in accordance with 10 CFR 32.210.

C. Exempt quantities

1. Except as provided in subsections (C)(2), (3), and (7), a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in Exhibit B of this Article.
2. This subsection does not authorize the production, packaging, or repackaging or transfer of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.
3. Except as specified in this subsection, a person shall not, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Exhibit B of this Article, knowing or having reason to believe the described quantities of radioactive material will be transferred to persons exempt under subsection (C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State. A person may transfer radioactive material for commercial distribution under a specific license issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.18 which license states that the radioactive material may be transferred by the licensee to persons exempt under this subsection or the equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State.
4. Sources containing exempt quantities of radioactive material shall not be bundled or placed in close proximity for the purpose of using the radiation from the combined sources in place of a single source, containing a licensable quantity of radioactive material.
5. Possession and use of bundled or combined sources containing exempt quantities of radioactive material in unregistered devices by persons exempt from licensing is prohibited.
6. Any person, who possesses radioactive material received or acquired before September 25, 1971, under the general license issued under R9-7-311(A) of this Article or similar general license of an Agreement State or the NRC, is exempt from the requirements for a license issued under R9-7-311(A) of this Article to the extent that this person possesses, uses, transfers, or owns radioactive material.
7. No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by the exemption described in subsection (C)(6) so that the aggregate quantity exceeds the limits set forth in Exhibit B, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the rules in this Section.

Historical Note

New Section R9-7-303 recodified from R12-1-303, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-304. License Types

- A.** Activities requiring license. Except as provided in 10 CFR 30.3 (revised January 1, 2013, incorporated by reference, and available under R9-7-101; this incorporated material contains no future editions or amendments), in subsection (B)(1), and for persons exempt as provided in R9-7-302 and R9-7-303 of this Article, no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter and in accordance with 10 CFR 30.3.
- B.** Licenses for radioactive materials are of two types: general and specific.
1. A general license is provided by rule, grants authority to a person for certain activities involving radioactive material, and is effective without the filing of an application with the Department or the issuance of a licensing document to a particular person. However, registration with the Department may be required by the particular general license.
 2. The Department issues a specific license to a named person who has filed an application for a license under the applicable provision of this Chapter. A specific licensee is subject to all of the applicable rules in this Chapter and any limitation contained in the license document.

Historical Note

New Section R9-7-304 recodified from R12-1-304, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-305. General Licenses – Source Material

- A.** A general license is hereby issued authorizing commercial and industrial firms; research, educational, and medical institutions; and Federal, State, and local government agencies to receive, possess, use, and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities.
1. No more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms (e.g., gaseous, liquid, powder, etc.) at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year.
 2. As applicable:
 - a. No more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this subsection unless it is accounted for under the limits of subsection (A)(1);
 - b. No more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this subsection; or

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

Historical Note

New Section R9-7-305 recodified from R12-1-305, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-306. General License – Radioactive Material Other Than Source Material

- A.** Certain measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere.
1. This subsection grants a general license to a commercial or industrial firm; a research, educational or medical institution; an individual conducting business; or a state or local government agency to receive, acquire, possess, use, or transfer radioactive material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere, according to the provisions of 10 CFR 31.5(b), (c), and (d), (Revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 2. A general licensee shall receive a device from one of the specific licensees described in this Section or through a transfer made under subsection (A)(4)(k).
 3. A general license in subsection (A)(1) applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the requirements contained in:
 - a. A specific license issued under R9-7-311(A), or

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- b. An equivalent specific license issued by the NRC or another Agreement State.
- c. An equivalent specific license issued by a State with rules or regulations comparable to this Section.
- 4. A person who acquires, receives, possesses, uses, or transfers radioactive material in a device licensed under subsection (A)(1) or through a transfer made under subsection (A)(4)(h), shall:
 - a. Ensure that all labels and safety statements affixed to a device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained and not removed, and comply with all instructions and precautions on the labels.
 - b. Ensure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at other intervals as specified on the label.
 - i. A general licensee need not test a device that contains only krypton for leakage of radioactive material; and
 - ii. A general licensee need not test a device for leakage of radioactive material if the device contains only tritium, not more than 3.7 megabecquerels (100 microcuries) of other beta and/or gamma emitting material, or 370 kilobecquerels (10 microcuries) of alpha emitting material, or the device is held in storage, in the original shipping container, before initial installation.
 - c. Ensure that the tests required by subsection (A)(4)(b) and other testing, installation, servicing, and removal from installation involving the radioactive material or its shielding or containment, are performed:
 - i. In accordance with the device label instructions, or
 - ii. By a person holding a specific license under R9-7-311(A) or in accordance with the provisions of a specific license issued by the NRC or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
 - d. Maintain records of compliance with the requirements in subsections (A)(4)(b) and (c) that show the results of tests; the dates that required activities were performed, and the names of persons performing required activities involving radioactive material from the installation and its shielding or containment. The records shall be maintained for three years from the date of the recorded event or until transfer or disposal of the device.
 - e. Immediately suspend operation of a device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 becquerel (0.005 microcurie) or more of removable radioactive material.
 - i. A general licensee shall not operate the device until it has been repaired by the manufacturer or another person holding a specific license to repair this type of device that was issued by the Department under R9-7-311(A), the NRC, or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
 - ii. If necessary the general licensee shall dispose of the device and any radioactive material from the device by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Department.
 - iii. Within 30 days of an event governed by subsection (A)(4)(e) the general licensee shall furnish a report that contains a brief description of the event and the remedial action taken and, in the case of detection of 185 Becquerel (0.005 microcurie) or more of removable radioactive material or failure of or damage to a source likely to result in contamination of the general licensee's facility or the surrounding area, if applicable, a plan for ensuring that the general licensee's facility and surrounding area, if applicable, are acceptable for unrestricted use. The radiological criteria for unrestricted use in R9-7-452 may be used to prepare the plan, as determined by the Department, on a case-by-case basis.
 - f. Not abandon a device that contains radioactive material.
 - g. Not export a device that contains radioactive material except in accordance with 10 CFR 110, revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 - h. Transfer or dispose of a device that contains radioactive material only by export as authorized in subsection (A)(4)(g), transfer to another general licensee as authorized in subsection (A)(4)(k) or a person who is authorized to receive the device by a specific license issued by the Department, the NRC, or an Agreement State, or collection as waste if authorized by equivalent regulations of an Agreement State, or the NRC, or as otherwise approved under subsection (A)(4)(j).
 - i. Within 30 days after the transfer or export of a device to a specific licensee, furnish a report to the Department. The report shall:
 - i. Identify the device by manufacturer's (or initial transferor's) name, model number, and serial number;
 - ii. Provide the name, address, and license number of the person receiving the device (license number not applicable if exported); and
 - iii. Provide the date of transfer or export.
 - j. Obtain written Department approval before transferring a device to any other specific licensee that is not authorized in accordance with subsection (A)(4)(h).
 - k. Transfer a device to another general licensee only:
 - i. If the device remains in use at a particular location. The transferor shall provide the transferee with a copy of this Section, a copy of R9-7-443, R9-7-445, and R9-7-448 and any safety documents identified on the device label. Within 30 days of the transfer, the transferor shall report to the Department the manufacturer's (or initial transferor's) name; the model number and the serial number of the device transferred; the transferee's name and mailing address for the location of use; and the name, title, and tele-

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- phone number of the responsible individual appointed by the transferee in accordance with subsection (A)(4)(n); or
- ii. If the device is held in storage in the original shipping container at its intended location of use before initial use by a general licensee, and by a person that is not a party to the transaction.
 - l. Comply with the provisions of R9-7-443, R9-7-444, R9-7-445, R9-7-447, and R9-7-448 for reporting and notification of radiation incidents, theft or loss of licensed material, and is exempt from the other requirements of 9 A.A.C. 7, Articles 4 and 10.
 - m. Respond to written requests from the Department to provide information relating to the general license within 30 days from the date on the request, or a longer time period specified in the request. If the general licensee cannot provide the requested information within the specified time period, the general licensee shall request a longer period to supply the information before expiration of the time period, providing the Department with a written justification for the request.
 - n. Appoint an individual responsible for knowledge of applicable laws and possessing the authority to take actions required to comply with applicable radiation safety laws. The general licensee, through this individual, shall ensure the day-to-day compliance with applicable radiation safety laws. This provision does not relieve the general licensee of responsibility.
 - o. Register, in accordance with subsections (A)(4)(p) and (q), any device that contains at least 370 megabecquerels (10 millicuries) of cesium-137, 3.7 megabecquerels (0.1 millicuries) of strontium-90, 37 megabecquerels (1 millicurie) of cobalt-60, or 37 megabecquerels (1 millicurie) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under subsection (A)(4)(q)(iv), represents a separate general licensee and requires a separate registration and fee.
 - p. Register each device annually with the Department and pay the fee required by R9-7-1306, Category D4, if in possession of a device that meets the criteria in subsection (A)(4)(o). The general licensee shall register by verifying, correcting, and adding to the information provided in a request for registration received from the Department. The registration information shall be submitted to the Department within 30 days from the date on the request for registration. In addition, a general licensee holding devices meeting the criteria of subsection (A)(4)(o) is subject to the bankruptcy notification requirements in R9-7-313(D).
 - q. In registering a device, furnish the following information and any other registration information specifically requested by the Department:
 - i. Name and mailing address of the general licensee;
 - ii. Information about each device, including the manufacturer (or initial transferor), model number, serial number, radioisotope, and activity (as indicated on the label);
 - iii. Name, title, and telephone number of the responsible individual appointed by the general licensee under subsection (A)(4)(n);
 - iv. Address or location at which each device is used and stored. For a portable device, the address of the primary place of storage;
 - v. Certification by the responsible individual that the information concerning each device has been verified through a physical inventory and review of label information; and
 - vi. Certification by the responsible individual that the individual is aware of the requirements of the general license.
 - r. Report a change in mailing address for the location of use or a change in the name of the general licensee to the Department within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage.
 - s. Not use a device if the device has not been used for a period of two years. If a device with shutters is not being used, the general licensee shall ensure that the shutters are locked in the closed position. The testing required by subsection (A)(4)(b) need not be performed during a period of storage. However, if a device is put back into service or transferred to another person, and has not been tested during the required test interval, the general licensee shall ensure that the device is tested for leakage before use or transfer and that the shutter is tested before use. A device kept in standby for future use is excluded from the two-year time limit in this subsection if the general licensee performs a quarterly physical inventory regarding the standby devices.
5. A person that is generally licensed by an Agreement State with respect to a device that meets the criteria in subsection (A)(4)(o) is exempt from registration requirements if the device is used in an area subject to Department jurisdiction for a period less than 180 days in any calendar year. The Department does not request registration information from a general licensee if the device is exempted from licensing requirements in subsection (A)(4)(o).
 6. The general license granted under subsection (A)(1) is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
 7. The general license in subsection (A)(1) does not authorize the manufacture or import of devices containing byproduct material.
- B. Luminous safety devices for aircraft**
1. This subsection grants a general license that authorizes a person to own, receive, acquire, possess, and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided that each device contains not more than 370 gigabecquerels (10 curies) of tritium or 11.1 gigabecquerels (300 millicuries) of promethium-147; and each device has been manufactured, assembled, initially transferred, or imported according to a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled according to the specifications contained in a specific license issued to the manufacturer or assembler of the device by the Department or any Agreement State or Licensing State in accordance with licensing requirements equivalent to those in 10 CFR 32.53.
 2. A person who owns, receives, acquires, possesses, or uses a luminous safety device according to the general license granted in subsection (B)(1) is:

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- a. Exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10 except that the person shall comply with the reporting and notification provisions of R9-7-443, R9-7-444, R9-7-445, R9-7-447, and R9-7-448;
 - b. Not authorized to manufacture, assemble, repair, or import a luminous safety device that contains tritium or promethium-147;
 - c. Not authorized to export luminous safety devices containing tritium or promethium-147;
 - d. Not authorized to own, receive, acquire, possess, or use radioactive material contained in instrument dials; and
 - e. Subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
- C. This subsection grants a general license that authorizes a person who holds a specific license to own, receive, possess, use, and transfer radioactive material if the Department issues the license; or special nuclear material if the NRC issues the license. For americium-241, radium-226, and plutonium contained in calibration or reference sources, this subsection grants a general license in accordance with the provisions of subsections (C)(1), (2), and (3). For plutonium, ownership is included in the licensed activities.
1. This subsection grants a general license for calibration or reference sources that have been manufactured according to the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission under 10 CFR 32.57 or 10 CFR 70.39. This general license also governs calibration or reference sources that have been manufactured according to specifications contained in a specific license issued to the manufacturer by the Department, an Agreement State, or a Licensing State, according to licensing requirements equivalent to those contained in 10 CFR 32.57 or 10 CFR 70.39, revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 2. A general license granted under subsection (C) or (C)(1) is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 4, 10, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689. In addition, a person who owns, receives, acquires, possesses, uses, or transfers one or more calibration or reference sources under a general license granted under subsection (C) or (C)(1) shall:
 - a. Not possess at any one time, at any location of storage or use, more than 185 kBq (5 microcuries) of americium-241, plutonium, or radium-226 in calibration or reference sources;
 - b. Not receive, possess, use, or transfer a calibration or reference source unless the source, or the storage container, bears a label that includes one of the following statements, as applicable, or a substantially similar statement that contains the same information:
 - i. The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS (name of the appropriate material) – DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

 Name of manufacturer or importer
 - ii. The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of any Licensing State. Do not remove this label.

CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

 Name of manufacturer or importer
3. The general license granted under subsection (C) or (C)(1) does not authorize the manufacture or import of calibration or reference sources that contain americium-241, plutonium, or radium-226.
4. The general license granted under subsections (C) or (C)(1) does not authorize the manufacture or export of calibration or reference sources that contain americium-241, plutonium, or radium-226.
- D. This subsection grants a general license that authorizes a person to receive, possess, use, transfer, own, or acquire carbon-14 urea capsules, which contain one microcurie of carbon-14 urea for “in vivo” human diagnostic use:
1. Except as provided in subsections (D)(2) and (3), a physician is exempt from the requirements for a specific license, provided that each carbon-14 urea capsule for “in vivo” diagnostic use contains no more than 1 microcurie.
 2. A physician who desires to use the capsules for research involving human subjects shall obtain a specific license issued according to the specific licensing requirements in this Article.
 3. A physician who desires to manufacture, prepare, process, produce, package, repackage, or transfer carbon-14 urea capsules for commercial distribution shall obtain a specific license from the Department, issued according to the requirements in 10 CFR 32.21, (Revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.)
 4. Nothing in this subsection relieves physicians from complying with applicable FDA and other federal and state requirements governing receipt, administration, and use of drugs.
- E. This subsection grants a general license that authorizes any physician, clinical laboratory, or hospital to use radioactive material for certain “in vitro” clinical or laboratory testing.

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1. The general licensee is authorized to receive, acquire, possess, transfer, or use, for any of the following stated tests, the following radioactive materials in prepackaged units:
 - a. Iodine-125, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or radiation from such material, to human beings or animals.
 - b. Iodine-131, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - c. Carbon-14, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - d. Hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerel (50 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - e. Iron-59, in units not exceeding 740 kilobecquerel (20 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - f. Cobalt-57 or selenium-75, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - g. Mock iodine-125 reference or calibration sources, in units not exceeding 1.85 kBq (50 nanocurie) of iodine-129 and 185 becquerel (5 nanocurie) of americium-241 each, for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
2. A person shall not acquire, receive, possess, use, or transfer radioactive material according to the general license established by this subsection until the person has filed with the Department ARRA-9, "Certificate -- "In Vitro" Testing with Radioactive Material Under General License," provided the information listed in Exhibit E, and received a validated copy of ARRA-9, which indicates the assigned certification number. The physician, clinical laboratory, or hospital shall furnish on ARRA-9 the following information:
 - a. Name, telephone number, and address of the physician, clinical laboratory, or hospital; and
 - b. A statement that the physician, clinical laboratory, or hospital has radiation measuring instruments to carry out "in vitro" clinical or laboratory tests with radioactive material and that tests will be performed only by personnel competent to use the instruments and handle the radioactive material.
3. A person who receives, acquires, possesses, or uses radioactive material according to the general license granted under this subsection shall:
 - a. Not possess at any one time, in storage or use, a combined total of not more than 7.4 megabecquerels (200 microcuries) of iodine-125, iodine-131, iron-59, cobalt-57, or selenium-75 in excess of 7.4 megabecquerels (200 microcuries), or acquire or use in any one calendar month more than 18.5 megabecquerels (500 microcuries) of these radionuclides.
 - b. Store the radioactive material, until used, in the original shipping container or in a container that provides equivalent radiation protection.
 - c. Use the radioactive material only for the uses authorized by subsection (E).
 - d. Not transfer radioactive material to a person who is not authorized to receive it according to a license issued by the Department, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or in any manner other than in an unopened, labeled shipping container received from the supplier.
 - e. Not dispose of a mock iodine-125 reference or calibration source described subsection (E)(1) except as authorized by R9-7-434.
 - f. Package or prepackage a unit bearing a durable, clearly visible label: identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 0.37 megabecquerel (10 microcuries) of iodine-131, iodine-125, selenium-75, or carbon-14; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); or 0.74 megabecquerel (20 microcuries) of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 0.185 kilobecquerel (0.005 microcurie) of americium-241 each; or cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries).
 - g. Package to display the radiation caution symbol and the words, "Caution, Radioactive Material", and "Not for Internal or External Use in Humans or Animals."
4. The general licensee shall not receive, acquire, possess, transfer, or use radioactive material according to subsection (E)(1):
 - a. Except as prepackaged units that are labeled according to the provisions of a specific license issued by the U.S. Nuclear Regulatory Commission, or any Agreement State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), iron-59, cobalt-57, selenium-75, or mock iodine-125 for distribution to persons generally licensed under subsection (E) or its equivalent federal law; and
 - b. Unless one of the following statements, or a substantially similar statement that contains the same information, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:
 - i. This radioactive material may be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from such material, to human beings or animals. The acquisition, receipt, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has

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entered into an agreement for the exercise of regulatory authority.

Name of manufacturer

- ii. This radioactive material shall be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from such material, to human beings or animals. The receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of a Licensing State.

Name of manufacturer

5. A physician, clinical laboratory or hospital that possesses or uses radioactive material under a general license granted by subsection (E):
- Shall report to the Department in writing, any change in the information furnished on the ARRA-9. The report shall be furnished within 30 days after the effective date of the change; and
 - Is exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10 with respect to radioactive material covered by the general license, except that a person using mock iodine-125 sources, described in subsection (E)(1)(g), shall comply with the provisions of R9-7-434, R9-7-443, and R9-7-444 of this Chapter.
6. For the purposes of subsection (E), a licensed veterinary care facility is considered a "clinical laboratory."
- F.** This subsection grants a general license that authorizes a person to own, receive, acquire, possess, use, and transfer strontium-90, contained in ice detection devices, provided each device contains not more than 1.85 megabecquerels (50 microcuries) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured according to the specifications contained in a specific license issued by the Department or any Agreement State to the manufacturer of the device under licensing requirements equivalent to those in 10 CFR 32.61. A person who receives, owns, acquires, possesses, uses, or transfers strontium-90 contained in ice detection devices under a general license in accordance with subsection (F):
- Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating, discontinue use of the device until it has been inspected, tested for leakage, and repaired by a person who holds a specific license from the U.S. Nuclear Regulatory Commission or an Agreement State to manufacture or service ice detection devices; or dispose of the device according to the provisions of R9-7-434;
 - Shall assure that each label, affixed to the device at the time of receipt, which bears a statement that prohibits removal of the labels, maintained on the device; and
 - Is exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10, except that the user of an ice detection device shall comply with the provisions of R9-7-434, R9-7-443, and R9-7-444.
 - Shall not manufacture, assemble, disassemble, repair, or import an ice detection device that contains strontium-90.
 - Is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
- G.** This subsection grants a general license that authorizes a person to acquire, receive, possess, use, or transfer, in accordance with the provisions of subsections (H) and (I), radium-226 contained in the following products manufactured prior to November 30, 2007.
- Antiquities originally intended for use by the general public. For the purposes of this subsection, antiquities mean products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.
 - Intact timepieces containing greater than 0.037 megabecquerel (1 microcurie), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces.
 - Luminous items installed in air, marine, or land vehicles.
 - All other luminous products, provided that no more than 100 items are used or stored at the same location at any one time.
 - Small radium sources containing no more than 0.037 megabecquerel (1 microcurie) of radium-226. For the purposes of this subsection, "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers and spinthariscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the NRC.
- H.** Persons who acquire, receive, possess, use, or transfer byproduct material under the general license issued in subsection (G) are exempt from the provisions 9 A.A.C. 7, Articles 1, 3, 4, 7, 10, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689, to the extent that the receipt, possession, use, or transfer of byproduct material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to any such person specifically licensed under this chapter. Any person who acquires, receives, possesses, uses, or transfers byproduct material in accordance with the general license in subsection (G):
- Shall notify the Department should there be any indication of possible damage to the product so that it appears it could result in a loss of the radioactive material. A report containing a brief description of the event, and the remedial action taken, must be furnished to the Department within 30 days.
 - Shall not abandon products containing radium-226. The product, and any radioactive material from the product, may only be disposed of according to Article 4 or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by the Department.
 - Shall not export products containing radium-226 except in accordance with 10 CFR 110 revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 - Shall dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 by a specific license issued under Article 3, equivalent regulations of an Agreement State, or the NRC.

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5. Shall respond to written requests from the Department to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Department Director a written justification for the request.
- I. The general license in subsection (G) does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

Historical Note

New Section R9-7-306 recodified from R12-1-306, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-307. Reserved**Historical Note**

Section R9-7-307 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-308. Filing Application for Specific Licenses

- A. An applicant for a specific license shall file a Department application. The applicant shall prepare the application in duplicate, one copy for the Department and the other for the applicant.
- B. The Department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Department to determine whether the application should be granted or denied or whether a license should be modified or revoked.
- C. Each application shall contain the information specified in Exhibit (E) of this Article and be signed by the applicant, licensee, or person duly authorized to act for the applicant or licensee.
- D. Unless R9-7-1302 precludes combination with a license of another category, an application for a specific license may include a request for a license that authorizes more than one activity.
- E. In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Department provided the references are clear and specific.
- F. The Department shall make applications and documents submitted to the Department available for public inspection, but may withhold any document or part of a document from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.
- G. Except as provided in subsections (G)(1), (2), and (3), an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either identify the source or device by manufacturer and model number as registered with the Department, with the NRC, or with an Agreement State, or, for a source or a device containing radium-226 or accelerator-produced radioactive material, with the Department, the NRC, or an Agreement State under 10 CFR 32.210 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
1. For sources or devices manufactured before October 23, 2012, that are not licensed under R9-7-306, R9-7-310,

R9-7-311 or registered with the NRC or with an Agreement State, and for which the applicant is unable to provide all categories of information specified in 10 CFR 32.210(c) the application must include:

- a. All available information identified in 10 CFR 32.210(c) concerning the source, and, if applicable, the device; and
 - b. Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.
2. For sealed sources and devices allowed to be distributed without registration of safety information, the applicant may supply only the manufacturer, model number, and radionuclide and quantity.
 3. If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.
- H. A certificate holder or licensee who no longer manufactures or initially transfers any of the sealed source(s) or device(s) covered by a particular certificate issued with the Department, with the NRC, or with an Agreement State shall request inactivation of the registration or license with the Department, with the NRC, or with an Agreement State program that the device is currently registered by in accordance with 10 CFR 32.211 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-308 recodified from R12-1-308, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-309. General Requirements for Issuance of Specific Licenses

A license application shall be approved if the Department determines that:

1. The applicant is qualified by reason of training and experience to use the material in question for the purpose requested according to these rules, in a manner that will minimize danger to public health and safety or property;
2. The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;
3. The issuance of the license will not be inimical to the health and safety of the public;
4. The applicant satisfies all applicable special requirements in R9-7-310, R9-7-311, R9-7-322, R9-7-323, and 9 A.A.C. 7, Articles 5, 7, and 17; and
5. The applicant demonstrates that a letter has been sent, return receipt requested, to the Mayor's office of the city, town, or, if not within an incorporated community, to the County Board of Supervisors of the county in which the applicant proposes to operate which describes:
 - a. The nature of the proposed activity involving radioactive material; and
 - b. The facility, including use and storage areas.

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Historical Note

New Section R9-7-309 recodified from R12-1-309, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-310. Special Requirements for Issuance of Specific Broad Scope Licenses

- A.** The Department shall issue three classes of academic and industrial broad scope licenses, and only a single class A medical broad scope license.
1. The license may authorize the radioactive materials in multi-curie quantities, and may authorize other radioactive materials and forms in addition to those listed in subsection (A)(1)(a). A license is a broad scope class A license if it:
 - a. Contains the exact wording “Any radioactive material with Atomic Number 3 through 83” or “Any radioactive material with Atomic Number 84 through 92” in License Item 6; and
 - b. Contains the word “any” to authorize the chemical or physical form of the materials in License Item 7;
 2. A broad scope class B license is any specific license which authorizes the acquisition, possession, use, and transfer of the radioactive materials specified in Exhibit C of 9 A.A.C. 7, Article 3 in any chemical or physical form and in quantities determined as follows:
 - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column I; or
 - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column I.
 3. A broad scope class C license is any specific license authorizing the possession and use of the radioactive materials specified in Exhibit C of 9 A.A.C. 7, Article 3 in any chemical or physical form and in quantities determined as follows:
 - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column II; or
 - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column II.
- B.** The Department shall approve:
1. An application for a class A broad scope license if:
 - a. The applicant satisfies the general requirements specified in R9-7-309;
 - b. The applicant has engaged in a reasonable number of activities involving the use of radioactive material. For purposes of this subsection, the requirement of “reasonable number of activities” can be satisfied by showing that the applicant has five years of experience in the use of radioactive material. The Department may accept less than five years of experience if the applicant’s qualifications are adequate for the scope of the proposed license; and
 - c. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:
 - i. Establishment of a radiation safety committee composed of a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;
 - ii. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and
 - iii. Establishment of appropriate administrative procedures to assure:
 - (1) Control of procurement and use of radioactive material;
 - (2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and operating or handling procedures; and
 - (3) Review, approval, and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with this subsection prior to use of the radioactive material.
 2. An application for a class B broad scope license if:
 - a. The applicant satisfies the general requirements specified in R9-7-309; and
 - b. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:
 - i. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and available for advice and assistance on radiation safety matters; and
 - ii. Establishment of appropriate administrative procedures to assure:
 - (1) Control of procurement and use of radioactive material;
 - (2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and
 - (3) Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared according to subsection (B)(2)(b)(ii) prior to use of the radioactive material.
 3. An application for a class C broad scope license if:
 - a. The applicant satisfies the general requirements specified in R9-7-309; and
 - b. The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:
 - i. A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and
 - ii. At least 40 hours of training and experience in the safe handling of radioactive material, the characteristics of ionizing radiation, units of dose and quantities, radiation detection instrumentation, and biological hazards of exposure

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- to radiation appropriate to the type and forms of radioactive material to be used; and
- c. The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting, and management review necessary to assure safe operations.
- C. Unless specifically authorized, broad-scope licensees shall not:
1. Conduct tracer studies in the environment involving direct release of radioactive material;
 2. Acquire, receive, possess, use, own, import, or transfer devices containing 3.7 petabecquerels (100,000 curies) or more of radioactive material in sealed sources used for irradiation of materials;
 3. Conduct activities for which a specific license is issued under R9-7-311 and 9 A.A.C. 7, Articles 5, 7, or 17; or
 4. Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug, or other product designed for ingestion or inhalation by, or application to, a human being.
- D. Radioactive material possessed under the class A broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.
- E. Radioactive material possessed under the class B broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.
- F. Radioactive material possessed under the class C broad scope license shall only be used by, or under the direct supervision of, individuals who satisfy the requirements of R9-7-310(B)(3)(b).
- iii. Under accident conditions (such as fire and explosion) associated with handling, storage, and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:
- (1) Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye: 150 mSv (15 rem)
 - (2) Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than 1 square centimeter; 2 Sv (200 rem)
 - (3) Other organs: 500 mSv (50 rem)
- c. Each device bears a durable, legible, clearly visible label or labels that contain in a clearly identified and separate statement:
- i. Instructions and precautions necessary to assure safe installation, operating, and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);
 - ii. The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for the testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and
 - iii. The information called for in one of the following statements in the same or substantially similar form:

The receipt, possession, use, and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION – RADIOACTIVE MATERIAL

(name of manufacturer or distributor)

The receipt, possession, use and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent, and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION – RADIOACTIVE MATERIAL

(name of manufacturer or distributor)

- d. The model, serial number, and name of manufacturer or distributor may be omitted from the label if the information location is specified in labeling affixed to the device;
- e. Each device with a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label that provides the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol

Historical Note

New Section R9-7-310 recodified from R12-1-310, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-311. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material

- A. Licensing the manufacture and distribution of devices to persons generally licensed under R9-7-306(A).
1. The Department shall grant a specific license to manufacture or distribute each device that contains radioactive material, excluding special nuclear material, to persons generally licensed under R9-7-306(A) or equivalent regulations of the U.S. NRC, an Agreement State, or the Licensing State if:
 - a. The applicant satisfies the requirements of R9-7-309;
 - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:
 - i. The device can be safely operated by persons not having training in radiological protection;
 - ii. Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive a dose in excess of 10 percent of the limits specified in R9-7-408; and

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- described in R9-7-428, and the name of the manufacturer or initial distributor; and
- f. Each device meets the criteria in 10 CFR 31.5(c)(13)(i) (revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments) and bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing, if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in R9-7-428.
 - g. The device has been registered in the Sealed Source and Device Registry.
2. In the event the applicant desires that the device undergo mandatory testing at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the application shall contain sufficient information to demonstrate that the longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Department shall consider information which includes, but is not limited to:
 - a. Primary containment (source capsule),
 - b. Protection of primary containment,
 - c. Method of sealing containment,
 - d. Containment construction materials,
 - e. Form of contained radioactive material,
 - f. Maximum temperature withstood during prototype tests,
 - g. Maximum pressure withstood during prototype tests,
 - h. Maximum quantity of contained radioactive material,
 - i. Radiotoxicity of contained radioactive material, and
 - j. Operating experience with identical devices or similarly designed and constructed devices.
 3. In the event the applicant desires that the general licensee under R9-7-306(A), or under equivalent regulations of the NRC or an Agreement State or Licensing State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the application shall include written instructions to be followed by the general licensee, estimated calendar quarter doses associated with the activity or activities, and bases for the estimates. The submitted information shall demonstrate that performance of the activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the limits specified in R9-7-408.
 4. A licensee authorized under subsection (A) to distribute a device to a generally licensed person shall provide, if a device that contains radioactive material is to be transferred for use under the general license granted in R9-7-306(A), the name of each person that is licensed under R9-7-311(A) and the information specified in this subsection for each person to whom a device will be transferred. The licensee shall provide this information before the device may be transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person.
 - a. The licensee shall provide:
 - i. A copy of the general license, issued under R9-7-306(A),
 - ii. A copy of R9-7-443 and R9-7-445,
 - iii. A list of the services that can only be performed by a specific licensee,
 - iv. Information on authorized disposal options, including estimated costs of disposal, and
 - v. A list of civil penalties for improper disposal.
 - b. The licensee shall:
 - i. Report on a quarterly basis to the responsible Agreement State or NRC all transfers of devices to persons for use under a general license in accordance with 10 CFR 32.52, revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - ii. Maintain all information concerning transfers and receipts of devices that supports the reports required by subsection (A)(4)(b)(i).
 - iii. Maintain records required by subsection (A)(4)(b)(i) for a period of three years following the date of the recorded event.
 5. If radioactive material is to be transferred in a device for use under an equivalent general license of the NRC or another Agreement State, each person that is licensed under R9-7-304(B) shall provide the information specified in this subsection to each person to whom a device will be transferred. The licensee shall provide this information before the device is transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person. The licensee shall provide:
 - a. A copy of the Agreement State's requirements that are equivalent to R9-7-306(A), R9-7-443, and R9-7-445, and to A.R.S. § 30-657. If a copy of NRC regulations is provided to a prospective general licensee in lieu of the Agreement State's requirements, the licensee shall explain in writing that use of the device is regulated by the Agreement State. If certain requirements do not apply to a particular device, the licensee may omit the requirement from the material provided;
 - b. A list of the services that can only be performed by a specific licensee;
 - c. Information on authorized disposal options, including estimated costs of disposal; and
 - d. The name, title, address, and telephone number of the individual at the Agreement State regulatory agency who can provide additional information.
 6. A licensee may propose to the Department an alternate method of informing the customer.
 7. If a licensee has notified the Department of bankruptcy under R9-7-313(E) or is terminating under R9-7-319, the licensee shall provide, upon request, to the Department, the NRC, or another Agreement State, records of the disposition as required under A.R.S. § 30-657.

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8. A licensee authorized to transfer a device to a generally licensed person, shall comply with the following requirements:
- a. The person licensed under subsection (A) shall report all transfers of devices to persons for use under a general license obtained under R9-7-306(A), and all receipts of devices from persons licensed under R9-7-306(A) to the Department, the NRC, or other affected Agreement State. The report shall be submitted on a quarterly basis, in a clear and legible form, and contain the following information:
 - i. The identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, the person licensed under subsection (A) shall submit an alternate address for the general licensee, along with information on the actual location of use;
 - ii. The name, title, and telephone number of a person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the applicable laws;
 - iii. The date of transfer;
 - iv. The type, model number, and serial number of the device transferred; and
 - v. The quantity and type of radioactive material contained in the device.
 - b. If one or more intermediaries will temporarily possess the device at the intended place of use before its possession by the intended user, the report shall include the information required of the general licensee in subsection (A)(4) for both the intended user and each intermediary, clearly identifying the intended user and each intermediary.
 - c. For devices received from a general licensee, licensed under R9-7-306(A), the report shall include:
 - i. The identity of the general licensee by name and address;
 - ii. The type, model number, and serial number of the device received;
 - iii. The date of receipt; and
 - iv. In the case of a device not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.
 - d. If the person licensed under subsection (A) makes a change to a device possessed by a general licensee so that the label must be changed to update required information, the report shall identify the general licensee, the device, and the changes to information on the device label.
 - e. The report shall cover a calendar quarter, be filed within 30 days of the end of each calendar quarter, and clearly indicate the period covered by the report.
 - f. The report shall clearly identify the person licensed under subsection (A) submitting the report and include the license number of the license.
 - g. If no transfers are made to or from persons generally licensed under R9-7-306(A) during a reporting period, the person licensed under subsection (A) shall submit a report indicating the lack of activity.
9. The licensee shall maintain records of all transfers for Department inspection. Records shall be maintained for three years after termination of the license to manufacture the generally licensed devices regulated under R9-7-306(A).
- B. The Department shall grant a specific license to manufacture, assemble, repair, or initially transfer luminous safety devices that contain tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under R9-7-306(B), if the applicant satisfies:
 1. The general requirements specified in R9-7-309; and
 2. The requirements of 10 CFR 32.53 through 32.56 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - C. The Department shall grant a specific license to manufacture or initially transfer calibration or reference sources that contain americium-241, radium-226, or plutonium for distribution to persons generally licensed under R9-7-306(C) if the applicant satisfies:
 1. The general requirements of R9-7-309; and
 2. The requirements of 10 CFR 32.57, 32.58, 32.59, and 70.39, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - D. The Department shall grant a specific license to distribute radioactive material for use by a physician under the general license in R9-7-306(D) if:
 1. The general requirements of R9-7-309; and
 2. The requirements of 10 CFR 32.57, 32.58, 32.59, and 70.39, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - E. The Department shall grant for a specific license to manufacture or distribute radioactive material for use under the general license of R9-7-306(E) if:
 1. The applicant satisfies the general requirements specified in R9-7-309.
 2. The radioactive material is to be prepared for distribution in prepackaged units of:
 - a. Iodine-125 in units not exceeding 370 kBq (10 microcuries) each;
 - b. Iodine-131 in units not exceeding 370 kBq (10 microcuries) each;
 - c. Carbon-14 in units not exceeding 370 kBq (10 microcuries) each;
 - d. Hydrogen-3 (tritium) in units not exceeding 1.85 MBq (50 microcuries) each;
 - e. Iron-59 in units not exceeding 740 kBq (20 microcuries) each;
 - f. Cobalt-57 or selenium-75 in units not exceeding 370 kilobecquerels (10 microcuries) each;
 - g. Mock iodine-125 in units not exceeding 1.85 kBq (50 nanocuries) of iodine-129 and 185 Bq (5 nanocuries) of americium-241 each.
 3. Each prepackaged unit bears a durable, clearly visible label:
 - a. Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed 370 kilobecquerels (10 microcuries) of iodine-125, iodine-131, cobalt-57, selenium-75, or carbon-14; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); 740 kilobecquerels (20 microcuries) of iron-59; or mock iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 185 becquerels (0.005 microcurie) of americium-241 each; and

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- b. Displaying the radiation caution symbol described in R9-7-428, the words, "CAUTION, RADIOACTIVE MATERIAL," and the phrase "Not for Internal or External Use in Humans or Animals."
4. One of the following statements, or a substantially similar statement that contains the information called for in the following statements appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:
- a. This radioactive material may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from the radioactive material, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.
- _____
Name of Manufacturer
- b. This radioactive drug may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from the radioactive material, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.
- _____
Name of Manufacturer
5. The label affixed to the unit, or the leaflet or brochure that accompanies the package, contains adequate information about the precautions to be observed in handling and storing the specified radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in R9-7-434.
- F.** The Department shall grant a specific license to manufacture and distribute ice detection devices to persons generally licensed under R9-7-306(F) if the applicant satisfies:
1. The general requirements of R9-7-309; and
 2. The criteria of 10 CFR 32.61 and 32.62, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- G.** The Department shall grant a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs that contain radioactive material for use by a person authorized in accordance with Article 7 of this Chapter, if the applicant meets all of the requirements in 10 CFR 30.32(j) or 10 CFR 32.72, revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
1. Authorization under this Section to produce Positron Emission Tomography (PET) radioactive drugs for non-commercial transfer to medical use licensees in its consortium does not relieve the licensee from complying with applicable FDA, other federal, and state requirements governing radioactive drugs.
 2. Each licensee authorized under this Section to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:
 - a. Satisfy the labeling requirements in R9-7-431 for each PET radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of its consortium.
 - b. Possess and use instrumentation to measure the radioactivity of the PET radioactive drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in R9-7-449.
 3. A licensee that is a pharmacy authorized under this Section to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual who prepares PET radioactive drugs be an:
 - a. Authorized nuclear pharmacist that meets the requirements in R9-7-712, or
 - b. Individual under the supervision of an authorized nuclear pharmacist as specified in R9-7-706.
 4. A pharmacy, authorized under this Section to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of R9-7-712.
- H.** The Department shall grant a specific license to manufacture and distribute generators or reagent kits that contain radioactive material for preparation of radiopharmaceuticals by persons licensed according to 9 A.A.C. 7, Article 7 if:
1. The applicant satisfies the general requirements of R9-7-309;
 2. The applicant submits evidence that:
 - a. The generator or reagent kit is to be manufactured, labeled and packaged according to the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act, a new drug application (NDA) approved by the Food and Drug Administration (FDA), a biologic product license issued by FDA, or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA; or
 - b. The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act.
 3. The applicant submits information on the radionuclide; chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;
 4. The label affixed to the generator or reagent kit contains information on the radionuclide, including quantity, and date of assay; and
 5. The label affixed to the generator or reagent kit, or the leaflet or brochure that accompanies the generator or reagent kit, contains:
 - a. Adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and
 - b. A statement that this generator or reagent kit (as appropriate) is approved for use by persons licensed by the Department under 9 A.A.C. 7, Article 7 or

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equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State or Licensing State. The labels, leaflets or brochures required by this subsection supplement the labeling required by FDA and they may be separate from or, with the approval of FDA, combined with the labeling required by FDA.

- I.** The Department shall grant a specific license to manufacture and distribute sources and devices that contain radioactive material to a person licensed in accordance with Article 7 of this Chapter for use as a calibration, transmission, or reference source or for medical purposes, if the applicant meets all of the requirements in 10 CFR 32.74, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- J.** Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass volume applications.
1. The Department shall grant a specific license to manufacture industrial products and devices that contain depleted uranium for use under R9-7-305(C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State if:
 - a. The applicant satisfies the general requirements in R9-7-309;
 - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive a radiation dose in excess of 10 percent of the limits specified in R9-7-408;
 - c. The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.
 2. In the case of an industrial product or device whose unique benefits are questionable, the Department shall approve an application for a specific license under this subsection only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.
 3. The Department may deny any application for a specific license under this subsection if the end use or uses of the industrial product or device cannot be reasonably foreseen.
 4. Each person licensed under subsection (J)(1) shall:
 - a. Maintain the level of quality control required by the license in the manufacture of the industrial product or device and the installation of the depleted uranium into the product or device;
 - b. Label or mark each unit to:
 - i. Identify the manufacturer of the product or device, the number of the license under which the product or device was manufactured or initially transferred, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and
 - ii. State that the receipt, possession, use, and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State;
- c. Assure that the depleted uranium, before being installed in each product or device, has been impressed with the following legend, clearly legible through any plating or other covering: "Depleted Uranium";
 - d. Furnish a copy of the general license contained in R9-7-305(C) and a copy of ARRA-23 to each person to whom depleted uranium in a product or device is transferred for use under a general license contained in R9-7-305(C); or
 - e. Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to R9-7-305(C) and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in R9-7-305(C) and a copy of ARRA-23 to each person to whom depleted uranium in a product or device is transferred for use under a general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a document explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or an Agreement State under requirements substantially the same as those in R9-7-305(C);
 - f. Report to the Department all transfers of industrial products or devices to persons for use under the general license in R9-7-305(C). The report shall identify each general licensee by name and address, an individual by name or position who serves as the point of contact person for the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under R9-7-305(C) during the reporting period, the report shall so indicate;
 - i. Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in 10 CFR 40.25; or
 - ii. Report to the responsible state agency all transfers of devices manufactured and distributed under subsection (J)(4)(f) for use under a general license in that state's regulations equivalent to R9-7-305(C);
 - iii. The report required in subsection (J)(4)(f)(i) or (ii) shall identify each general licensee by name and address, an individual by name or position who serves as the contact person for the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person;

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- iv. If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission;
 - v. If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement state agency; and
 - vi. Keep records showing the name, address, and contact person for each general licensee to whom depleted uranium in industrial products or devices is transferred for use under a general license provided in R9-7-305(C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or of an Agreement State. The records shall be maintained for a period of three years and show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the reporting requirements of this Section.
- K.** A licensee who manufactures nationally tracked sources, as defined in Article 4, shall:
- 1. Serialize the sources in accordance with 10 CFR 32.201, revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments; and
 - 2. Report manufacturing activities in accordance with R9-7-454.

Historical Note

New Section R9-7-311 recodified from R12-1-311, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-312. Issuance of Specific Licenses

- A.** Upon determination that a license application meets the requirements of the Act and Department rules, the Department shall grant a specific license that may contain conditions or limitations if the Department has determined that additional requirements regarding the proposed activity will protect health and safety.
 - B.** The Department may incorporate in any license at the time of issuance, or thereafter by rule or order, additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material in order to:
 - 1. Minimize danger to public health and safety or property;
 - 2. Require reports and recordkeeping, and provide for inspections of activities under the license as may be necessary to protect health and safety; and
 - 3. Prevent loss or theft of material subject to this Article.
 - C.** The Department may verify information contained in an application and secure additional information necessary to make a determination on issuance of a license and whether any special conditions should be attached to the license. The Department may inspect the facility or location where radioactive materials would be possessed or used, and discuss details of the proposed possession or use of the radioactive materials with the applicant or representatives designated by the applicant.
- A.** Each license issued under this Article is subject to all provisions of A.R.S. Title 30, Chapter 4 and to all rules, regulations, and orders of the Department.
 - B.** A licensee shall not transfer, assign, or in any manner dispose of a license issued or granted under this Article or a right to possess or utilize radioactive material granted by any license issued under this Article unless the Department finds that the transfer is consistent with the Department's statutes and rules, and gives its consent in writing. An application for transfer of license must include:
 - 1. The identity, technical and financial qualifications of the proposed transferee; and
 - 2. Financial assurance for decommissioning information required by R9-7-323.
 - C.** Each person licensed by the Department under this Article shall confine the use and possession of the material licensed to the locations and purposes authorized in the license.
 - D.** Each license issued pursuant to the rules in Articles 3, 5, 7, and 15 of this Chapter shall be deemed to contain the provisions set forth in the Act, whether or not these provisions are expressly set forth in the license.
 - E.** The Department may incorporate, in any license issued pursuant to the rules in this Chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of byproduct material as it deems appropriate or necessary in order to:
 - 1. Promote the common defense and security;
 - 2. Protect health or to minimize danger to life or property;
 - 3. Protect restricted data; or
 - 4. Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and rules thereunder.
 - F.** Licensees required to submit emergency plans in accordance with R9-7-322 shall follow the emergency plan approved by the Department. The licensee may change the approved plan without Department approval only if the changes do not reduce the commitment of the plan. The licensee shall furnish the change to the Department and to affected offsite response organizations within six months after the change is made. Proposed changes that reduce, or potentially reduce, the commitment of the approved emergency plan may not be implemented without prior application to and prior approval by the Department.
 - G.** Each person licensed under this Section and each general licensee that is required to register under R9-7-306(A)(4)(o) shall notify the Department in writing if the licensee decides to permanently discontinue any or all activities involving materials authorized under the license. A specific licensee or general licensee shall notify the Department, in writing:
 - 1. Immediately following the filing of a petition for bankruptcy under any Chapter of Title 11 of the United States Code if the petition for bankruptcy is by or against:
 - a. The licensee;
 - b. An entity (as defined in the bankruptcy code) controlling the licensee or listing the license or licensee as property of the estate; or
 - c. An affiliate (as defined in the bankruptcy code) of the licensee; and
 - 2. Providing the following information:
 - a. The bankruptcy court in which the petition for bankruptcy was filed, and
 - b. The bankruptcy case title and number, and
 - c. The date the petition was filed.

Historical Note

New Section R9-7-312 recodified from R12-1-312, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-313. Specific Terms and Conditions

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H. Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with R9-7-720. The licensee shall record the results of each test and retain each record for three years after the record is made. The licensee shall report the results of any test that exceeds the permissible concentration listed in R9-7-720 at the time of generator elution, in accordance with 10 CFR 35.3204.

I. Inalienability of Licenses

1. No license issued or granted pursuant to the regulations in this part shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Department, after securing full information, finds that the transfer is in accordance with the provisions of this act and gives its consent in writing.
2. An application for transfer of license must include:
 - a. The identity, technical and financial qualifications of the proposed transferee; and
 - b. Financial assurance for decommissioning information required by R9-7-323, 10 CFR 40.3 and 10 CFR 70.25.

Historical Note

New Section R9-7-313 recodified from R12-1-313, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-314. Expiration of License

Except as provided in R9-7-315(B), each specific license expires at the end of the day, in the month and year stated on the license.

Historical Note

New Section R9-7-314 recodified from R12-1-314, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-315. Renewal of License

- A.** An applicant shall file an application for renewal of a specific license according to R9-7-308.
- B.** If a licensee files a renewal application not less than 30 days before the license expiration date and the existing license and associated renewal application is in proper form, the existing license does not expire until a final renewal determination is made by the Department.

Historical Note

New Section R9-7-315 recodified from R12-1-315, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-316. Amendment of Licenses at Request of Licensee

An applicant shall file an application for amendment of a specific license by complying with R9-7-308 and specifying the grounds for the amendment.

Historical Note

New Section R9-7-316 recodified from R12-1-316, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-317. Department Action on Applications to Renew or Amend

In considering an application by a licensee to renew or amend a specific license, the Department shall apply the criteria set forth in R9-7-309, R9-7-310, or R9-7-311, as applicable.

Historical Note

New Section R9-7-317 recodified from R12-1-317, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-318. Transfer of Radioactive Material

- A.** A licensee shall not transfer radioactive material except as authorized under this Section.
- B.** Except as otherwise provided in the license and subject to the provisions of subsections (C) and (D), any licensee may transfer radioactive material:
 1. To the Department, after receiving prior approval from the Department;
 2. To the Department of Energy;
 3. To any person exempt from the rules in this Article to the extent permitted under the exemption;
 4. To any person authorized to receive radioactive material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Department, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or to any person otherwise authorized to receive radioactive material by the Federal Government or any agency of the Federal Government, the Department, any Agreement State or Licensing State; or
 5. As otherwise authorized by the Department in writing.
- C.** Before transferring radioactive material to a specific licensee of the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State, or to a general licensee who is required to register with the Department, the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.
- D.** The transferor shall use one or more of the following methods for the verification required by subsection (C):
 1. The transferor shall possess, and read, a current copy of the transferee's specific license or registration certificate;
 2. The transferor shall possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;
 3. For emergency shipments the transferor shall accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; provided the oral certification is confirmed in writing within 10 days;
 4. The transferor shall obtain information equivalent to that in subsection (D)(1) to (3) compiled by a reporting service from official records of the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or Licensing State regarding the identity of any licensee and the scope and expiration date of any license, registration, or certificate; or
 5. When none of the methods of verification described in subsections (D)(1) to (4) are readily available or when a transferor desires to verify that information received by one of the above methods is correct or up-to-date, the transferor shall obtain and record confirmation from the Department, the U.S. Nuclear Regulatory Commission, or the licensing agency of an Agreement State or License-

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ing State that the transferee is licensed to receive the radioactive material.

- E. A transferor shall prepare and transport radioactive material as prescribed in the provisions of 9 A.A.C. 7, Article 15.
- F. The Department shall approve an application for a specific license to initially transfer source material for use under R9-7-305, or equivalent regulations of the NRC or another Agreement State, if:
1. The applicant satisfies the general requirements specified in R9-7-309; and
 2. The applicant submits adequate information on, and the Department approves, the methods to be used for quality control, labeling, and providing safety instructions to recipients.
- G. Each person licensed under this Section shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words, "RADIOACTIVE MATERIAL."
- H. Each person licensed under this Section shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.
- I. Each person licensed under this Section shall provide the information specified in subsections (I)(1) and (2) to each person to whom source material is transferred for use under R9-7-305 or equivalent provisions in the NRC or Agreement State regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:
1. A copy of R9-7-305 and R9-7-318, or relevant equivalent regulations of the NRC or another Agreement State; and
 2. Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the source material.
- J. Each person licensed under 10 CFR 40.54 shall file a report with the Department that includes the following information:
1. The name, address, and license number of the person who transferred the source material;
 2. For each general licensee under R9-7-305 or equivalent Agreement State provisions to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and
 3. The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.
- K. Each person licensed under this Section shall maintain all information that supports the reports required by this Section concerning each transfer to a general licensee for a period of one year after the event is included in a report to the Department, the NRC, or another Agreement State agency.

Historical Note

New Section R9-7-318 recodified from R12-1-318, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-319. Modification, Revocation, or Termination of a License

- A. The terms and conditions of all licenses are subject to amendment, revision, or modification, and a license may be sus-

pending or revoked by reason of amendments to the Department's statutes or rules and orders issued by the Department.

- B. The Department may revoke, suspend, or modify any license, in whole or in part, for any material false statement in the application; any omission or misstatement of fact required by statute, rule, or order, or because of conditions revealed by the application or any report, record, or inspection or other means that would cause the Department to refuse to grant a license; or any violation of license terms and conditions, or the Department's statutes, rules, or orders.
- C. Except in cases of willfulness or those in which the public health, interest, or safety requires otherwise, the Department shall not modify, suspend, or revoke a license unless, before the institution of proceedings, facts or conduct that may warrant action have been called to the attention of the licensee in writing and the licensee has been accorded an opportunity to demonstrate or achieve compliance.
- D. The Department may terminate a specific license upon a written request by the licensee that provides evidence the licensee has met the termination criteria in R9-7-451 and R9-7-452, and the decommissioning requirements in R9-7-323.
- E. Specific licenses, including expired licenses, continue in effect until terminated by written notice to the licensee, when the Department determines that the licensee has:
1. Properly disposed of all radioactive material;
 2. Made a reasonable effort to eliminate residual radioactive contamination, if present;
 3. Performed an accurate radiation survey that demonstrates the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-323;
 4. Submitted other information that is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-323.
 5. Provided records to the Department that detail the disposal of all radioactive material in unsealed form with a half-life greater than 120 days, and copies of the records required by 10 CFR 30.35(g), January 1, 2004, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-319 recodified from R12-1-319, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-320. Reciprocal Recognition of Licenses

- A. This subsection grants a general license to perform specific licensed activities in Arizona for a period not to exceed 180 days in any calendar year to any person who holds a specific license from an Agreement State, where the licensee maintains an office for directing the licensed activity and retaining radiation safety records, is granted a general license to conduct the same activity involving the use of radioactive material from the U.S. Nuclear Regulatory Commission, Licensing State, or any Agreement State, provided that:
1. The license does not limit the activity to specific installations or locations;
 2. Following the first notification, application, and payment of fees, the licensee shall notify the Department three days prior to entering the state and prior to each non-consecutive visit while reciprocity remains in effect.
 3. The out-of-state licensee complies with all applicable statutes, now or hereafter in effect, rules, and orders of the Department and with all the terms and conditions of the license, except those terms and conditions inconsis-

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tent with applicable statutes, rules and orders of the Department;

4. The out-of-state licensee supplies any other information the Department requests; and
 5. The out-of-state licensee does not transfer or dispose of radioactive material possessed or used under the general license provided in this Section except by transfer to a person:
 - a. Specifically licensed by the Department or by the U.S. Nuclear Regulatory Commission to receive the radioactive material; or
 - b. Exempt under R9-7-303(A).
- B.** Notwithstanding the provisions of subsection (A)(1), this subsection grants a general license to manufacture, install, transfer, demonstrate, or service a device described in R9-7-306(A)(1) to any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, Licensing State, or an Agreement State authorizing the same activities within areas subject to the jurisdiction of the licensing body, provided that:
1. The person files a report with the Department within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this State. Each report shall identify the general licensee to whom the device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;
 2. The device has been manufactured, labeled, installed, and serviced according to the applicable provisions of the specific license issued to the person by the U.S. Nuclear Regulatory Commission or an Agreement State;
 3. The person entering the state ensures that any labels required to be affixed to the device under rules of the authority which licensed manufacture of the device bear the following statement: "Removal of this label is prohibited"; and
 4. The holder of the specific license furnishes a copy of the general license contained in R9-7-306(A)(1), or equivalent rules of the agency having jurisdiction over the manufacture or distribution of the device, to each general licensee to whom the licensee transfers the device or on whose premises the device is installed.
- C.** The Department may withdraw, limit, or qualify the acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed under a license, upon determining that an action is necessary to prevent undue hazard to public health and safety, or property.
- D.** Before radioactive material can be used at a temporary job site within the state at any federal facility, a specific licensee shall determine the jurisdictional status of the job site. If the jurisdictional status is unknown, the specific licensee shall contact the controlling federal agency to determine whether the job site is under exclusive federal jurisdiction.
- E.** Before using radioactive material at a job site under exclusive federal jurisdiction, a specific licensee shall:
1. Obtain authorization from the NRC; and
 2. Use the radioactive material in accordance with applicable NRC regulations and orders, and be able to demonstrate to the Department that the correct license fee was paid to the NRC.
- F.** Before radioactive material can be used at a temporary job site in another state, a specific licensee shall obtain authorization from the state, if it is an Agreement State, or from the NRC for any non-Agreement State, either by filing for reciprocity or applying for a specific license.

Historical Note

New Section R9-7-320 recodified from R12-1-320, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-321. Reserved**Historical Note**

Section R9-7-321 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-322. The Need for an Emergency Plan for Response to a Release of Radioactive Material

- A.** For purposes of this Section, "Emergency Plan" means a procedure that will be followed when an accident occurs involving licensed radioactive materials for which an offsite response may be needed from organizations, such as police, fire, or medical organizations.
- B.** Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Exhibit D, "Radioactive Material Quantities Requiring Consideration for an Emergency Plan" shall contain either:
1. An evaluation showing that the maximum dose to a person off-site due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or
 2. An emergency plan for responding to a release of radioactive material.
- C.** One or more of the following factors may be used to support an evaluation submitted under subsection (B)(1):
1. The radioactive material is physically separated so that only a portion could be involved in an accident.
 2. All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;
 3. The release fraction in the respirable size range would be lower than the release fraction shown in Exhibit D due to the chemical or physical form of the material;
 4. The solubility of the radioactive material would reduce the dose received;
 5. Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Exhibit D;
 6. Operating restrictions or procedures would prevent a release fraction as large as that shown in Exhibit D; or
 7. Other factors appropriate for the specific facility.
- D.** An emergency plan for responding to a release of radioactive material submitted under subsection (B)(2) shall include the following information:
1. A brief description of the licensee's facility and areas near the site that could expose a member of the public to a dose equal to or greater than the levels expressed in subsection (B)(1).
 2. An identification of each type of radioactive materials accident for which protective actions may be needed.
 3. A classification system for classifying accidents as alerts or site area emergencies.
 4. Identification of the means of detecting each type of accident in a timely manner.
 5. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.
 6. A brief description of the methods and equipment to assess releases of radioactive materials.
 7. A brief description of the responsibilities of licensee personnel responsible for promptly notifying offsite

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response organizations and the Department; also responsibilities for developing, maintaining, and updating the plan.

8. A commitment to and a brief description of the means to promptly notify offsite response organizations and request off-site assistance, including medical assistance for the treatment of contaminated and injured onsite workers when appropriate. A control point shall be established. The notification and coordination shall be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the Department immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency.
 9. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the Department.
 10. A brief description of the frequency, performance objectives, and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.
 11. A brief description of the means of restoring the facility to a safe condition after an accident.
 12. Provisions for conducting quarterly communications checks with off-site response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with off-site response organizations shall include the verifying and updating of all necessary telephone numbers. The licensee shall invite off-site response organizations to participate in the biennial exercises. Their participation is not required. Exercises shall use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise, using individuals without direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques shall be corrected.
 13. A certification that the applicant has met its responsibilities in A.R.S. §§ 26-341 through 26-353 (Emergency Planning and Community Right-to-Know Act of 1986), if applicable to the applicant's activities at the proposed place of use of the radioactive material.
- E. The licensee shall allow 60 days for the off-site response organizations, expected to respond in case of an accident, to comment on the licensee's emergency plan before submitting it to the Department. The licensee shall provide any comments received within the 60 days to the Department with the emergency plan.

Historical Note

New Section R9-7-322 recodified from R12-1-322, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-323. Financial Assurance and Recordkeeping for Decommissioning

- A. For purposes of terminating specific licensed activities:
1. "Decommissioning" means to remove a radioactive material use facility safely from service and to reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the radioactive material use license.
 2. "Byproduct material" as used in 10 CFR 30, means "radioactive material" which is defined in A.R.S. § 30-651.
 3. "Facility" means the entire site of radioactive material use, or any separate building or outdoor area where it is used.
 4. "Appendix B to Part 30" as used in 10 CFR 30, means Appendix E in 9 A.A.C. 7, Article 4.
 5. "Financial security" means having a net worth of not less than \$10,000.
- B. When applying, each non-government applicant for a specific license that authorizes the possession and use of radioactive material, and each non-government holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Department a decommissioning funding plan or certification of financial security, as required in A.R.S. § 30-672(H). A licensee required to meet the requirements in subsection (C) is exempt from the requirements in this subsection.
- C. When applying, each applicant for a specific license that authorizes the possession and use of radioactive material, and each holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Department a decommissioning funding plan or certification of financial assurance that meets the requirements in 10 CFR 30.35, 40.36, and 70.25, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. Each decommissioning funding plan shall be submitted to the Department for review and approval and shall contain a detailed cost estimate for decommissioning, in an amount reflecting:
1. The cost of an independent contractor to perform all decommissioning activities;
 2. The cost of meeting the R9-7-452(B) criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of R9-7-452(C), the cost estimate may be based on meeting the R9-7-452(C) criteria;
 3. The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination;
 4. The ability to meet the provisions of this Section, for which the cost estimate may be based on meeting the criteria specified in this Section; and
 5. An adequate contingency factor, including:
 - a. Identification of and justification for using the key assumptions contained in the DCE;
 - b. A description of the method of assuring funds for decommissioning including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;
 - c. A certification by the licensee that financial assurance for decommissioning has been provided in the

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- amount of the cost estimate for decommissioning; and
- d. An original signed copy of the financial instrument obtained to satisfy the requirements of subsection (F) unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning.
- D.** Each licensee required to provide financial assurance for decommissioning a radioactive material facility under this Section shall maintain records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the Department. The licensee shall maintain the following records during the decommissioning process:
1. Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, and site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. The licensee shall keep records identifying the involved radionuclides and associated quantities, forms, and concentrations.
 2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used and stored, and locations of possible inaccessible contamination. If drawings are not available, the licensee shall provide appropriate records describing each location of possible contamination.
 3. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.
- E.** Decommissioning procedures:
1. Upon expiration or termination of principal activities a licensee shall notify the Department in writing whether the licensee is discontinuing licensed activities. The licensee shall begin decommissioning its facility within 60 days after the Department receives notice of the decision to permanently terminate principal activities, or within 12 months after receipt of notice, submit to the Department a decommissioning plan, as prescribed in 10 CFR 30.36(g)(1), 40.42(g)(1), and 70.38(g)(1), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The licensee shall begin decommissioning upon approval of the plan if the license has expired or no licensed activities have been conducted at the licensee's facility for a period of 24 months.
 2. In addition to the notification requirements in subsection (E)(1), the licensee shall maintain in effect all decommissioning financial assurances required by this Section. The financial assurances shall be increased or may be decreased as appropriate to cover the cost estimate established for decommissioning in subsection (E)(1). The licensee may reduce the amount of the financial assurance following approval of the decommissioning plan, provided the radiological hazard is decreasing and the licensee has the approval of the Department.
 3. The Department shall extend the time periods established in subsection (E)(1) if a new time period is in the best interest of public health and safety.
- a. The licensee shall submit a request for an extension no later than 30 days after the Department receives the notice required in subsection (E)(1).
 - b. If a licensee has requested an extension, the licensee is not required to commence decommissioning activities required in subsection (E)(1), until the Department has made a determination on the request submitted to the Department under subsection (E)(3)(a).
4. Except as provided in subsection (E)(5), the licensee shall complete decommissioning of a facility as soon as practicable but no later than 24 months following the initiation of decommissioning; and except as provided in subsection (E)(5), when decommissioning involves the entire facility, the licensee shall request license termination as soon as practicable but no later than 24 months following initiation of decommissioning.
 5. The Department shall approve a request for an alternate schedule for completion of decommissioning and license termination if the Department determines that the alternative is warranted by consideration of the conditions specified in 10 CFR 30.36(i), 40.42(i), and 70.38(i), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 6. As a final step in decommissioning, the licensee shall meet the requirements specified in 10 CFR 30.36(j), 40.42(j), and 70.38(j), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- F.** Each person licensed under this Article shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with R9-7-318, licensees shall transfer all records described in subsections (F)(1) through (F)(4) to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Department considers important to decommissioning consists of:
1. Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.
 2. As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.
 3. Except for areas containing depleted uranium used only for shielding or as penetrators in unused munitions, a list contained in a single document and updated every 2 years, of the following:

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- a. All areas designated and formerly designated as restricted areas as defined under R9-7-102;
 - b. All areas outside of restricted areas that require documentation under subsection (F)(1);
 - c. All areas outside of restricted areas where current and previous wastes have been buried as documented under R9-7-441; and
 - d. All areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in R9-7-451 or R9-7-452; or apply for approval for disposal under R9-7-435.
4. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.
- G.** In providing financial assurance under this Section, each licensee shall use the financial assurance funds only for decommissioning activities and each licensee shall monitor the balance of funds held to account for market variations. The licensee shall replenish the funds, and report such actions to the Department, as follows:
1. If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee shall increase the balance to cover the cost, and shall do so within 30 days after the end of the calendar quarter.
 2. If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee shall increase the balance to cover the cost, and shall do so within 30 days of the occurrence.
 3. Within 30 days of taking the actions required by subsection (G)(1) or (G)(2), the licensee shall provide a written report of such actions to the Director of the Department, and state the new balance of the fund.
- H.** The financial instrument must include the licensee's name, license number, and docket number, and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments to the Department reflecting such changes. The financial instrument submitted must be a signed original or signed original duplicate, except where a copy of the signed original is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:
1. Prepayment. Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Department.
 2. A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are approved by the Department. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are approved by the Department. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are approved by the Department. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are approved by the Department. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this Section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:
 - a. The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Department, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face-value amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Department within 30 days after receipt of notification of cancellation.
 - b. The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the Department. An acceptable trustee includes an appropriate State or Federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.
 - c. The surety method or insurance must remain in effect until the Department has terminated the license.
 3. An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may reduce by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in subsection (H)(2).
 4. In the case of Federal, State, or local government licensees, a statement of intent containing a cost estimate for decommissioning, and indicating that funds for decommissioning will be obtained when necessary.
 5. When a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

Historical Note

New Section R9-7-323 recodified from R12-1-323, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-324. Public Notification and Public Participation

Upon the receipt of a license termination plan (LTP) or decommissioning plan from a licensee, or a proposal by a licensee for decommissioning of a site in accordance with R9-7-452(C) and (D) or for other events when the Department deems a notice to be in the public interest, the Department shall:

1. Notify and solicit comments from:
 - a. State and local governments and any Indian Nation or other indigenous people who have legal rights that could be affected by the decommissioning, and
 - b. The Arizona Department of Environmental Quality for cases in which the licensee proposes to decommission a site in accordance with R9-7-452(D).
2. Publish the notice in the Arizona Administrative Register and use other methods of publication such as local newspapers, letters to local organizations, or any other method that is reasonably calculated to provide notice, and solicit comments from affected parties.

Historical Note

New Section R9-7-324 recodified from R12-1-324, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-325. Timeliness in Decommissioning Facilities

- A. "Principal activities," as used in this Section, means activities authorized by the license that are essential to achieving the purposes for which the license was issued or amended. Storage, during which licensed material is not accessed for use, or disposal and other activities incidental to decontamination or decommissioning are not principal activities.
- B. Each specific license revoked by the Department expires at midnight on the date of the Department's final determination to revoke the license, the expiration date stated in the determination, or as otherwise provided by Department order.
- C. Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive

material, until the Department notifies the licensee in writing that the license is terminated. During this time, the licensee shall:

1. Limit actions involving radioactive material to those related to decommissioning;
 2. Continue to control entry to restricted areas until they are suitable for release in accordance with NRC requirements; and
 3. Pay the applicable annual fee for the license category listed in R9-7-1306.
- D. Within 60 days of the occurrence of any of the following, each licensee shall notify the Department in writing of the occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release in accordance with Department requirements, or submit within 12 months of notification a decommissioning plan, if required by R9-7-323, and begin decommissioning upon approval of that plan if:
1. The license expires in accordance with subsection (B) or R9-7-314, unless the licensee submits a renewal application in accordance with R9-7-315;
 2. The licensee decides to permanently terminate principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Department requirements;
 3. No principal activities under the license have been conducted for a period of 24 months; or
 4. No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Department requirements.

Historical Note

New Section R9-7-325 recodified from R12-1-325, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Exhibit A. Exempt Concentrations

Element (atomic number)	Isotope	Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/}	Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/}	Element (atomic number)	Isotope	Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/}	Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/}
Antimony (51)	Sb-122		3×10^{-4}	Gold (79)	Au-196		2×10^{-3}
	Sb-124		2×10^{-4}		Au-198		5×10^{-4}
	Sb-125		1×10^{-3}		Au-199		2×10^{-3}
Argon (18)	Ar-37	1×10^{-3}		Hafnium (72)	Hf-181		7×10^{-4}
	Ar-41	4×10^{-7}			Hydrogen (1)	H-3	5×10^{-6}
Arsenic (33)	As-73		5×10^{-3}	Indium (49)	In-113m		1×10^{-2}
	As-74		5×10^{-4}		In-114m		2×10^{-4}
	As-76		2×10^{-4}	Iodine	I-126	3×10^{-9}	2×10^{-5}
	As-77		8×10^{-4}		I-131	3×10^{-9}	2×10^{-5}
Barium (56)	Ba-131		2×10^{-3}	I-132	8×10^{-8}	6×10^{-4}	
	Ba-140		3×10^{-4}	I-133	1×10^{-8}	7×10^{-5}	
Beryllium (4)	Be-7		2×10^{-2}	I-134	2×10^{-7}	1×10^{-3}	
Bismuth (83)	Bi-206		4×10^{-4}	Iridium (77)	Ir-190		2×10^{-3}
Bromine (35)	Br-82	4×10^{-7}	3×10^{-3}		Ir-192		4×10^{-4}
					Ir-194		3×10^{-4}
Cadmium (48)	Cd-109		2×10^{-3}	Iron (26)	Fe-55		8×10^{-3}
	Cd-115m		3×10^{-4}		Fe-59		6×10^{-4}
	Cd-115		3×10^{-4}	Krypton (36)	Kr-85m	1×10^{-6}	
Calcium (20)	Ca-45		9×10^{-5}		Kr-85	3×10^{-6}	
	Ca-47		5×10^{-4}	Lanthanum (57)	La-140		2×10^{-4}
Carbon (6)	C-14	1×10^{-6}	8×10^{-3}		Lead (82)	Pb-203	
Cerium (58)	Ce-141		9×10^{-4}	Lutetium (71)	Lu-177		1×10^{-3}
	Ce-143		4×10^{-4}		Manganese (25)	Mn-52	
	Ce-144		1×10^{-4}	Mn-54			1×10^{-3}
Cesium (55)	Cs-131		2×10^{-2}	Mn-56		1×10^{-3}	
	Cs-134m		6×10^{-2}	Mercury (80)	Hg-197m		2×10^{-3}
	Cs-134		9×10^{-5}		Hg-197		3×10^{-3}
Chlorine (17)	Cl-38	9×10^{-7}	4×10^{-3}		Hg-203		2×10^{-4}
				Chromium (24)	Cr-51		2×10^{-2}
Cobalt (27)	Co-57		5×10^{-3}		Neodymium (60)	Nd-147	
	Co-58		1×10^{-3}	Nd-149			3×10^{-3}
	Co-60		5×10^{-4}	Nickel (28)	Ni-65		1×10^{-3}
Copper (29)	Cu-64		3×10^{-3}		Niobium (Columbium)(41)	Nb-95	1×10^{-3}
	Dysprosium (66)	Dy-165		4×10^{-3}		Nb-97	
Dy-166			4×10^{-4}	Osmium (76)	Os-185		7×10^{-4}
Erbium (68)	Er-169		9×10^{-4}		Os-191m		3×10^{-2}
	Er-171		1×10^0		Os-191		2×10^{-3}
Europium (63)	Eu-152 ($T_{1/2}=9.2$ h)		6×10^{-4}		Os-193		6×10^{-4}
	Eu-155		2×10^{-3}	Palladium (46)	Pd-103		3×10^{-3}
Fluorine (9)	F-18	2×10^{-6}	8×10^{-3}		Pd-109		9×10^{-4}
				Gadolinium (64)	Gd-153		2×10^{-3}
Gd-159		8×10^{-4}	Platinum (78)		Pt-191		1×10^{-3}
Gallium (31)	Ga-72			4×10^{-4}	Pt-193m		1×10^{-2}
	Germanium (32)	Ge-71			2×10^{-2}	Pt-197m	
Pt-197							1×10^{-3}
				Potassium (19)	K-42		3×10^{-3}

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Exhibit A. Exempt Concentration (Continued)

Element (atomic number)	Isotope	Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/}	Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/}	Element (atomic number)	Isotope	Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/}	Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/}	
Praseodymium (59)	Pr-142		3×10^{-4}	Tellurium (52)	Te-125m		2×10^{-3}	
	Pr-143		5×10^{-4}		Te-127m		6×10^{-4}	
Promethium (61)	Pm-147		2×10^{-3}		Te-127		3×10^{-3}	
	Pm-149		4×10^{-4}		Te-129m		3×10^{-4}	
Rhenium (75)	Re-183		6×10^{-3}	Te-131m		6×10^{-4}		
	Re-186		9×10^{-4}	Te-132		3×10^{-4}		
	Re-188		6×10^{-4}	Terbium (65)	Tb-160		4×10^{-4}	
Rhodium (45)	Rh-103m		1×10^{-1}		Thallium (81)	Tl-200		4×10^{-3}
	Rh-105		1×10^{-3}	Tl-201			3×10^{-3}	
Rubidium (37)	Rb-86		7×10^{-4}	Tl-202			1×10^{-3}	
				Tl-204			1×10^{-3}	
Ruthenium (44)	Ru-97		4×10^{-3}	Thulium (69)	Tm-170		5×10^{-4}	
	Ru-103		8×10^{-4}		Tm-171		5×10^{-3}	
	Ru-105		1×10^{-3}	Tin (50)	Sn-113		9×10^{-4}	
	Ru-106		1×10^{-4}		Sn-125		2×10^{-4}	
Samarium (62)	Sm-153		8×10^{-4}	Tungsten (Wolfram) (74)	W-181		4×10^{-3}	
Scandium (21)	Sc-46		4×10^{-4}		W-187		7×10^{-4}	
	Sc-47		9×10^{-4}	Vanadium (23)	V-48		3×10^{-4}	
	Sc-48		3×10^{-4}		Xenon (54)	Xe-131m	4×10^{-6}	
Selenium (34)	Se-75		3×10^{-3}	Xe-133		3×10^{-6}		
Silicon (14)	Si-31		9×10^{-3}	Xe-135		1×10^{-6}		
		Silver (47)	Ag-105		1×10^{-3}	Ytterbium (70)	Yb-175	
Ag-110m			3×10^{-4}	Yttrium (39)	Y-90			2×10^{-4}
Ag-111			4×10^{-4}		Y-91m		3×10^{-2}	
Sodium (11)	Na-24		2×10^{-3}		Y-91		3×10^{-4}	
					Y-92		6×10^{-4}	
Strontium (38)	Sr-85		1×10^{-3}	Y-93		3×10^{-4}		
		Sr-89		1×10^{-4}	Zinc (30)	Zn-65		1×10^{-3}
			Sr-91			7×10^{-4}	Zn-69m	
		Sr-92		7×10^{-4}		Zn-69		2×10^{-2}
			7×10^{-4}	Zirconium (40)		Zr-95		6×10^{-4}
Sulfur (16)	S-35	9×10^{-8}	6×10^{-4}		Zr-97		2×10^{-4}	
					6×10^{-4}	(See notes at end of appendix)		
Tantalum (73)	Ta-182		4×10^{-4}	Beta and/or gamma emitting radioactive material not listed above with half-life less than three years		1×10^{-10}	1×10^{-6}	
Technetium (43)	Tc-96m		1×10^{-1}					
	Tc-96		1×10^{-3}					

NOTE 1: Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Schedule A the activity stated is that of the parent isotope and takes into account the daughters.

^{1/} Values are given in Column I only for those materials normally used as gases

^{2/} $\mu\text{Ci/gm}$ are for solids

NOTE 2: For purposes of Section 303 where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule A for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

EXAMPLE:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} \leq 1$$

Historical Note

New Article 3, Exhibit A recodified from 12 A.A.C. 1, Article 3, Exhibit A, effective March 22, 2018 (Supp. 18-1).

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit B. Exempt Quantities

<u>Material</u>	<u>Microcuries</u>	<u>Material</u>	<u>Microcuries</u>
Antimony-122 (Sb-122)	100	Indium-113m (In-113m)	100
Antimony-124 (Sb-124)	10	Indium-114m (In-114m)	10
Antimony-125 (Sb-125)	10	Indium-115m (In-115m)	100
Arsenic-73 (As-73)	100	Indium-115 (In-115)	10
Arsenic-74 (As-74)	10	Iodine-123 (I-123)	100
Arsenic-76 (As-76)	10	Iodine-125 (I-125)	1
Arsenic-77 (As-77)	100	Iodine-126 (I-126)	1
Barium-131 (Ba-131)	10	Iodine-129 (I-129)	0.1
Barium-133 (Ba-133)	10	Iodine-131 (I-131)	1
Barium-140 (Ba-140)	10	Iodine-132 (I-132)	10
Bismuth-210 (Bi-210)	1	Iodine-133 (I-133)	1
Bromine-82 (Br-82)	10	Iodine-134 (I-134)	10
Cadmium-109 (Cd-109)	10	Iodine-135 (I-135)	10
Cadmium-115m (Cd-115m)	10	Iridium-192 (Ir-192)	10
Cadmium-115 (Cd-115)	100	Iridium-194 (Ir-194)	100
Calcium-45 (Ca-45)	10	Iron-52 (Fe-52)	10
Calcium-47 (Ca-47)	10	Iron-55 (Fe-55)	100
Carbon-14 (C-14)	100	Iron-59 (Fe-59)	10
Cerium-141 (Ce-141)	100	Krypton-85 (Kr-85)	100
Cerium-143 (Ce-143)	100	Krypton-87 (Kr-87)	10
Cerium-144 (Ce-144)	1	Lanthanum-140 (La-140)	10
Cesium-129 (Cs-129)	100	Lutetium-177 (Lu-177)	100
Cesium-131 (Cs-131)	1,000	Manganese-52 (Mn-52)	10
Cesium-134m (Cs-134m)	100	Manganese-54 (Mn-54)	10
Cesium-134 (Cs-134)	1	Manganese-56 (Mn-56)	10
Cesium-135 (Cs-135)	10	Mercury-197m (Hg-197m)	100
Cesium-136 (Cs-136)	10	Mercury-197 (Hg-197)	100
Cesium-137 (Cs-137)	10	Mercury-203 (Hg-203)	10
Chlorine-36 (Cl-36)	10	Molybdenum-99 (Mo-99)	100
Chlorine-38 (Cl-38)	10	Neodymium-147 (Nd-147)	100
Chromium-51 (Cr-51)	1,000	Neodymium-149 (Nd-149)	100
Cobalt-57 (Co-57)	100	Nickel-59 (Ni-59)	100
Cobalt-58m (Co-58m)	10	Nickel-63 (Ni-63)	10
Cobalt-58 (Co-58)	10	Nickel-65 (Ni-65)	100
Cobalt-60 (Co-60)	1	Niobium-93m (Nb-93m)	10
Copper-64 (Cu-64)	100	Niobium-95 (Nb-95)	10
Dysprosium-165 (Dy-165)	10	Niobium-97 (Nb-97)	10
Dysprosium-166 (Dy-166)	100	Osmium-185 (Os-185)	10
Erbium-169 (Er-169)	100	Osmium-191m (Os-191m)	100
Erbium-171 (Er-171)	100	Osmium-191 (Os-191)	100
Europium-152 (Eu-152) (9.2 h)	100	Osmium-193 (Os-193)	100
Europium-152 (Eu-152) (13 yr)	1	Palladium-103 (Pd-103)	100
Europium-154 (Eu-154)	1	Palladium-109 (Pd-109)	100
Europium-155 (Eu-155)	10	Phosphorus-32 (P-32)	10
Fluorine-18 (F-18)	1,000	Platinum-191 (Pt-191)	100
Gadolinium-153 (Gd-153)	10	Platinum-193m (Pt-193m)	100
Gadolinium-159 (Gd-159)	100	Platinum-193 (Pt-193)	100
Gallium-67 (Ga-67)	100	Platinum-197m (Pt-197m)	100
Gallium-72 (Ga-72)	10	Platinum-197 (Pt-197)	100
Germanium-68 (Ge-68)	10	Polonium-210 (Po-210)	0.1
Germanium-71 (Ge-71)	100	Potassium-42 (K-42)	10
Gold-195 (Au-195)	10	Potassium-43 (K-43)	10
Gold-198 (Au-198)	100	Praseodymium-142 (Pr-142)	100
Gold-199 (Au-199)	100	Praseodymium-143 (Pr-143)	100
Hafnium-181 (Hf-181)	10	Promethium-147 (Pm-147)	10
Holmium-166 (Ho-166)	100	Promethium-149 (Pm-149)	10
Hydrogen-3 (H-3)	1,000	Rhenium-186 (Re-186)	100
Indium-111 (In-111)	100	Rhenium-188 (Re-188)	100

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit B. Exempt Quantities (Continued)

<u>Material</u>	<u>Microcuries</u>	<u>Material</u>	<u>Microcuries</u>
Rhodium-103m (Rh-103m)	100	Tellurium-129m (Te-129m)	10
Rhodium-105 (Rh-105)	100	Tellurium-129 (Te-129)	100
Rubidium-81 (Rb-81)	10	Tellurium-131m (Te-131m)	10
Rubidium-86 (Rb-86)	10	Tellurium-132 (Te-132)	10
Rubidium-87 (Rb-87)	10	Terbium-160 (Tb-160)	10
Ruthenium-97 (Ru-97)	100	Thallium-200 (Tl-200)	100
Ruthenium-103 (Ru-103)	10	Thallium-201 (Tl-201)	100
Ruthenium-105 (Ru-105)	10	Thallium-202 (Tl-202)	100
Ruthenium-106 (Ru-106)	1	Thallium-204 (Tl-204)	10
Samarium-151 (Sm-151)	10	Thulium-170 (Tm-170)	10
Samarium-153 (Sm-153)	100	Thulium-171 (Tm-171)	10
Scandium-46 (Sc-46)	10	Tin-113 (Sn-113)	10
Scandium-47 (Sc-47)	100	Tin-125 (Sn-125)	10
Scandium-48 (Sc-48)	10	Tungsten-181 (W-181)	10
Selenium-75 (Se-75)	10	Tungsten-185 (W-185)	10
Silicon-31 (Si-31)	100	Tungsten-187 (W-187)	100
Silver-105 (Ag-105)	10	Vanadium-43 (V-43)	10
Silver-110m (Ag-110m)	1	Xenon-131m (Xe-131m)	1,000
Silver-111 (Ag-111)	100	Xenon-133 (Xe-133)	100
Sodium-22 (Na-22)	10	Xenon-135 (Xe-135)	100
Sodium-24 (Na-24)	10	Ytterbium-175 (Yb-175)	100
Strontium-85 (Sr-85)	10	Yttrium-87 (Y-87)	10
Strontium-89 (Sr-89)	1	Yttrium-88 (Y-88)	10
Strontium-90 (Sr-90)	0.1	Yttrium-90 (Y-90)	10
Strontium-91 (Sr-91)	10	Yttrium-91 (Y-91)	10
Strontium-92 (Sr-92)	10	Yttrium-92 (Y-92)	100
Sulfur-35 (S-35)	100	Yttrium-93 (Y-93)	100
Tantalum-182 (Ta-182)	10	Zinc-65 (Zn-65)	10
Technetium-96 (Tc-96)	10	Zinc-69m (Zn-69m)	100
Technetium-97m (Tc-97m)	100	Zinc-69 (Zn-69)	1,000
Technetium-97 (Tc-97)	100	Zirconium-93 (Zr-93)	10
Technetium-99m (Tc-99m)	100	Zirconium-95 (Zr-95)	10
Technetium-99 (Tc-99)	10	Zirconium-97 (Zr-97)	10
Tellurium-125m (Te-125m)	10	Any radionuclide material not	
Tellurium-127m (Te-127m)	10	listed above other than alpha-	
Tellurium-127 (Te-127)	100	emitting radioactive material	0.1

Historical Note

New Article 3, Exhibit B recodified from 12 A.A.C. 1, Article 3, Exhibit B, effective March 22, 2018 (Supp. 18-1).

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit C. Limits for Class B and C Broad Scope Licenses (R9-7-310)

Radioactive Material	Col. I curies	Col. II curies	Radioactive Material	Col. I curies	Col. II curies
Antimony-122	1	0.01	Iodine-134	10	0.1
Antimony-124	1	0.01	Iodine-135	1	0.1
Antimony-125	1	0.01	Iridium-192	1	0.1
Arsenic-73	10	0.1	Iridium-194	10	0.1
Arsenic-74	1	0.01	Iron-55	10	0.1
Arsenic-76	1	0.01	Iron-59	1	0.1
Arsenic-77	10	0.1	Krypton-85	100	1.
Barium-131	10	0.1	Krypton-87	10	0.1
Barium-140	1	0.01	Lanthanum-140	1	0.1
Beryllium-7	10	0.1	Lutetium-177	10	0.1
Bismuth-210	0.1	0.001	Manganese-52	1	0.1
Bromine-82	10	0.1	Manganese-54	1	0.1
Cadmium-109	1	0.01	Manganese-56	10	0.1
Cadmium-115m	1	0.01	Mercury-197m	10	0.1
Cadmium-115	10	0.1	Mercury-197	10	0.1
Calcium-45	1	0.01	Mercury-203	1	0.1
Calcium-47	10	0.1	Molybdenum-99	10	0.1
Carbon-14	100	1.	Neodymium-147	10	0.1
Cerium-141	10	0.1	Neodymium-149	10	0.1
Cerium-143	10	0.1	Nickel-59	10	0.1
Cerium-144	0.1	0.001	Nickel-63	1	0.1
Cesium-131	100	1.	Nickel-65	10	0.1
Cesium-134m	100	1.	Niobium-93m	1	0.1
Cesium-134	0.1	0.001	Niobium-95	1	0.1
Cesium-135	1	0.01	Niobium-97	100	1.
Cesium-136	10	0.1	Osmium-185	1	0.1
Cesium-137	0.1	0.001	Osmium-191m	100	1.
Chlorine-36	1	0.01	Osmium-191	10	0.1
Chlorine-38	100	1.	Osmium-193	10	0.1
Chromium-51	100	1.	Palladium-103	10	0.1
Cobalt-57	10	0.1	Palladium-109	10	0.1
Cobalt-58m	100	1.	Phosphorus-32	1	0.01
Cobalt-58	1	0.01	Platinum-191	10	0.1
Cobalt-60	0.1	0.001	Platinum-193m	100	1.
Copper-64	10	0.1	Platinum-193	10	0.1
Dysprosium-165	100	1.	Platinum-197m	100	1.
Dysprosium-166	10	0.1	Platinum-197	10	0.1
Erbium-169	10	0.1	Polonium-210	0.01	0.0001
Erbium-171	10	0.1	Potassium-42	1	0.01
Europium-152 (9.2 h)	10	0.1	Praseodymium-142	10	0.1
Europium-152 (13 yr)	0.1	0.001	Praseodymium-143	10	0.1
Europium-154	0.1	0.001	Promethium-147	1	0.01
Europium-155	1	0.01	Promethium-149	10	0.1
Fluorine-18	100	1.	Radium-226	0.01	0.0001
Gadolinium-153	1	0.1	Rhenium-186	10	0.1
Gadolinium-159	10	0.1	Rhenium-188	10	0.1
Gallium-72	10	0.1	Rhodium-103m	1,000	10
Germanium-71	100	1.	Rhodium-105	10	0.1
Gold-198	10	0.1	Rubidium-86	1	0.01
Gold-199	10	0.1	Rubidium-87	1	0.01
Hafnium-181	1	0.1	Ruthenium-97	100	1.
Holmium-166	10	0.1	Ruthenium-103	1	0.01
Hydrogen-3	100	1.	Ruthenium-105	10	0.1
Indium-113m	100	1.	Ruthenium-106	0.1	0.001
Indium-114m	1	0.1	Samarium-151	1	0.01
Indium-115m	100	1.	Samarium-153	10	0.1
Indium-115	1	0.1	Scandium-46	1	0.01
Iodine-125	0.1	0.001	Scandium-47	10	0.1
Iodine-126	0.1	0.001	Scandium-48	1	0.01
Iodine-129	0.1	0.001	Selenium-75	1	0.01
Iodine-131	0.1	0.001	Silicon-31	10	0.1
Iodine-132	10	0.1	Silver-105	1	0.01
Iodine-133	1	0.1	Silver-110m	0.1	0.001

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit C. Limits for Class B and C Broad Scope Licenses (R9-7-310) (Continued)

Radioactive Material	Col. I curies	Col. II curies	Radioactive Material	Col. I curies	Col. II curies
Silver-111	10	0.1	Thulium-170	1	0.01
Sodium-22	0.1	0.001	Thulium-171	1	0.01
Sodium-24	1	0.01	Tin-113	1	0.01
Strontium-85	1,000	10	Tin-125	1	0.01
Strontium-85	1	0.01	Tungsten-181	1	0.01
Strontium-89	1	0.01	Tungsten-185	1	0.01
Strontium-90	0.01	0.0001	Tungsten-197	10	0.1
Strontium-91	10	0.1	Vanadium-43	1	0.01
Strontium-92	10	0.1	Xenon-131m	1,000	10
Sulfur-35	100	0.1	Xenon-133	100	1.
Tantalum-182	1	0.01	Xenon-135	100	1.
Technetium-96	10	0.1	Ytterbium-175	10	0.1
Technetium-97m	10	0.1	Yttrium-90	1	0.01
Technetium-97	10	0.1	Yttrium-91	1	0.01
Technetium-99m	100	1.	Yttrium-92	10	0.1
Technetium-99	1	0.01	Yttrium-93	1	0.01
Tellurium-125m	1	0.01	Zinc-65	1	0.01
Tellurium-127m	1	0.01	Zinc-69m	10	0.1
Tellurium-127	10	0.1	Zinc-69	100	1.
Tellurium-129m	1	0.01	Zirconium-93	1	0.01
Tellurium-129	100	1.	Zirconium-95	1	0.01
Tellurium-131m	10	0.1	Zirconium-97	1	0.01
Tellurium-132	1	0.01	Any radioactive material other than source material, special nuclear material, or alpha emitting radioactive material not listed above.	0.1	0.001
Terbium-160	1	0.01			
Thallium-200	10	0.1			
Thallium-201	10	0.1			
Thallium-202	10	0.1			
Thallium-204	1	0.01			

Historical Note

New Article 3, Exhibit C recodified from 12 A.A.C. 1, Article 3, Exhibit C, effective March 22, 2018 (Supp. 18-1).

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit D. Radioactive Material Quantities Requiring Consideration for an Emergency Plan (R9-7-322)

<u>Radioactive Material</u>	<u>Release Fraction</u>	<u>Quantity (Ci)</u>	<u>Radioactive Material</u>	<u>Release Fraction</u>	<u>Quantity (Ci)</u>
Actinium-228	0.001	4,000	Polonium-210	.01	10
Americium-241	.001	2	Potassium-42	.01	9,000
Americium-242	.001	2	Promethium-145	.01	4,000
Americium-243	.001	2	Promethium-147	.01	4,000
Antimony-124	.01	4,000	Radium-226	.001	100
Antimony-126	.01	6,000	Ruthenium-106	.01	200
Barium-133	.01	10,000	Samarium-151	.01	4,000
Barium-140	.01	30,000	Scandium-46	.01	3,000
Bismuth-207	.01	5,000	Selenium-75	.01	10,000
Bismuth-210	.01	600	Silver-110m	.01	1,000
Cadmium-109	.01	1,000	Sodium-22	.01	9,000
Cadmium-113	.01	80	Sodium-24	.01	10,000
Calcium-45	.01	20,000	Strontium-89	.01	3,000
Californium-252	.001	9 (20 mg)	Strontium-90	.01	90
Carbon-14 (Non CO)	.01	50,000	Sulfur-35	.5	900
Cerium-141	.01	10,000	Technetium-99	.01	10,000
Cerium-144	.01	300	Technetium-99m	.01	400,000
Cesium-134	.01	2,000	Tellurium-127m	.01	5,000
Cesium-137	.01	3,000	Tellurium-129m	.01	5,000
Chlorine-36	.5	100	Terbium-160	.01	4,000
Chromium-51	.01	300,000	Thulium-170	.01	4,000
Cobalt-60	.001	5,000	Tin-113	.01	10,000
Copper-64	.01	200,000	Tin-123	.01	3,000
Curium-242	.001	60	Tin-126	.01	1,000
Curium-243	.001	3	Titanium-44	.01	100
Curium-244	.001	4	Vanadium-48	.01	7,000
Curium-245	.001	2	Xenon-133	1.0	900,000
Europium-152	.01	500	Yttrium-91	.01	2,000
Europium-154	.01	400	Zinc-65	.01	5,000
Europium-155	.01	3,000	Zirconium-93	.01	400
Gadolinium-153	.01	5,000	Zirconium-95	.01	5,000
Germanium-68	.01	2,000	Any other beta-gamma emitter	.01	10,000
Gold-198	.01	30,000	Mixed fission products	.01	1,000
Hafnium-172	.01	400	Mixed corrosion products	.01	10,000
Hafnium-181	.01	7,000	Contaminated equipment		
Holmium-166m	.01	100	beta-gamma	.001	10,000
Hydrogen-3	.5	20,000	Irradiated material, any form		
Indium-114m	.01	1,000	other than solid non-		
Iodine-125	.5	10	combustible	.01	1,000
Iodine-131	.5	10	Irradiated material, solid non-		
Iridium-192	.001	40,000	combustible	.001	10,000
Iron-55	.01	40,000	Mixed radioactive waste,		
Iron-59	.01	7,000	beta-gamma	.01	1,000
Krypton-85	1.0	6,000,000	Packaged mixed waste, beta gamma	.001	10,000
Lead-210	.01	8	Any other alpha emitter	.001	2
Manganese-56	.01	60,000	Contaminated equipment, alpha	.0001	20
Mercury-203	.01	10,000	Packaged waste, alpha	.0001	20
Molybdenum-99	.01	30,000	Combinations of radioactive materials listed above:		
Neptunium-237	.001	2	For combinations of radioactive materials, consideration of the		
Nickel-63	.01	20,000	need for an emergency plan is required if the sum of the ratios		
Niobium-94	.01	300	of the quantity of each radioactive material authorized to the		
Phosphorus-32	.5	100	quantity listed for that material in Exhibit D exceeds 1.		
Phosphorus-33	.5	1,000	NOTE: Waste packaged in Type B containers does not require an		
			emergency plan.		

Historical Note

New Article 3, Exhibit D recodified from 12 A.A.C. 1, Article 3, Exhibit D, effective March 22, 2018 (Supp. 18-1).

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit E. Application Information

1. Radioactive Material (RAM) Specific License Application Information

An applicant shall provide the following information in a specific license application before a license is issued to the applicant. The Department shall provide an application form to an applicant with a guide, when possible, to ensure that correct information is provided in the application:

Name and mailing address of applicant	Use location
Contact person	Telephone number
Users of RAM	Training of users
Radiation Safety Officer identity (RSO)	Duties of RSO
Description of RAM and uses	Description of radiation detection/ measurement instruments and their calibration
Personnel monitoring	Bioassay program
Facility description	Survey program
Leak test program	Records management program
Instruction to personnel	Waste disposal program
Emergency procedures	Procedures for ordering, receiving, and opening packages
Description of animal use	Licensing fee provided with application
Copy of letter-of-intent programs	Description of ALARA and quality management to local governing body
Description of transportation procedures	Certifying signature
Legal structure of licensee's operation	
Other licensing requirements listed in: R9-7-310, R9-7-311, R9-7-312, R9-7-511, R9-7-703, and R9-7-1721	

2. Radioactive Material (RAM) General License Application Information

An applicant shall provide the following information on a registration certificate. The certificate will be validated and returned to the applicant if the information provided is complete.

Name and address	Telephone number
Where will the radioactive material be used	Address of use location
Description of radioactive material use	Date
Authorizing signature and printed name	Position of person signing the form

Historical Note

New Article 3, Exhibit E recodified from 12 A.A.C. 1, Article 3, Exhibit E, effective March 22, 2018 (Supp. 18-1).

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION

R9-7-401. Purpose

- A. Article 4 establishes standards for protection against ionizing radiation resulting from activities conducted according to licenses or registrations issued by the Department. These rules are issued according to A.R.S. Title 30, Chapter 4, as amended.
- B. The requirements of Article 4 are designed to control the receipt, possession, use, transfer, and disposal of sources of radiation by any licensee or registrant so the total dose equivalent to an individual, including radiation exposure resulting from all sources of radiation other than radiation prescribed by a physician in the practice of medicine, radiation received while voluntarily participating in a medical research program, and background radiation, does not exceed the standards for protection against radiation prescribed in this Article. However, this Article does not limit actions that may be necessary to protect health and safety.

Historical Note

New Section R9-7-401 recodified from R12-1-401, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-402. Scope

Except as specifically provided in other Articles, Article 4 applies to persons licensed or registered by the Department to receive, possess, use, transfer, or dispose of sources of ionizing radiation.

Historical Note

New Section R9-7-402 recodified from R12-1-402, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-403. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

“Air-purifying respirator” means respiratory protective equipment with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

“ALI” means annual limit on intake, the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Appendix B, Table I, Columns 1 and 2.

“Assigned protection factor” or “APF” means the expected workplace level of respirator protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

“Atmosphere-supplying respirator” means respiratory protective equipment that supplies the equipment user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

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“Class” means a classification scheme for inhaled material according to the material’s rate of clearance from the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, days, of less than 10 days, for Class W, weeks, from 10 to 100 days, and for Class Y, years, of greater than 100 days (see Introduction, Appendix B). For purposes of these rules, “lung class” and “inhalation class” are equivalent terms.

“Constraint” or “dose constraint” means a value above which specified licensee or registrant actions are required.

“Critical group” means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

“DAC” means derived air concentration, the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Appendix B, Table I, Column 3.

“DAC-hour” means derived air concentration-hour, the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

“Declared pregnant woman” means a woman who has voluntarily informed the licensee or registrant in writing of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

“Decommission” means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license or release of the property under restricted conditions and the termination of the license.

“Demand respirator” means an atmosphere-supplying respiratory protective equipment that admits breathing air to the face piece only when a negative pressure is created inside the face piece by inhalation.

“Deterministic effect” (See “Nonstochastic effect”)

“Disposable respirator” means respiratory protective equipment for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent depletion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of device include a disposable half-mask respirator or a disposable, escape-only, self-contained breathing apparatus (SCBA).

“Distinguishable from background” means that the detectable concentration of a radionuclide is statistically greater than the background concentration of that radionuclide in the vicinity of a site or, in the case of structures, in similar materials using accepted measurement, survey, and statistical techniques.

“Dosimetry processor” means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

“Filtering face piece (dust mask)” means a particulate respirator that operates under a negative pressure with a filter as an

integral part of the face piece or with the entire face piece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

“Fit factor” means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

“Fit test” means the use of protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

“Helmet” means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

“Hood” means a respiratory inlet covering that completely covers the head, neck, and may also cover portions of the shoulders and torso.

“Inhalation class” (See “Class”)

“Loose-fitting face piece” means a respiratory inlet covering that is designed to form a partial seal with the face.

“Lung class” (See “Class”)

“Nationally tracked source” means a sealed source that contains a quantity equal to or greater than Category 1 or Category 2 levels of radioactive material listed in 10 CFR 20, Appendix E, revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. In this context sealed source does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, sub-assembly, fuel rod, or fuel pellet.

“Negative pressure respirator (tight fitting)” means respiratory protective equipment in which the air pressure inside the face piece is negative during inhalation with respect to the ambient air pressure outside the respirator.

“Nonstochastic effect” means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, “deterministic effect” is an equivalent term and “threshold” means that which if not exceeded, poses no risk or likelihood of an effect to occur.

“Planned special exposure” means an infrequent exposure to radiation received while employed, but separate from and in addition to the annual occupational dose limits.

“Positive pressure respirator” means respiratory protective equipment in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

“Powered air-purifying respirator” or “PAPR” means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

“Pressure demand respirator” means a positive pressure, atmosphere-supplying respirator that admits breathing air to the face piece when the positive pressure is reduced inside the face piece by inhalation.

“Probabilistic effect” (See “Stochastic effect”)

“Qualitative fit test” or “QLFT” means a pass or fail fit test to assess the adequacy of respirator fit that relies on the individual’s response to the test agent.

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“Quantitative fit test” or “QNFT” means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

“Reference Man” means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, “Report of the Task Group on Reference Man,” published in 1975 by Pergamon Press, incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

“Residual radioactivity” means radioactivity in structures, materials, soils, groundwater, or other media at a site, resulting from activities under a licensee’s control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials that remain at the site because of routine or accidental release of radioactive material at the site or a previous burial at the site, even if the licensee complied with reagent provisions of 9 A.A.C. 7.

“Respiratory protective equipment” means an apparatus, such as a respirator, used to reduce an individual’s intake of airborne radioactive materials.

“Sanitary sewerage” means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

“Self-contained breathing apparatus” or “SCBA” means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

“Stochastic effect” means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without a threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these rules, “probabilistic effect” is an equivalent term.

“Supplied-air respirator” or “SAR” or “airline respirator” means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

“Tight-fitting face piece” means a respiratory inlet covering that forms a complete seal with the face.

“User seal check” or “fit check” means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

“Very-high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to an individual’s body could result in the individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates. (At very high doses received at high dose rates, units of absorbed dose, the gray and rad should be used, rather than units of dose equivalent, the sievert and rem).

“Weighting factor” w_T for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

ORGAN DOSE WEIGHTING FACTORS	
Organ or Tissue	w_T
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 ^a
Whole Body	1.00 ^b
^a 0.30 results from 0.06 for each of five “remainder” organs, excluding the skin and the lens of the eye, that receive the highest doses.	
^b For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved by the Department on a case-by-case basis.	

Historical Note

New Section R9-7-403 recodified from R12-1-403, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-404. Units and Quantities

- A. Each licensee or registrant shall use the Standard International (SI) units becquerel, gray, sievert, and coulomb per kilogram, or the special units curie, rad, rem, and roentgen, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Article.
- B. The licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Article, such as, total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, lens dose equivalent, deep dose equivalent, or committed effective dose equivalent.

Historical Note

New Section R9-7-404 recodified from R12-1-404, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-405. Form of Records

- A. A licensee or registrant shall ensure that each record required by this Article is legible throughout the specified retention period. The record shall be the original, a reproduced copy, or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. As an alternative the record may be stored in electronic media capable of producing legible records during the required retention period. Records, such as letters, drawings, and specifications, shall include all pertinent information, such as stamps, initials, and signatures. A licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.
- B. In the records required by this Article, a licensee or registrant may record quantities in SI units in parentheses following each of the required units, curie, rad, and rem, and include multiples and subdivisions.
- C. Notwithstanding subsection (B), the licensee or registrant shall ensure that information is recorded in the International System

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of Units (SI) or in SI and the units specified in subsection (B) on each shipment manifest as required in R9-7-439(A).

- D. A licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Section (e.g., total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

Historical Note

New Section R9-7-405 recodified from R12-1-405, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-406. Implementation

Any existing license or registration condition that is more restrictive than this Article remains in force until amendment or renewal of the license or registration.

Historical Note

New Section R9-7-406 recodified from R12-1-406, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-407. Radiation Protection Programs

- A. Each licensee or registrant shall develop, document, and implement a radiation protection program sufficient to ensure compliance with the provisions of Article 4.
- B. The licensee or registrant shall use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and public doses that are as low as is reasonably achievable (ALARA).
- C. The licensee or registrant shall, at intervals not to exceed 12 months, review the radiation protection program content and implementation.
- D. To implement the ALARA requirements in subsection (B), and notwithstanding the requirements in R9-7-416, each licensee or registrant governed by 9 A.A.C. 7, Article 3 shall limit air emissions of radioactive material to the environment so that individual members of the public likely to receive the highest dose will not receive a total effective dose equivalent in excess of 0.1mSv (10 mrem) per year from the emissions. If a licensee or registrant subject to this requirement exceeds this limit, the licensee or registrant shall report the incident to the Department, in accordance with R9-7-444, and take prompt corrective action to prevent additional violations.
- E. Records.
1. Each licensee or registrant shall maintain records of the radiation protection program, including:
 - a. The provisions of the program; and
 - b. Audits and other reviews of program content and implementation.
 2. A licensee or registrant shall retain the records required by subsection (E)(1)(a) for three years after the termination of the license or registration. The licensee or registrant shall retain the records required by subsection (E)(1)(b) for three years after the record is made.
 3. The following licensees and registrants are exempt from the record requirements contained in this subsection:
 - a. B6-General Medical,
 - b. C9-Gas Chromatograph,
 - c. C10-General Industrial,
 - d. D15-Possession Only,
 - e. E2-X-ray Machine class B, and
 - f. E3-X-ray Machine class C.

Historical Note

New Section R9-7-407 recodified from R12-1-407, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-408. Occupational Dose Limits for Adults

- A. Each licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures required in R9-7-413, to the following dose limits:
1. An annual limit, which is the more limiting of:
 - a. The total effective dose equivalent being equal to 0.05 Sv (5 rem): or
 - b. The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).
 2. The annual limits to the lens of the eye, to the skin, and to the extremities which are:
 - a. A lens dose equivalent of 0.15 Sv (15 rem), and
 - b. A shallow dose equivalent of 0.5 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.
- B. Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime. See R9-7-413.
- C. The assigned deep-dose equivalent and shallow-dose equivalent are, for the portion of the body receiving the highest exposure, determined as follows:
1. The deep-dose equivalent, lens dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.
 2. If a protective apron is worn and monitoring is conducted as specified in R9-7-419(B), the effective dose equivalent for external radiation shall be determined as follows:
 - a. If only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25% of the limit specified in subsection (A), the reported deep-dose equivalent value multiplied by 0.3 is the effective dose equivalent for external radiation; or
 - b. When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation is assigned the value of the sum of the deep-dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep-dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.
 3. When the external exposure is determined by measurement with an external personal monitoring device, the deep-dose equivalent must be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the Department. The assigned deep-dose equivalent shall be determined for the part of the body that receives the highest exposure. The assigned shallow-dose equivalent is the dose averaged over the contiguous 10 square centimeters of skin that receives the highest exposure. The deep-dose equivalent, lens-dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest poten-

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tial exposure, or the results of individual monitoring are unavailable.

- D. Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in Table I of Appendix B and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits.
- E. Notwithstanding the annual dose limits, the licensee shall limit the soluble Uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity. See footnote 3 of Appendix B.
- F. The licensee or registrant shall reduce the dose that an individual may receive in the current year by the amount of occupational dose received while employed occupationally as a radiation worker by all previous employers. See R9-7-412.

Historical Note

New Section R9-7-408 recodified from R12-1-408, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-409. Summation of External and Internal Doses

- A. If a licensee or registrant is required to monitor according to both R9-7-419(B) and (C), the licensee or registrant shall add external and internal doses, and use the sum to demonstrate compliance with dose limits. If the licensee or registrant is required to monitor only according to R9-7-419(B) or only according to R9-7-419(C), summation is not required to demonstrate compliance with dose limits. The licensee or registrant may demonstrate compliance with the requirements for summation of external and internal doses according to subsections (B), (C), and (D). The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation but are subject to separate limits (See R9-7-408(A)(2)).
- B. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity (1):
 1. The sum of the fractions of the inhalation ALI for each radionuclide, or
 2. The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000, or
 3. The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using applicable biological models and expressed as a fraction of the annual limit. For purposes of this requirement, an organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors, W_T , and the committed dose equivalent, $H_{T,50}$, per unit intake is greater than 10% of the maximum weighted value of $H_{T,50}$, that is, $w_T H_{T,50}$, per unit intake for any organ or tissue.
- C. If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than 10% of the applicable oral ALI, the licensee or registrant shall account for this intake and include it in demonstrating compliance with the limits.
- D. The licensee or registrant shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for Hydrogen-3 and does not need to be evaluated or accounted for according to this subsection.

Historical Note

New Section R9-7-409 recodified from R12-1-409, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-410. Determination of External Dose from Airborne Radioactive Material

- A. Each licensee shall, when determining the dose from airborne radioactive material, include the contribution to the deep-dose equivalent, lens dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See Appendix B, footnotes 1 and 2.
- B. Airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep-dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep-dose equivalent to an individual shall be based upon measurements using instruments or individual monitoring devices.

Historical Note

New Section R9-7-410 recodified from R12-1-410, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-411. Determination of Internal Exposure

- A. For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, each licensee or registrant shall, when required according to R9-7-419, take suitable and timely measurements of:
 1. Concentrations of radioactive materials in air in work areas,
 2. Quantities of radionuclides in the body,
 3. Quantities of radionuclides excreted from the body, or
 4. Combinations of these measurements,
- B. Unless respiratory protective equipment is used, as provided in R9-7-425, or the assessment of intake is based on bioassays, the licensee or registrant shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.
- C. When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in an individual is known, the licensee or registrant may:
 1. Use that information to calculate the committed effective dose equivalent, and, if used, the licensee or registrant shall document that information in the individual's record;
 2. Upon prior approval of the Department, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and
 3. Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of a given radionuclide to the committed effective dose equivalent. See Appendix B.
- D. If the licensee or registrant chooses to assess intakes of Class Y material using the measurements given in subsection (A)(2) or (3), the licensee or registrant may delay the recording and reporting of the assessments for periods up to seven months, unless otherwise required by R9-7-444 or R9-7-445. This delay permits the licensee or registrant to make additional measurements basic to the assessments.
- E. If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours is either:
 1. The sum of the ratios of the concentration to the appropriate DAC value, that is, D, W, or Y from Appendix B for each radionuclide in the mixture; or

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2. The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.
- F.** If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture is the most restrictive DAC of any radionuclide in the mixture.
- G.** If a mixture of radionuclides in air exists, a licensee may disregard certain radionuclides in the mixture if:
1. The licensee uses the total activity of the mixture to demonstrate compliance with the dose limits in R9-7-408 and complies with the monitoring requirements in R9-7-419;
 2. The concentration of any radionuclide disregarded is less than 10% of its DAC; and
 3. The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30%.
- H.** When determining the committed effective dose equivalent, the following information may be considered:
1. In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of 1 ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.
 2. For an ALI and the associated DAC determined by the nonstochastic organ dose limit of 0.5 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem), that is, the stochastic ALI, is listed in parentheses in Table I of Appendix B. The licensee may, as a simplifying assumption, use the stochastic ALI to determine committed effective dose equivalent. However, if the licensee or registrant uses the stochastic ALI, the licensee shall also demonstrate that the limit in R9-7-408(A)(1)(b) is met.
- Historical Note**
New Section R9-7-411 recodified from R12-1-411, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-412. Determination of Prior Occupational Dose**
- A.** For each individual who is likely to receive in a year an occupational dose that requires monitoring according to R9-7-419 the licensee shall:
1. Determine the occupational radiation dose received during the current year, and
 2. Attempt to obtain the records of lifetime cumulative occupational radiation dose.
- B.** Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:
1. The internal and external doses from all previous planned special exposures; and
 2. All doses in excess of the limits received during the lifetime of the individual, including doses received during accidents and emergencies; and
 3. All lifetime, cumulative, occupational radiation doses.
- C.** In complying with the requirements of subsection (A), a licensee or registrant shall:
1. Accept, as a record of the occupational dose that the individual received during the current year, a written and signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year; and
 2. Accept, as the record of lifetime cumulative radiation dose, an up-to-date Department Form Y (available from the Department) or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant; and
 3. Obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, telegram, facsimile, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.
- D. Records.**
1. The licensee or registrant shall record the exposure history, as required by subsection (A), on Department Form Y (available from the Department) or a similar clear and legible record of all the information required by this subsection. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report for preparing Department Form Y or its equivalent. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on Department Form Y or its equivalent indicating each period of time for which there is no data.
 2. The licensee or registrant is not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed according to the rules in Article 4 in effect before January 1, 1994. Occupational exposure histories obtained and recorded on Department Form Y or its equivalent before January 1, 1994, would not have included effective dose equivalent but may be used in the absence of specific information on the intake of radionuclides by the individual.
 3. If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall:
 - a. In establishing administrative controls under R9-7-408(F) for the current year, reduce the allowable dose limit for the individual by 12.5 mSv (1.25 rem) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and
 - b. Not subject the individual to planned special exposures.
 4. The licensee or registrant shall retain current and prior records on Department Form Y or its equivalent for three years after the Department terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing Department Form Y or its equivalent for three years after the record is made.
- Historical Note**
New Section R9-7-412 recodified from R12-1-412, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-413. Planned Special Exposures**
- A.** A licensee or registrant may authorize an adult worker to receive doses in addition to and accounted for separately from

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the doses received under the limits specified in R9-7-408, provided that each of the following conditions is satisfied:

1. The licensee or registrant authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the dose estimated from the planned special exposure are unavailable or impractical.
 2. The licensee or registrant, and employer if the employer is not the licensee or registrant, specifically authorizes the planned special exposure, in writing, before the exposure occurs.
 3. Before a planned special exposure, the licensee or registrant ensures that each individual involved is:
 - a. Informed in writing of the purpose of the planned special exposure;
 - b. Informed in writing of the estimated doses, associated potential risks, and specific radiation levels or other conditions that might be involved in performing the task; and
 - c. Instructed in the measures to be taken to keep the dose ALARA, considering other risks that may be present.
 4. Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall ascertain prior doses as required by R9-7-412(B) for each individual involved.
 5. Subject to R9-7-408(B), the licensee or registrant shall not authorize a planned special exposure that would cause an individual to receive a dose from all planned special exposures and all doses that exceed:
 - a. The numerical value of any of the dose limits in R9-7-408(A) in any year, and
 - b. Five times the annual dose limits in R9-7-408(A) during the individual's lifetime.
 6. The licensee or registrant shall maintain records of a planned special exposure in accordance with subsections (B) and (C) and submit a written report to the Department within 30 days after the date of any planned special exposure conducted in accordance with this Section, informing the Department that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by subsection (B).
 7. The licensee or registrant shall record the best estimate of the dose resulting from the planned special exposure in the individual's record and inform the individual, in writing, of the dose within 30 days after the date of the planned special exposure. The dose from a planned special exposure shall not be considered in controlling future occupational dose of the individual according to R9-7-408(A) but shall be included in evaluations required by subsections (A)(4) and (A)(5).
- B. Records.**
1. For each planned special exposure, the licensee or registrant shall maintain records that describe:
 - a. The exceptional circumstances requiring the use of a planned special exposure,
 - b. The name of the management official who authorized the planned special exposure and a copy of the signed authorization,
 - c. What actions were necessary,
 - d. Why the actions were necessary,
 - e. What precautions were taken to assure that doses were minimized in accordance with R9-7-407(B),
 - f. What individual and collective doses were expected,
 - g. The doses actually received in the planned special exposure, and
 - h. The process through which the employee involved in the planned special exposure has been informed in writing of the information contained in subsection (A)(3).
 2. The licensee or registrant shall retain the records for three years after the Department terminates each pertinent license or registration.
- C.** A licensee shall submit a report to the Department no later than 30 days after a planned special exposure conducted in accordance with subsection (A). The report shall contain the date of the planned exposure and the information required by subsection (B).

Historical Note

New Section R9-7-413 recodified from R12-1-413, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-414. Occupational Dose Limits for Minors

The annual occupational dose limits for minors are 10% of the annual occupational dose limits specified for adult workers in R9-7-408.

Historical Note

New Section R9-7-414 recodified from R12-1-414, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-415. Dose Equivalent to an Embryo or Fetus

- A.** A licensee or registrant shall ensure that the dose equivalent to an embryo or fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 5 mSv (0.5 rem). Records shall be maintained according to R9-7-419(E)(4) and (5).
- B.** The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman to satisfy the limit in subsection (A).
- C.** For purposes of this Section, the dose equivalent to the embryo or fetus is the sum of:
1. The deep-dose equivalent to the declared pregnant woman; and
 2. The dose equivalent to the embryo or fetus resulting from radionuclides in the embryo or fetus and radionuclides in the declared pregnant woman.
- D.** If the dose equivalent to the embryo or fetus is found to have exceeded 5 mSv (0.5 rem) or is within 0.5 mSv (0.05 rem) of this dose by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant shall be deemed to be in compliance with subsection (A) if the additional dose equivalent to the embryo or fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

Historical Note

New Section R9-7-415 recodified from R12-1-415, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-416. Dose Limits for Individual Members of the Public

- A.** Each licensee or registrant shall conduct operations so that:
1. The total effective dose equivalent to any individual member of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, excluding the dose contribution from background radiation, medical administration of radiation, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-719, voluntary participation in a medical research program, and the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with R9-7-436; and

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2. The dose in any unrestricted area from an external source excluding the dose contribution from an individual who has been administered radioactive material and released in accordance with R9-7-719, does not exceed 0.02 mSv (0.002 rem) in any one hour.
- B.** Registrants possessing radiation machines in operation before August 10, 1994, are exempt from the requirement in subsection (A)(1). Operation of these machines shall be conducted so that the total effective dose equivalent to any individual member of the public does not exceed 5 mSv (0.5 rem) in a year.
- C.** A licensee, registrant, or an applicant for a license or registration may apply for Department authorization to operate with an annual dose limit of 5 mSv (0.5 rem) for an individual member of the public. The application shall include the following information:
1. An explanation of the need for and the expected duration of operations in excess of the limit in subsection (A), and
 2. The licensee's or registrant's program to assess and control dose within the 5 mSv (0.5 rem) annual limit; and
 3. The procedures to be followed to maintain the dose in accordance with R9-7-407(B).
- D.** A licensee or registrant shall comply with the U.S. Environmental Protection Agency's applicable environmental radiation standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which are incorporated by reference, on file with the Department and contain no future editions or amendments.
- E.** The Department may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.
- F.** Each licensee or registrant shall make or cause to be made surveys of radiation levels in unrestricted areas and radioactive materials contained in effluents released to unrestricted areas.
- G.** Each licensee or registrant shall:
1. Demonstrate by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or
 2. Demonstrate that:
 - a. The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Appendix B, Table II; and
 - b. If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.
- H.** Upon approval from the Department, the licensee or registrant may adjust the effluent concentration values in Appendix B, Table II for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.
- I.** Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public and shall retain the records for three years after the Department terminates each pertinent license or registration.
- A.** A licensee in possession of any sealed source shall ensure that:
1. Each sealed source, except as specified in subsection (B), is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee or registrant.
 2. Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Department, after evaluation of information specified by R9-7-311(D)(2) or equivalent information specified by an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission.
 3. Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Department, after evaluation of information specified by R9-7-311(D)(2) or equivalent information specified by an Agreement State, a Licensing State, or the Nuclear Regulatory Commission.
 4. Each sealed source suspected of damage or leakage is tested for leakage or contamination before further use.
 5. Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium, are capable of detecting the presence of 185 Bq (0.005 μ Ci) of radioactive material on a test sample. The person conducting the test shall take test samples from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which contamination could accumulate. For a sealed source contained in a device, the person conducting the test shall obtain test samples when the source is in the "off" position.
 6. The test for leakage from brachytherapy sources containing radium is capable of detecting an absolute leakage rate of 37 Bq (0.001 μ Ci) of Radon-222 in a 24-hour period when the collection efficiency for Radon-222 and its daughters has been determined with respect to collection method, volume, and time.
 7. Tests for contamination from radium daughters are taken on the interior surface of brachytherapy source storage containers and are capable of detecting the presence of 185 Bq (0.005 μ Ci) of a radium daughter which has a half-life greater than four days.
- B.** A licensee need not perform tests for leakage or contamination on the following sealed sources:
1. Sealed sources containing only radioactive material with a half-life of less than 30 days;
 2. Sealed sources containing only radioactive material as a gas;
 3. Sealed sources containing 3.7 MBq (100 μ Ci) or less of beta or photon-emitting material or 370 kBq (10 μ Ci) or less of alpha-emitting material;
 4. Sealed sources containing only Hydrogen-3;
 5. Seeds of Iridium-192 encased in nylon ribbon; and
 6. Sealed sources, except teletherapy and brachytherapy sources, which are stored, not being used, and identified as in storage. The licensee shall test each sealed source for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within six months before the date of use or transfer.
- C.** Persons specifically authorized by the Department, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission shall perform tests for leakage or contamination from sealed sources.

Historical Note

New Section R9-7-416 recodified from R12-1-416, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-417. Testing for Leakage or Contamination of Sealed Sources

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- D.** A licensee shall maintain for Department inspection test results in units of becquerel or microcurie.
- E.** The following is considered evidence that a sealed source is leaking:
1. The presence of 185 Bq (0.005 μ Ci) or more of removable contamination on any test sample.
 2. Leakage of 37 Bq (0.001 μ Ci) of Radon-222 per 24 hours for brachytherapy sources manufactured to contain radium.
 3. The presence of removable contamination resulting from the decay of 185 Bq (0.005 μ Ci) or more of radium.
- F.** A licensee shall immediately withdraw a leaking sealed source from use and shall take action to prevent the spread of contamination. The leaking sealed source shall be repaired or disposed of in accordance with this Article.
- G.** A licensee shall file a report with the Department within five days if the test for leakage or contamination indicates a sealed source is leaking or contaminated. The report shall include the equipment involved, the test results, and the corrective action taken.
- H.** A licensee shall maintain records of the tests for leakage required in subsection (A) for three years after the records are made.

Historical Note

New Section R9-7-417 recodified from R12-1-417, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-418. Surveys and Monitoring

- A.** Each licensee or registrant shall make, or cause to be made, surveys if surveys are:
1. Necessary for the licensee or registrant to comply with Article 4, and
 2. Reasonable under the circumstances to evaluate:
 - a. The magnitude and extent of radiation levels, and
 - b. Concentrations or quantities of residual radioactivity, and
 - c. The potential radiological hazards of the radiation levels and residual radioactivity detected.
- B.** All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose and that are used by licensees and registrants to comply with R9-7-408, with other applicable provisions of these rules, or with conditions specified in a license or registration shall be processed and evaluated by a dosimetry processor:
1. Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology, according to NVLAP procedures published March 1994 as NIST Handbook 150, and NIST Handbook 150-4, published August 1994, which is incorporated by reference, published by the U.S. Government Printing Office, Washington D.C. 20402-9325, and on file with the Department. The material incorporated by reference contains no future editions or amendments;
 2. Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored; and
 3. Film badges must be replaced at periods not to exceed one month; other personnel dosimeters processed and

evaluated by an accredited NVLAP processor must be replaced at periods not to exceed three months.

- C.** The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device and that personnel monitoring devices are issued to, and used by only the individual to whom the monitoring device has been first issued during any reporting period.
- D.** A licensee shall ensure that survey instruments and personnel dosimeters that are used to make quantitative measurements are calibrated in accordance with R9-7-449.
- E.** Records.
1. Each licensee or registrant shall maintain records showing the results of surveys required by this Section and R9-7-433(B). The licensee or registrant shall retain these records for three years after the record is made.
 2. The licensee or registrant shall retain each of the following records for three years after the Department terminates the license or registration:
 - a. Records of the survey results used to determine the dose from external sources of radiation, in the absence of or in combination with individual monitoring data, and provide an assessment of individual dose equivalents;
 - b. Records of the results of measurements and calculations used to determine individual intakes of radioactive material and to assess an internal dose;
 - c. Records showing the results of air sampling, surveys, and bioassays required according to R9-7-425(A)(3)(a) and (b);
 - d. Records of the measurement and calculation results used to evaluate the release of radioactive effluents to the environment; and
 - e. Notwithstanding subsection (A) of this part, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning, and such records must be retained in accordance with R9-7-323, as applicable.

Historical Note

New Section R9-7-418 recodified from R12-1-418, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-419. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

- A.** Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this Article.
- B.** At minimum each licensee or registrant shall supply and require the use of individual monitoring devices by the following personnel:
1. Adults likely to receive, in one year, an intake in excess of 10% of the applicable ALI in Table I, Columns 1 and 2, of Appendix B;
 2. Minors and declared pregnant women likely to receive, in one year, a committed effective dose equivalent in excess of 0.5 mSv (0.05 rem);
 3. Adults likely to receive, in one year from radiation sources external to the body, a dose in excess of 10 percent of the limits in R9-7-408(A);
 4. Minors likely to receive, in one year, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem), a lens dose equivalent in excess of 1.5 mSv (0.15 rem), or a shallow dose equivalent

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- lent to the skin or to the extremities in excess of 5 mSv (0.5 rem);
5. Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem) (Note: All of the occupational doses in R9-7-408 continue to be applicable to the declared pregnant worker as long as the embryo/fetus dose limit is not exceeded.);
 6. Individuals entering a high or very high radiation area;
 7. Individuals operating mobile x-ray equipment as described in R9-7-608;
 8. Individuals holding animals for diagnostic x-ray procedures, as described in R9-7-613;
 9. Individuals servicing enclosed beam x-ray systems with bypassed interlocks, as described in R9-7-803;
 10. Individuals operating open beam fluoroscopic systems and ancillary personnel working in the room when the fluoroscopic system is in use, except when relieved of this requirement by registration condition;
 11. Individuals performing well logging, as described in Article 17;
 12. Individuals, wearing a finger or wrist individual monitoring device, during the operation of an open-beam or hand held analytical x-ray system or equipment with no safety devices as described in R9-7-806(C) and (F); and
 13. Individuals, wearing a finger or wrist individual monitoring device, performing repairs that require the presence of a primary beam of the analytical x-ray system or equipment, as described in R9-7-806(C) and (F).
- C. Each licensee shall monitor the occupational intake of radioactive material by and assess the committed effective dose equivalent to:
1. Adults likely to receive, in one year, an intake in excess of 10 percent of the applicable ALI in Table 1, Columns 1 and 2, of Appendix B;
 2. Minors likely to receive, in one year, a committed effective dose equivalent in excess of 1 mSv (0.1 rem); and
 3. Declared pregnant women likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of 1 mSv (0.1 rem).
- D. Each licensee or registrant shall require that all individual monitoring devices be located on individuals according to the following requirements:
1. An individual monitoring device, used to obtain the dose equivalent to an embryo or fetus of a declared pregnant woman according to R9-7-415, shall be located under the protective apron at the waist. A qualified expert shall be consulted to determine the dose equivalent to the embryo or fetus if this individual monitoring device has a monthly reported dose equivalent value that exceeds 0.5 millisieverts (50 millirem). For purposes of this subsection, the value for determining the dose equivalent to an embryo or fetus under R9-7-415(C), for occupational exposure to radiation from medical fluoroscopic equipment, is the value reported by the individual monitoring device worn at the waist underneath the protective apron, which has been corrected for the particular individual and the work environment by a qualified expert.
 2. An individual monitoring device used for lens dose equivalent shall be located at the neck or an unshielded location closer to the eye, outside the protective apron.
 3. If only one individual monitoring device is used to determine the effective dose equivalent for external radiation, according to R9-7-408(C)(2)(a), the device shall be located at the neck outside the protective apron. If a second individual monitoring device is used for the same purpose, it shall be located under the protective apron at the waist. A second individual monitoring device is required for a declared pregnant woman.
 4. An individual, wearing an extremity personnel monitoring device, during the operation of an open-beam or hand-held analytical x-ray system with no safety devices or an individual performing repairs in the presence of a primary beam of the analytical x-ray system or equipment, as described in R9-7-806(C) and (F), shall wear the device on the individual's finger or wrist.
- E. Records.
1. Each licensee or registrant shall maintain records of doses received by all individuals for whom monitoring is required according to this Section, and records of doses received during planned special exposures, accidents, and emergency conditions. Assessments of dose equivalent and records made using units in effect before January 1, 1994, need not be changed. These records shall include, when applicable:
 - a. The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities;
 - b. The estimated intake of radionuclides;
 - c. The committed effective dose equivalent assigned to the intake of radionuclides;
 - d. The specific information used to assess the committed effective dose equivalent according to R9-7-411(A) and (C), and when required R9-7-419;
 - e. The total effective dose equivalent when required by R9-7-409; and
 - f. The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose;
 2. The licensee or registrant shall make entries of the records specified in subsection (D)(1), at intervals not to exceed one year;
 3. The licensee or registrant shall maintain at the inspection site the records specified in subsection (D)(1) in a clear and legible method that contains all the information required by this subsection;
 4. The licensee or registrant shall maintain the records of dose to an embryo or fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, including the estimated date of conception, shall also be kept on file but may be maintained separately from the dose records; and
 5. The licensee or registrant shall retain each required form or record for three years after the Department terminates each pertinent license or registration requiring the record.

Historical Note

New Section R9-7-419 recodified from R12-1-419, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-420. Control of Access to High Radiation Areas

- A. A licensee or registrant shall ensure that each entrance or access point to a high radiation area has one or more of the following features:
1. A control device that, upon entry into the area, causes the level of radiation to be reduced below the level at which an individual might receive a deep-dose equivalent of 1 mSv (0.1 rem) in one hour at 30 centimeters from the source from any surface that the radiation penetrates;
 2. A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the

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- high radiation area and the supervisor of the activity are made aware of the entry; or
3. Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entity.
- B.** In place of the controls required by subsection (A) for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.
- C.** The licensee or registrant may apply to the Department for approval of alternative methods for controlling access to high radiation areas.
- D.** The licensee or registrant shall establish the controls required by subsections (A) and (C) in a way that does not prevent individuals from leaving a high radiation area.
- E.** The licensee or registrant is not required to control each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation, provided that:
1. The packages do not remain in the area longer than three days, and
 2. The dose rate at 1 meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.
- F.** The licensee or registrant is not required to control entrance or access to rooms or other areas in hospitals solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who are taking the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the established limits in Article 4 and operate in accordance with R9-7-407(B) and the provisions of the licensee's or registrant's radiation protection program.
- G.** The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area if the registrant has met all the specific requirements for access and control specified in other applicable Articles, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.
- Historical Note**
New Section R9-7-420 recodified from R12-1-420, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-421. Control of Access to Very-high Radiation Areas**
- A.** In addition to the requirements in R9-7-420, a licensee or registrant shall institute measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 5 Gy (500 rad) or more in one hour at 1 meter from a source or from any surface that the radiation penetrates. This requirement does not apply to rooms or areas in which diagnostic x-ray systems are the only source of radiation or non-self-shielded irradiators.
- B.** The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area, described in subsection (A), if the registrant has met all requirements for access and control specified in other applicable Articles, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.
- C.** Each licensee or registrant shall maintain records of tests made according to R9-7-422(B)(9) on entry control devices for very-high radiation areas. These records shall include the date, time, and results of each test of function.
- D.** The licensee or registrant shall retain the records required by this Section for three years after the record is made.
- Historical Note**
New Section R9-7-421 recodified from R12-1-421, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-422. Control of Access to Irradiators (Very-high Radiation Areas)**
- A.** This Section applies to licensees or registrants with sources of radiation in non-self-shielded irradiators. This Section does not apply to sources of radiation that are used in teletherapy, industrial radiography, or completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.
- B.** A licensee or registrant shall ensure that each area in which radiation levels may exceed 5 Gy (500 rad) in one hour at 1 meter from a source that is used to irradiate materials meets the following requirements:
1. Each entrance or access point shall be equipped with entry control devices that:
 - a. Function automatically to prevent any individual from inadvertently entering a very high radiation area;
 - b. Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the source of radiation, to be reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
 - c. Prevent operation of the source of radiation if it would produce radiation levels in the area that could result in a deep-dose equivalent to an individual in excess of 1 mSv (0.1 rem) in one hour.
 2. If the control devices required in subsection (B)(1) fail to function, additional control devices shall be provided so that:
 - a. The radiation level within the area, from the source of radiation, is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
 - b. Conspicuous visible and audible alarm signals are generated so that an individual entering the area is aware of the hazard. The individual who enters the very-high radiation area after an alarm signals shall be familiar with the process and equipment. Before entering, the individual shall ensure that a second individual is present and aware of the first person's actions.
 3. The licensee or registrant shall provide control devices so that, upon failure or removal of physical radiation barriers other than the sealed source's shielded storage container:
 - a. The radiation level from the source of radiation is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour, and
 - b. Conspicuous visible and audible alarm signals are generated so that potentially affected individuals are aware of the hazard. Potentially affected individuals shall notify the licensee or registrant of the failure or removal of the physical barriers.

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4. When the shield for stored sealed sources is a liquid, the licensee or registrant shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.
 5. Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of subsections (B)(3) and (4).
 6. The licensee or registrant shall equip each area with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source of radiation can be put into operation and in time for any individual in the area to operate a clearly identified control device, installed in the area, and which can prevent the source of radiation from being put into operation.
 7. The licensee or registrant shall control each area by use of administrative procedures and devices necessary to ensure that the area is cleared of personnel before each use of the source of radiation.
 8. The licensee or registrant shall check each area by radiation measurement to ensure that, before the first individual's entry into the area after any use of the source of radiation, the radiation level from the source of radiation in the area will not expose an individual to a deep-dose equivalent in excess of 1 millisievert (0.1 rem) in one hour.
 9. The licensee or registrant shall test the entry control devices required in subsection (B)(1) for proper functioning and keep records according to R9-7-421.
 - a. Testing shall be conducted before initial operation with the source of radiation on any day, unless operations were continued uninterrupted from the previous day;
 - b. Testing shall be conducted before resumption of operation of the source of radiation after any unintentional interruption;
 - c. The licensee or registrant shall submit to the Department a schedule of testing; and
 - d. The licensee or registrant shall include in the schedule a listing of the periodic testing that will be followed.
 10. The licensee or registrant shall not conduct operations, other than those necessary to place the source of radiation in a safe condition or effect repairs on controls, unless control devices are functioning properly.
 11. The licensee or registrant shall control entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by personnel, with devices and administrative procedures necessary to physically protect and warn against inadvertent entry by an individual through one of the portals. Exit portals for irradiated materials shall be equipped to detect and signal the presence of any uncontained radioactive material that is carried toward an exit and automatically prevent contained radioactive material from being carried out of the area.
- C. A licensee, registrant, or applicant seeking a license or registration for a source of radiation within the purview of subsection (B) that will be used in a variety of positions or in locations, such as open fields or forests, that make it impractical to comply with certain requirements of subsection (B) may apply to the Department for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to that specified in subsection (B). At least one of the alternative measures shall be an entry-preventing interlock control, based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where the sources of radiation are used.
- D. A licensee or registrant shall provide the entry control devices required by subsections (B) and (C) in such a way that no individual will be prevented from leaving the area.
- E. Records.
1. Each licensee or registrant shall maintain records of tests made according to subsection (B)(9) on entry control devices for very-high radiation areas. These records shall include the date and results of each test of function.
 2. The licensee or registrant shall retain the records for three years from the date the record is made.
- Historical Note**
New Section R9-7-422 recodified from R12-1-422, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-423. Use of Process or Other Engineering Controls**
A licensee shall use, to the extent practicable, process or other engineering controls, such as containment, decontamination, or ventilation, to control the concentration of radioactive material in air.
- Historical Note**
New Section R9-7-423 recodified from R12-1-423, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-424. Use of Other Controls**
- A. If it is not practical to apply process or other engineering controls to control concentrations of radioactive material in the air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent according to R9-7-407(B), increase monitoring and limit intakes by one or more of the following means:
1. Control access,
 2. Limit exposure times,
 3. Use respiratory protection equipment, or
 4. Use other controls.
- B. If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee shall also consider the impact of respirator use on workers' industrial health and safety.
- Historical Note**
New Section R9-7-424 recodified from R12-1-424, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-425. Use of Individual Respiratory Protection Equipment**
- A. If a licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,
1. Except as provided in subsection (A)(2), the licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH).
 2. If the licensee wishes to use equipment that has not been tested or certified by NIOSH, or for which there is no schedule for testing or certification, the licensee shall submit an application to the Department and request authorization for use of this equipment, except as otherwise provided in this Section. The licensee shall provide evidence with the application that the material and performance characteristics of the equipment provide the asserted degree of protection under anticipated conditions

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- of use. The licensee shall demonstrate the degree of protection by providing reliable test information.
3. The licensee shall implement and maintain a respiratory protection program that includes:
 - a. Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses;
 - b. Surveys and bioassays, as necessary, to evaluate actual intakes;
 - c. Testing of respirators for operability (user seal check for face sealing devices and functional check for other devices) immediately before each use;
 - d. Written procedures regarding:
 - i. Monitoring, including air sampling and bioassays;
 - ii. Supervision and training of respirator users;
 - iii. Fit testing;
 - iv. Respirator selection;
 - v. Breathing air quality;
 - vi. Inventory and control;
 - vii. Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;
 - viii. Recordkeeping; and
 - ix. Limitations on periods of respirator use and relief from respirator use;
 - e. Determination by a physician that each individual user is able to use respiratory protection equipment:
 - i. Before the initial fitting of a face-sealing respirator;
 - ii. Before the first field use of a non-face-sealing respirator, and
 - iii. Every 12 months after initial fitting or first use, or periodically at a frequency determined by a physician; and
 - f. Fit testing, with a fit factor ≥ 10 times the APF for a negative pressure device and a fit factor ≥ 500 for any positive pressure, continuous flow, and pressure-demand device, before the first field use of tight-fitting, face-sealing respirators and periodically after first use at least yearly. The licensee shall perform fit testing with the face piece operating in the negative pressure mode.
 4. The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use, in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other condition that might require relief.
 5. The licensee shall consider manufacturer limitations regarding respirator type and mode of use. When selecting a respiratory device, the licensee shall provide for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment. The licensee shall use equipment in a manner that does not interfere with the proper operation of the respirator.
 6. The licensee shall provide standby rescue persons whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The licensee shall equip standby rescue persons with respiratory protection devices or other apparatus designed for potential hazards and anticipated conditions of use. The standby rescue persons shall observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. The licensee shall provide at least one standby rescue person for every five workers, who is immediately available to assist any worker using this type of equipment and provide effective emergency rescue if needed.
 7. The licensee shall supply atmosphere-supplying respirators with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997 and included in the regulations of OSHA (29 CFR 1910.134(i)(1)(ii)(A) through (E), July 1, 2003, incorporated by reference and on file with the Department, containing no future editions or amendments). Grade D quality air criteria include:
 - a. Oxygen content (v/v) of 19.5-23.5%;
 - b. Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
 - c. Carbon monoxide (CO) content of 10 ppm or less;
 - d. Carbon dioxide content of 1,000 ppm or less; and
 - e. Lack of noticeable odor.
 8. The licensee shall ensure that no objects, materials, or substances, such as facial hair, or any conditions that interfere with the face-to-face piece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator face piece.
 9. In estimating the dose to individuals from intake of airborne radioactive materials, the licensee shall use the concentration of radioactive material in the air that is inhaled when respirators are worn, which is determined by dividing the ambient concentration in air without respiratory protection by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the licensee shall modify the calculation using the corrected value. If the dose is later found to be less than the estimated dose, the licensee may modify the calculation using the corrected value.
- B. The licensee shall use Appendix A to select equipment and associated assigned protection factors.
 - C. A licensee shall apply to the Department for authorization to use assigned protection factors in excess of those specified in Appendix A. To apply for authorization the licensee shall:
 1. State the reason for the higher protection factors; and
 2. Demonstrate that the requested respiratory protective equipment provides the higher protection factors under the proposed conditions of use.
 - D. The licensee shall notify the Department in writing at least 30 days before the date that respiratory protective equipment is first used according to subsection (A) or (C).
- Historical Note**
New Section R9-7-425 recodified from R12-1-425, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-426. Security of Stored Sources of Radiation**
A licensee or registrant shall secure from unauthorized removal or access licensed or registered sources of radiation that are stored in unrestricted areas.

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Historical Note

New Section R9-7-426 recodified from R12-1-426, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-427. Control of Sources of Radiation Not in Storage

- A.** A licensee shall control and maintain constant surveillance of licensed radioactive material that is in an unrestricted area and is not in storage or in a patient.
- B.** A registrant shall maintain control of radiation machines that are in an unrestricted area and not in storage.

Historical Note

New Section R9-7-427 recodified from R12-1-427, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-428. Caution Signs

- A.** Unless otherwise authorized by the Department, a licensee or registrant shall use the symbol prescribed by this Section with the colors magenta, or purple, or black on yellow background as the standard radiation symbol. The symbol prescribed is the three-bladed design as follows:

RADIATION SYMBOL

1. Cross-hatched area is to be magenta, purple, or black; and
2. The background is to be yellow.



- B.** Notwithstanding the requirements of subsection (A), licensees or registrants are authorized to label sources of radiation, source holders, or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols that lack the color scheme required in subsection A.
- C.** In addition to the contents of signs and labels prescribed in this Article, the licensee or registrant shall provide, on or near the required signs and labels, additional information to make individuals aware of potential radiation exposures and to minimize the exposures.

Historical Note

New Section R9-7-428 recodified from R12-1-428, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-429. Posting

- A.** A licensee or registrant shall post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."
- B.** The licensee or registrant shall post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."
- C.** The licensee or registrant shall post each very-high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "GRAVE DANGER, VERY HIGH RADIATION AREA."
- D.** The licensee shall post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, AIRBORNE RADIOACTIVITY AREA" or "DANGER, AIRBORNE RADIOACTIVITY AREA."
- E.** The licensee shall post each area or room in which there is used or stored an amount of licensed material exceeding 10 times the quantity of licensed material specified in Appendix

C with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)."

Historical Note

New Section R9-7-429 recodified from R12-1-429, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-430. Exceptions to Posting Requirements

- A.** A licensee or registrant is not required to post caution signs in areas or rooms containing sources of radiation for periods of less than eight hours, if each of the following conditions is met:
1. The sources of radiation are constantly attended during these periods by an individual who takes precautions necessary to prevent exposure of individuals to sources of radiation in excess of limits established in this Article; and
 2. The area or room is subject to the licensee's or registrant's control.
- B.** A licensee or registrant is not required to post a caution sign in a room or other area in a hospital that is occupied by an individual who has been administered radioactive material, if the individual meets the criteria for release in R9-7-719.
- C.** A licensee or registrant is not required to post a caution sign in a room or area because of the presence of a sealed source, provided the radiation level at 30 centimeters from the surface of the sealed source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.
- D.** A hospital or clinic licensee is exempt from the posting requirements in R9-7-429 for a teletherapy room if:
1. Access to the room is controlled according to R9-7-731; and
 2. Personnel in attendance take necessary precautions to prevent the inadvertent exposure of workers, other patients, and members of the public to radiation that exceeds the limits established in this Chapter.
- E.** A registrant is not required to post a caution sign in a room or area because of the presence of radiation machines used solely for diagnosis in the healing arts.

Historical Note

New Section R9-7-430 recodified from R12-1-430, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-431. Labeling Containers and Radiation Machines

- A.** A licensee shall ensure that each container of licensed material is labeled with a durable, clearly visible radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL." The label shall also provide information, such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the radioactivity is estimated, radiation level, kind of material, and mass enrichment, to permit an individual handling or using a container, or working in the vicinity of a container, to take precautions to avoid or minimize exposure.
- B.** Before removal or disposal of an empty, uncontaminated container to an unrestricted area, each licensee shall remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.
- C.** Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner to caution an individual that radiation is produced when it is energized.
- D.** A licensee shall label each syringe and vial that contains a radiopharmaceutical used in the practice of medicine with the radiopharmaceutical content. Each syringe shield and vial shield shall be labeled, unless the label on the syringe or vial is

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visible when shielded. The label shall contain the radiopharmaceutical name or its abbreviation, the clinical procedure to be performed, or the name of the person being administered the radiopharmaceutical. Color-coding syringe shields and vial shields does not meet the labeling requirement.

Historical Note

New Section R9-7-431 recodified from R12-1-431, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-432. Labeling Exemptions

A licensee is not required to label:

1. Containers holding licensed material in quantities less than the quantities listed in Appendix C;
2. Containers holding licensed material in concentrations less than those specified in Table III of Appendix B;
3. Containers attended by an individual who takes precautions necessary to prevent exposure of individuals to radiation in excess of the limits established in this Article;
4. Containers holding radioactive material that do not exceed the limits for excepted quantity or article as defined and limited in 49 CFR 173.403, and 173.421 through 173.424, and are transported, packaged, and labeled in accordance with 49 CFR 172.436 through 172.440 (Revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);
5. Containers that are accessible only to individuals authorized to handle, use, or work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record, retained as long as the container is in use for the purpose indicated on the record. (Examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells.); or
6. Installed manufacturing or process equipment, such as piping and tanks.

Historical Note

New Section R9-7-432 recodified from R12-1-432, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-433. Procedures for Receiving and Opening Packages

- A. Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 10 CFR 71.4, January 1, 2005, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material incorporated by reference contains no future editions or amendments. The licensee shall make arrangements to receive:
 1. The package when the carrier offers it for delivery; or
 2. The notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.
- B. Each licensee shall:
 1. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in 49 CFR 172.403 and 172.436 through 172.440, October 1, 2004, which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material incorporated by reference contains no future editions or amendments. The licensee shall test the package for radioactive contamination, unless the package contains

only radioactive material in the form of gas or in special form, as defined in R9-7-102; and

2. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in subsection (B)(1), for radiation levels unless the package contains quantities of radioactive material that are less than or equal to the Type A quantity, defined in 10 CFR 71, and referenced in subsection (A); and
 3. Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.
- C. The licensee shall perform the monitoring required by subsection (B) as soon as practical after receipt of the package, but not later than three hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than three hours from the beginning of the next working day if it is received after working hours.
 - D. The licensee shall immediately notify the final delivery carrier and the Department by telephone when:
 1. Removable radioactive surface contamination exceeds 22 dpm/cm² for beta-gamma emitting radionuclides or 2.2 dpm/cm² for alpha-emitting radionuclides, wiping a minimum surface area of 300 square centimeters (46 square inches), or the entire surface if less than 300 square centimeters (46 square inches); or
 2. External radiation levels exceed the limits of 2 millisieverts (200 millirem) per hour.
 - E. Each licensee shall:
 1. Establish, maintain, and retain written procedures for safely opening packages that contain radioactive material, and
 2. Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.
 - F. Licensees transferring special form sources in vehicles owned or operated by the licensee to and from a work site are exempt from the contamination monitoring requirements of subsection (B) but are not exempt from the monitoring requirement in subsection (B) for measuring radiation levels that ensures that the source of radiation is still properly lodged in its shield.

Historical Note

New Section R9-7-433 recodified from R12-1-433, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-434. General Requirements for Waste Disposal

- A. A licensee shall dispose of licensed material only:
 1. By transfer to an authorized recipient as provided in R9-7-439 or in Article 3, or to the U.S. Department of Energy;
 2. By decay in storage, according to R9-7-438(C);
 3. By release in effluents within the limits in R9-7-416; or
 4. As authorized according to R9-7-435, R9-7-436, R9-7-437, R9-7-438, or R9-7-438.01;
- B. To receive waste that contains licensed material from other persons, a person shall be specifically licensed for:
 1. Treatment prior to disposal,
 2. Treatment or disposal by incineration,
 3. Decay in storage,
 4. Disposal at a land disposal facility licensed according to Article 3, or
 5. Storage until transferred to a storage or disposal facility authorized to receive the waste.

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Historical Note

New Section R9-7-434 recodified from R12-1-434, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-435. Method for Obtaining Approval of Proposed Disposal Procedures

For disposal of licensed material generated in the licensee's operations, a licensee or applicant for a license may apply to the Department for approval of proposed disposal procedures, not otherwise authorized in this Chapter. Each application shall include:

1. A description of the waste containing licensed material to be disposed of, including the physical and chemical properties that have an impact on risk evaluation;
2. The proposed manner and conditions of waste disposal;
3. An analysis and evaluation of pertinent information on the nature of the environment;
4. The nature and location of other potentially affected facilities; and
5. An analysis and procedure to ensure that doses comply with R9-7-407(B), and are within the dose limits in this Article.

Historical Note

New Section R9-7-435 recodified from R12-1-435, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-436. Disposal by Release into Sanitary Sewerage System

A. A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

1. The material is readily soluble or is readily dispersible biological material, in water;
2. The quantity of licensed radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee or registrant does not exceed the concentration listed in Appendix B, Table III; and
3. If more than one radionuclide is released, the following conditions shall also be satisfied:
 - a. The licensee shall determine the fraction of the limit in Appendix B, Table III represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee or registrant into the sewer by the concentration of that radionuclide listed in Appendix B, Table III;
 - b. The sum of the fractions for each radionuclide required by subsection (A)(3)(a) does not exceed unity; and
 - c. The total quantity of licensed radioactive material that the licensee releases into the sanitary sewerage in a year does not exceed 185 GBq (5 Ci) of Hydrogen-3, 37 GBq (1 Ci) of Carbon-14, and 37 GBq (1 Ci) of all other radioactive materials combined.

B. Excreta from individuals undergoing medical diagnosis or therapy with radioactive material are not subject to the limitations contained in subsection (A).

Historical Note

New Section R9-7-436 recodified from R12-1-436, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-437. Treatment or Disposal by Incineration

A licensee shall treat or dispose of licensed material by incineration only in the amounts and forms specified in R9-7-438 or as specifically approved by the Department according to R9-7-435.

Historical Note

New Section R9-7-436 recodified from R12-1-436, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-438. Disposal of Specific Wastes

A. A licensee may dispose of the following licensed material as if it were not radioactive:

1. 1.85 kBq (0.05 μ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of medium used for liquid scintillation counting; and
2. 1.85 kBq (0.05 μ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.
3. 1.85 kBq (0.05 μ Ci), or less, of Iodine-125 per gram of medium used in analyzing in vitro laboratory samples and associated sample holders contaminated during the laboratory procedure.

B. A licensee shall not dispose of tissue, contaminated with radioactive material, according to subsection (A)(2) in a manner that would permit its use either as food for humans or as animal feed.

C. A licensee may hold radioactive material with a physical half-life of less than or equal to 120 days for decay in storage before disposal without regard to its radioactivity, and is exempt from the requirements of R9-7-434, provided:

1. The licensee monitors the radioactive material at the surface before disposal and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey meter set on its most sensitive scale and with no interposed shielding; and
2. The licensee removes or obliterates all radiation labels, except for radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee.

D. The licensee shall maintain records in accordance with R9-7-441.

Historical Note

New Section R9-7-438 recodified from R12-1-438, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-438.01. Disposal of Certain Radioactive Material

A. Licensed material as defined in the definition of radioactive material in R9-7-102 may be disposed of in accordance with this Article, even though it is not defined as low-level radioactive waste. Therefore, any licensed radioactive material being disposed of at a facility, or transferred for ultimate disposal at a facility licensed by the Department, must meet the requirements of R9-7-439.

B. A licensee may dispose of radioactive material, as defined in the definition of radioactive material in R9-7-102, at a disposal facility authorized to dispose of such material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

Historical Note

New Section R9-7-438.01 recodified from R12-1-438.01, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-439. Transfer for Disposal and Manifests

A. Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility (for purposes of this rule "land disposal facility" means the land, buildings, structures, and equipment that are intended to be used for the disposal of radioactive waste. A geologic repository is not a land disposal facility) shall comply with 10 CFR 20.2006 and

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10 CFR 20 Appendix G, published January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

- B.** An authorized representative of the waste generator shall provide the certification required in 10 CFR 20, Appendix G, Section II, which is incorporated by reference in subsection (A).

Historical Note

New Section R9-7-439 recodified from R12-1-439, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-440. Compliance with Environmental and Health Protection Regulations

Nothing in R9-7-434, R9-7-435, R9-7-436, R9-7-437, R9-7-438, or R9-7-439 relieves the licensee from complying with other applicable federal, state, and local rules or regulations governing any other toxic or hazardous properties of materials that may be disposed of according to the rules listed in Article 4 of this Chapter.

Historical Note

New Section R9-7-440 recodified from R12-1-440, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-441. Records of Waste Disposal

- A.** Each licensee shall maintain records of the disposal of licensed materials made in accordance with R9-7-435, R9-7-436, R9-7-437, R9-7-438, and disposal by burial in soil, including burials authorized before February 25, 1985.
- B.** The licensee shall retain the records required by subsection (A) until the Department terminates each pertinent license requiring the record. The licensee shall provide for the disposition of these records prior to license termination.

Historical Note

New Section R9-7-441 recodified from R12-1-441, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-442. Department Inspection of Shipments of Waste

Each shipment of waste to a disposal facility, licensed under R9-7-1302(D)(11), is subject to inspection by the Department before shipment or transportation. The waste shipper shall notify the Department not less than five working days before the scheduled shipment or transportation of waste to a licensed disposal facility.

Historical Note

New Section R9-7-442 recodified from R12-1-442, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-443. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation

- A.** Each licensee or registrant shall report to the Department by telephone as follows:
1. Immediately after it becomes known to the licensee that licensed radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C is stolen, lost, or missing under circumstances that indicate to the licensee that an exposure could result to individuals in unrestricted areas;
 2. Within 30 days after it becomes known to the licensee that licensed radioactive material in an aggregate quantity greater than 10 times the quantity specified in Appendix C is stolen, lost, or missing, and is still missing; and
 3. Immediately after it becomes known to the registrant that a radiation machine is stolen, lost, or missing.
- B.** Each licensee or registrant required to make a report according to subsection (A) shall, within 30 days after making the telephone report, make a written report to the Department that contains the following information:
1. A description of the licensed or registered source of radiation involved, including, for radioactive material, the

kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model, serial number, type, and maximum energy of radiation emitted;

2. A description of the circumstances under which the loss or theft occurred;
 3. A statement of disposition, or probable disposition, of the licensed or registered source of radiation;
 4. Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;
 5. Actions that have been taken, or will be taken, to recover the source of radiation; and
 6. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.
- C.** After filing the written report, the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of the information.
- D.** The licensee or registrant shall provide the Department with the names of individuals who may have received an exposure to radiation as a result of an incident reported to the Department under subsection (B).

Historical Note

New Section R9-7-443 recodified from R12-1-443, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-444. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits

- A.** In addition to the notification required by R9-7-445, each licensee or registrant shall submit a written report within 30 days after learning of any of the following:
1. Incidents for which notification is required by R9-7-445;
 2. Doses in excess of any of the following:
 - a. The occupational dose limits for adults in R9-7-408;
 - b. The occupational dose limits for a minor in R9-7-414;
 - c. The limits for an embryo or fetus of a declared pregnant woman in R9-7-415;
 - d. The limits for an individual member of the public in R9-7-416;
 - e. Any applicable limit in the license or registration; or
 - f. The ALARA limit on air emissions in R9-7-407;
 3. Levels of radiation or concentrations of radioactive material in:
 - a. A restricted area in excess of applicable limits in the license or registration, or
 - b. An unrestricted area in excess of 10 times the applicable limit in this Article or in the license or registration, whether or not this involves an exposure of any individual to a dose in excess of the limits in R9-7-416;
 4. Radiation levels or concentrations of radioactive material in excess of the standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 which is incorporated by reference and on file with the Department, if the licensee is subject to these federal standards, or there is a license condition referencing the 40 CFR 190 standards. This incorporation by reference contains no future editions or amendments.
- B.** Contents of reports.

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1. Each report shall contain a description of each individual's exposure to radiation and radioactive material, including as applicable:
 - a. Estimates of each individual's dose;
 - b. The levels of radiation and concentrations of radioactive material involved;
 - c. The cause of the elevated exposures, dose rates, or concentrations; and
 - d. Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license or registration conditions.
 2. Each report filed according to subsection (A) shall include for each occupationally overexposed individual: name, Social Security number, and date of birth. With respect to the limit for an embryo or fetus in R9-7-415, the identifiers in the report should be those of the declared pregnant woman. The report shall be prepared so that information regarding each overexposed individual is stated in a separate and detachable part of the report.
- C. All licensees or registrants who make reports according to subsection (A) shall submit the report in writing to the Department.

Historical Note

New Section R9-7-444 recodified from R12-1-444, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-445. Notification of Incidents

- A. Immediate notification: Each licensee or registrant shall immediately report to the Department any event involving a radiation source that may have caused or threatens to cause any of the following conditions:
1. An individual to receive:
 - a. A total effective dose equivalent of 0.25 Sv (25 rem) or more;
 - b. A lens dose equivalent of 0.75 Sv (75 rem) or more; or
 - c. A shallow-dose equivalent to the skin or extremities of 2.5 Gy (250 rads) or more; or
 2. The release of radioactive material, inside or outside of a restricted area, so if an individual had been present for 24 hours, the individual could have received five times the annual limit on intake (this subsection do not apply to a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure).
- B. Twenty-four hour notification: Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Department any event involving loss of control of a radiation source possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:
1. An individual to receive, in a period of 24 hours
 - a. A total effective dose equivalent exceeding 0.05 Sv (5 rem);
 - b. A lens dose equivalent exceeding 0.15 Sv (15 rem); or
 - c. A shallow-dose equivalent to the skin or extremities exceeding 0.5 Gy (50 rads); or
 2. The release of radioactive material, inside or outside of a restricted area, so, if an individual had been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit of intake (this subsection does not apply to a location where personnel

are not normally stationed during routine operations, such as a hot-cell or process enclosure).

- C. A licensee or registrant shall prepare any report filed with the Department according to this Section so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.
- D. A licensee or registrant shall report to the Department by telephone in response to the requirements of this Section.
- E. If the Department does not respond to the initial telephone call, the licensee or registrant shall report to the Department of Public Safety and continue with reasonable efforts to contact the Department Duty Officer until contact is made.
- F. The provisions of this Section do not apply to a dose that results from a planned special exposure, if the dose is within the limits for planned special exposures and reported according to R9-7-413(C).

Historical Note

New Section R9-7-445 recodified from R12-1-445, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-446. Notifications and Reports to Individuals

- A. Requirements for notification and reports to individuals of exposure to radiation or radioactive material are specified in R9-7-1004.
- B. In addition to the reporting requirements in R9-7-444 and R9-7-445, each licensee or registrant shall notify the individual exposed to radiation or radioactive material. The notice to the exposed individual shall be provided no later than the date the report is submitted to the Department and shall comply with R9-7-1004(A).

Historical Note

New Section R9-7-446 recodified from R12-1-446, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-447. Vacating Premises

- A. If a facility has been used for activities involving radioactive material a licensee shall notify the Department in writing of the intent to vacate the facility no less than 45 days before relinquishing possession or control of the facility.
- B. If a facility is contaminated with radioactive material, a licensee vacating the facility shall decontaminate it using Department-approved procedures.
- C. The Department shall inspect a vacated facility to determine whether it is contaminated with radioactive material.

Historical Note

New Section R9-7-447 recodified from R12-1-447, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-448. Additional Reporting

- A. Each licensee shall notify the Department as soon as possible, but not later than four hours after the discovery of an event, and take immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed the limits specified in this Chapter or releases of licensed material that could exceed the limits specified in this Chapter. For purposes of this Section, event means a radiation accident involving a fire, explosion, gas release, or similar occurrence.
- B. Each licensee shall notify the Department within 24 hours after discovering any of the following events involving licensed material:
1. A contamination event that:
 - a. Requires that anyone having access to the contaminated area be restricted for more than 24 hours by

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the imposition of additional radiological controls to prohibit entry into the area;

- b. Involves a quantity of radioactive material greater than five times the lowest annual limit on intake specified in Appendix B of this Article; and
 - c. Results in access to the contaminated area being restricted for a reason other than to allow radionuclides with a half-life of less than 24 hours to decay prior to decontamination.
2. An event in which equipment is disabled or fails to function as designed when:
 - a. The equipment is part of a system designed to prevent releases exceeding the limits specified in this Chapter, to prevent exposures to radiation and radioactive materials exceeding limits specified in this Chapter, or to mitigate the consequences of an accident;
 - b. The equipment performs a safety function; and
 - c. No redundant equipment is available and operable to perform the required safety function.
 3. An event that requires urgent medical treatment of an individual with radioactive contamination on the individual's clothing or body.
 4. A fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:
 - a. The quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix B of this Article, and
 - b. The damage affects the integrity of the licensed material or its container.
- C.** Each licensee shall make reports required by subsections (A) and (B) above by telephone to the Department. To the extent that the information is available at the time of notification, the information provided in these reports shall include:
1. The callers's name, official title, and call back telephone number;
 2. A description of the event, including date and time;
 3. The exact location of the event;
 4. The isotopes, quantities, and chemical and physical form of the licensed material involved; and
 5. Any personnel radiation exposure data available.
- D.** Each licensee who makes a report required by subsection (A) or (B) shall submit to the Department a written follow-up report within 30 days of the initial report. Written reports prepared as required by other rules may be submitted to fulfill this requirement if the reports contain all of the required information in this subsection. The report shall include the following:
1. A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;
 2. The exact location of the event;
 3. The isotopes, quantities, and chemical and physical form of the licensed material involved;
 4. Date and time of the event;
 5. Corrective actions taken or planned and the results of any evaluations or assessments; and
 6. The extent of personnel exposure to radiation or to radioactive materials without identification of each exposed individual by name.
- E.** Each licensee that makes a report required by subsection (A) or (B) shall submit a written follow-up report to the Department within 30 days after the initial report.

Historical Note

New Section R9-7-448 recodified from R12-1-448, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-449. Survey Instruments and Pocket Dosimeters

- A.** Each licensee or registrant shall ensure that survey instruments used to show compliance with this Article have been calibrated before first use, annually, and following repair, unless otherwise specified in this Chapter.
- B.** To satisfy the requirements of subsection (A), the licensee or registrant shall:
1. For each scale to be calibrated, calibrate two readings separated by at least 50 percent of scale rating; and
 2. Conspicuously note on the instrument the apparent radiation level, in appropriate units for the type of survey instrument being used and the date of calibration.
- C.** Each licensee or registrant shall check each survey instrument for proper operation with the dedicated check source after calibration and before each use.
- D.** The licensee or registrant shall retain a record of each calibration required in subsection (A) for three years. The record shall include:
1. A description of the calibration procedure; and
 2. A description of the source used, the certified dose rates from the source, the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration, and the date of calibration.
- E.** To meet the requirements of subsections (A), (B), and (C), the licensee or registrant may obtain the services of persons licensed or registered by the Department, the NRC, an Agreement State, or a Licensing State to perform calibrations of survey instruments. Licensing records of the service person authorization shall be maintained for three years by the licensee or registrant obtaining the service.
- F.** Each licensee or registrant shall ensure that pocket dosimeters used to show compliance with this Article:
1. Have been evaluated for proper operation annually and following repair, using a procedure acceptable to the Department, unless a more frequent evaluation is required by license condition (Unless the dosimeter is electronic, the evaluation of the dosimeter shall include a drift test over a 24-hour period.); and
 2. Meet the performance criteria listed in R9-7-523(C) and R9-7-1130(C).
- G.** Records of personnel dosimeter operational checks shall be maintained for three years.

Historical Note

New Section R9-7-449 recodified from R12-1-449, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-450. Sealed Sources

- A.** A licensee shall only receive, possess, and use radioactive materials contained in a sealed source that has been manufactured, labeled, packaged, and distributed in accordance with a specific license for its manufacture and distribution. The license to manufacture and distribute a sealed source shall be issued by the Department, the U.S. Nuclear Regulatory Commission, a Licensing State, or another Agreement State.
- B.** A licensee who possesses and uses a sealed source, or any device or equipment that contains a sealed source, shall follow the radiation safety and handling instructions approved by the Department or follow the radiation safety and handling instructions furnished by the manufacturer on the label attached to the source, on the permanent container of the source, or in a leaflet or brochure that accompanies the source,

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and maintain the instructions in a legible and conveniently available form. If the handling instructions, leaflet, or brochure is no longer available and a copy cannot be obtained from the manufacturer, the licensee shall notify the Department that the source handling information is no longer available.

- C. Inventories:
1. An inventory shall be conducted at intervals not to exceed six months, unless a shorter interval is specified by license condition.
 2. The records of the inventory shall be maintained for three years from the date of the inventory, and shall be available for inspection by the Department.
 3. The information recorded shall include:
 - a. The kind and quantity of radioactive material,
 - b. The model and serial number of the source or the device in which it is mounted,
 - c. The location of the sealed source,
 - d. The date of the inventory, and
 - e. The signature of the person performing the inventory.
- D. Any licensee who possesses and uses sealed sources in the practice of medicine shall conduct a physical inventory according to the requirements in 9 A.A.C. 7, Article 7.
- E. Sealed sources, containing radioactive material, shall not be opened unless authorized by license condition.
- F. Sealed sources and machines, devices, or equipment containing sealed sources shall be used in accordance with procedures described in the manufacturer's instructions and the safety precautions described in the Nuclear Regulatory Commission Sealed Sources and Device Registry, unless the instructions or precautions conflict with these rules or license condition.

Historical Note

New Section R9-7-450 recodified from R12-1-450, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-451. Termination of a Radioactive Material License or a Licensed Activity

- A. As the final step before terminating a radioactive material use program licensed under R9-7-312, the licensee shall:
1. Certify to the Department the disposition of all licensed material, including accumulated wastes, by submitting a complete description of a disposal plan with signed receipts from all licensed persons receiving the licensed material; and
 2. Conduct a radiation survey of the premises where the licensed activities were carried out to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-452 and submit to the Department a report of the results of this survey, unless the licensee demonstrates in some other manner acceptable to the Department that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-452.
- B. Before terminating a licensed program, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall forward the following records to the Department:
1. Records of disposal of the licensed material required by R9-7-435, R9-7-436, R9-7-437, and R9-7-438; and
 2. Records required by R9-7-418.
- C. If a licensed activity is transferred or assigned in accordance with subsection (E), each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall transfer the following records to the new

licensee and the new licensee shall maintain these records until the license is terminated:

1. Records of disposal of licensed material required by R9-7-435, R9-7-436, R9-7-437, and R9-7-438; and
 2. Records required by R9-7-418.
- D. Before the Department terminates a license, each licensee shall forward the records required by subsection (E) to the Department.
- E. A person licensed under R9-7-312 shall maintain required records regarding decommissioning of a facility in a location identified on the license until the Department releases the site for unrestricted use. Before transfer or assignment of licensed activities, a licensee shall transfer all records required by this Section to the transferee. If records relating to facility decommissioning are kept for other purposes, the transferee shall refer to these records and provide their location on the transferee's application for a license. The transferee shall maintain the records until the Department terminates the transferee's new license. The new licensee shall maintain the following decommissioning records for Department review:
1. Records of spills or other occurrences involving the spread of contamination in and around the facility, equipment, or site. The licensee shall maintain a record of any instance when contamination remains after cleanup procedures or there is a reasonable likelihood that a contaminant has spread to an inaccessible area, as in the case of possible seepage into porous material such as concrete. These records shall include any known information that identifies any radionuclide involved and its quantity, form, and concentration.
 2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and locations of possible inaccessible contamination, such as buried pipes. If as-built drawings are referenced, the licensee need not index each relevant document individually. If drawings are not available, the licensee shall provide records with known information concerning these areas and locations, as prescribed in subsection (E)(1).
 3. Except for areas that contain depleted uranium used only for shielding or as penetrators in unused munitions, a list, contained in a single document and updated every two years, of the following:
 - a. Any area designated or formerly designated as a restricted area as defined under R9-7-102;
 - b. Any area outside of a restricted area for which documentation is required under subsection (B)(1);
 - c. Any area outside of a restricted area where wastes have been buried;
 - d. Any area outside of a restricted area that contains regulated radioactive material that will require the licensee to either decontaminate the area for decommissioning under R9-7-452 or obtain disposal approval under R9-7-435; and
 - e. Any restricted area where wastes have been buried.
 4. Records of the cost estimate performed for the decommissioning funding plan or the amount certified by the Department for decommissioning and the method for assuring funding, if either a funding plan or certification is used.

Historical Note

New Section R9-7-451 recodified from R12-1-451, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-452. Radiological Criteria for License Termination

- A. General provisions and scope:**
1. The criteria in this Section apply to the decommissioning of facilities licensed under Article 3 of this Chapter. The criteria do not apply to uranium and thorium recovery facilities already subject to 10 CFR 40, Appendix A, or to uranium solution extraction facilities.
 2. The criteria in this Section do not apply to sites that:
 - a. Have been decommissioned before the effective date of this Section; or
 - b. Have previously submitted and received Department approval of a license termination plan (LTP) or decommissioning plan.
 3. If a site has been decommissioned and the license terminated in accordance with the criteria in this Section, the Department shall not require additional cleanup unless, based on new information, the Department determines that the criteria of this Section were not met and residual radioactivity at the site is a threat to public health and safety.
 4. When calculating the TEDE for the average member of the critical group, a licensee shall use the peak annual dose expected within the first 1000 years after decommissioning.
- B. Radiological criteria for unrestricted use.** The Department considers a site acceptable for unrestricted use if the licensee reduces residual radioactivity, distinguishable from background radiation, to a TEDE for an average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year, including radiation from groundwater sources of drinking water, and the residual radioactivity is as low as reasonably achievable (ALARA). To determine the level that is ALARA, the Department and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal.
- C. Criteria for license termination under restrictive conditions.** The Department considers a site acceptable for license termination if the licensee meets all of the following restrictive conditions:
1. The licensee demonstrates that a reduction in residual radioactivity, necessary to comply with subsection (B), will result in net public or environmental harm or is not being made because the residual level of radioactivity is ALARA. To determine the level that is ALARA, the Department and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal;
 2. The licensee establishes one or more legally enforceable institutional controls that reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed (0.15 mSv) 15 mrem per year, including radiation from groundwater sources of drinking water;
 3. The licensee demonstrates financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site and funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment;
 4. The licensee submits a decommissioning plan or License Termination Plan (LTP) to the Department, indicating the licensee's intent to decommission in accordance with R9-7-323 and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis.
 - a. If a licensee is restricting use of the site, the licensee shall seek comments from the public concerning the proposed decommissioning, regarding all of the following matters:
 - i. Whether the institutional controls proposed by the licensee will reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year; are enforceable; and do not impose an unreasonable burden on the local community or other affected parties; and
 - ii. Whether the licensee has provided financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site;
 - b. In seeking comments on the issues identified in subsection (C)(4)(a), the licensee shall provide for:
 - i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;
 - ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
 - iii. A publicly available document that contains or access to each oral and written comment that reflects the viewpoints of community representatives on each issue and the extent of agreement or disagreement among representatives on each issue; and
 5. The licensee reduces residual radioactivity, distinguishable from background radiation, at the site so that if the institutional controls are no longer in effect, the TEDE for the average member of the critical group is as low as reasonably achievable and does not exceed 1 mSv (100 mrem) per year; unless the licensee:
 - a. Demonstrates that a further reduction in residual radioactivity necessary to comply with subsection (C)(5) is not technically achievable or economically feasible, or will result in net public or environmental harm;
 - b. Provides for durable institutional controls; and
 - c. Provides financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to carry out periodic rechecks of the site, no less frequently than every five years; assures that each institutional control remains in place according to subsection (C)(3); and assumes and carries out responsibilities for maintenance of the institutional control.
- D. Alternate criteria for license termination:**
1. Based on circumstances that relate to a specific license, the Department may terminate the license using the following alternate criteria for subsections (B) or (C)(2), if

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the licensee demonstrates that the TEDE from residual radioactivity, distinguishable from background radiation, for an average member of the critical group does not exceed 0.15 mSv (15 mrem) per year, and if the licensee:

- a. Ensures that public health and safety is protected by submitting an analysis of possible sources of exposure, prepared by a independent qualified expert, which indicates whether it is likely that the dose from all human-made sources combined, other than medical sources, is more than the 1 mSv/y (100 mrem/y) limit in R9-7-416;
 - b. Employs to the extent practicable, restrictions on site use, according to the provisions of subsection (C) to minimize exposures at the site;
 - c. Reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal; d.Submits a decommissioning plan or License Termination Plan (LTP) to the Department that indicates the licensee’s intent to decommission in accordance with R9-7-323, and specifies that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis. In seeking comments, the licensee shall provide for:
 - i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;
 - ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
 - iii. A publicly available document that contains or access to each oral and written comment that reflects viewpoints of community representatives on each issue and the extent of agreement and disagreement among the representatives on each issue; and
 - e. Has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.
2. The use of alternate criteria to terminate a license requires approval by the Department after consideration of any comments provided by the U.S. Environmental Protection Agency and any public comments submitted under subsection (E).

- E. Public notification and public participation:
 - 1. Upon the receipt of an LTP or decommissioning plan from a licensee, or a proposal by a licensee for release of a site under subsection (C) or (D), or whenever the Department determines that notice will serve the public interest, the Department shall notify and solicit comments from:
 - a. Local and state governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and
 - b. The U.S. Environmental Protection Agency.
 - 2. To comply with subsection(E)(1) the Department shall publish a notice in a local newspaper, send letters to state or local organizations on its mailing list, hold a public

hearing that is readily accessible to individuals in the vicinity of the site, and solicit comments from the public.

- F. Minimization of contamination. After the effective date of this Section, an applicant for a license, other than a renewal, shall describe in the application how facility design and procedures for operation will facilitate eventual decommissioning and minimize, to the extent practicable, the generation of radioactive waste and contamination of the facility and the environment.
 - 1. Applicants for standard design certifications, standard design approvals, and manufacturing licenses shall describe in the application how facility design will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.
 - 2. Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in this Article and radiological criteria for license termination in this Article.
- G. The Department considers a site acceptable for unrestricted use if the residual radioactivity, distinguishable from background radiation, is equal to or less than the values in Table 1.

Historical Note

New Section R9-7-452 recodified from R12-1-452, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Table 1. Acceptable Surface Contamination¹ Levels

Radionuclide ¹	Average ^{2,3}	Maximum ^{2,4}	Removable ^{2,5}
U-nat, U-235, U-238, and associated decay products	5,000 dpm/100 cm ²	15,000 dpm/100cm ²	1,000 dpm/100 cm ²
Transuranics, Ra-226, Ra-228, Th-230, Pa-231, Ac-227, I-125, I-129	100dpm/100cm ²	300 dpm/100cm ²	20dpm/100cm ²
Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133	1000 dpm/100cm ²	3000 dpm/100cm ²	200 dpm/100cm ²
Beta-gamma (Exceptions noted above)	5,000 dpm/100 cm ²	15,000 dpm/100cm ²	1,000 dpm/100 cm ²

¹ Where surface contamination by both alpha-and beta-gamma-emitting radionuclides exists, the limits established for alpha-and beta-gamma-emitting radionuclides apply independently.

² As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed on an instrument calibrated for background, efficiency, and geometric factors associated with the instrumentation, in accordance with R9-7-449.

³ Measurements of average contamination level shall not be averaged over more than one square meter. For objects of less surface area, the average shall be derived for each object.

⁴ The maximum contamination level applies to an area of not more than 100 cm².

⁵ The amount of removable radioactive material per 100 cm² of surface area shall be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing

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the amount of radioactive material on the wipe with an instrument calibrated in accordance with R9-7-449. When removable contamination on objects of surface area A (where A is less than 100 sq. cm) is determined, the entire surface shall be wiped and the contamination level multiplied by 100/A to convert to a "per 100 sq. cm" basis.

Historical Note

New Article 4, Table 1 recodified from 12 A.A.C. 1, Article 4, Table 1, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-453. Reports to Individuals of Exceeding Dose Limits

Any licensee or registrant that reports a personnel exposure to the Department in accordance with R9-7-413(A)(6), R9-7-444, or R9-7-452 shall:

1. Notify the exposed individual of the exposure addressed in the report; and
2. Transmit the report to the exposed individual at the same time the Department is notified of the exposure.

Historical Note

New Section R9-7-453 recodified from R12-1-453, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-454. Nationally Tracked Sources

A. A licensee who manufactures, receives, transfers, disassembles, or disposes of a nationally tracked source shall complete and submit to the Nuclear Regulatory Commission's National Source Tracking System and the Department, a National Source Tracking Transaction Report that contains the information required in 10 CFR 20.2207(a) through (e), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The report shall be submitted by the close of the next business day after the transaction using a reporting method specified in 10 CFR 20.2207(f), revised January 1, 2008, incorporated by reference, and available under

R9-7-101. This incorporated material contains no future editions or amendments.

- B. The initial National Source Tracking Transaction Report shall contain the information required in subsection (A), be submitted using a method specified in 10 CFR 20.2207(f) and include the additional information required by 10 CFR 20.2207(h)(1) through (6), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. A licensee shall correct any error in previously filed National Source Tracking Transaction Reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction in accordance with 10 CFR 20.2207(g), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- D. A licensee who receives a nationally tracked sealed source shall not disassemble the source unless specifically authorized to do so by the Department.

Historical Note

New Section R9-7-454 recodified from R12-1-454, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-455. Security Requirements for Portable Gauges

- A. A licensee that uses a portable gauge shall use a minimum of two independent controls to maintain security while:
 1. Transporting a portable gauge; and
 2. Storing a portable gauge.
- B. Each control shall form a tangible barrier that will prevent unauthorized removal whenever a portable gauge is not under the control and constant surveillance of the licensee.
- C. A licensee shall employ controls approved by the Department.

Historical Note

New Section R9-7-455 recodified from R12-1-455, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Appendix A. Assigned Protection Factors for Respirators^a

	Operating mode	Assigned Protection Factors
I. Air Purifying Respirators [Particulate ^b only] ^c :		
Filtering face piece disposable ^d	Negative	(^d)
Face piece, half ^e	Negative Pressure	10
Face piece, full	Negative Pressure	100
Face piece, half	Powered Air-purifying Respirators	50
Face piece, full	Powered Air-purifying Respirators	1000
Helmet/hood	Powered Air-purifying Respirators	1000
Face piece, loose-fitting	Powered Air-purifying Respirators	25
II. Atmosphere supplying respirators [particulate, gases and vapors ^f]:		
1. Air-line respirator:		
Face piece, half	Demand	10
Face piece, half	Continuous Flow	50
Face piece, half	Pressure Demand	50
Face piece, full	Demand	100
Face piece, full	Continuous Flow	1000
Face piece, full	Pressure Demand	1000
Helmet/hood	Continuous Flow	1000
Face piece, loose-fitting	Continuous Flow	25
Suit	Continuous Flow	(^g)
2. Self-contained breathing Apparatus (SCBA):		
Face piece, full	Demand	^h 100
Face piece, full	Pressure Demand	^h 10,000
Face piece, full	Demand, Recirculating	^h 100
Face piece, full	Positive Pressure Recirculating	^h 10,000
III. Combination Respirators:		
Any combination of air-purifying and atmosphere-supplying respirators	Assigned protection factor for type and mode of operation as listed above	

^a These assigned protection factors apply only in a respiratory protection program that meets the requirements of this Article. They are applicable only to airborne radiological hazards and may not be appropriate if chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. A licensee shall comply with Department of Labor regulations, regarding selection and use of respirators for those circumstances.

Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances, limitations on occupancy may have to be governed by external dose limits.

^b A licensee shall equip air purifying respirators of APF<100 with particulate filters that are at least 95 percent efficient. The licensee shall equip air purifying respirators of APF=100 with particulate filters that are at least 99 percent efficient. The licensee shall equip air purifying respirators of APF>100 with particulate filters that are at least 99.97 percent efficient.

^c A licensee may apply to the Commission for the use of an APF greater than 1 for sorbent cartridges as protection against airborne radioactive gases and vapors, similar to radioiodine.

^d A Licensee may permit an individual to use this type of respirator if the individual has not been medically screened or fit tested on the device, provided that no credit is taken for use of these respirators in estimation of intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use user seal check on this type of device. All other respiratory protection program requirements listed in 10 CFR 20.1703, January 2000 Edition, and published January 1, 2000, apply and are incorporated by reference and available for review at the Department and Secretary of State. This incorporation by reference contains no future editions or amendments. There is no assigned protection factor for these devices. However, a licensee may use an APF equal to 10 if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

^e Under-chin type only. No distinction is made in this appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the face piece (disposable or reusable disposable). Both types are acceptable as long as the seal area of the latter contains some substantial type of seal-enhancing material, such as rubber or plastic, two or more suspension straps are adjustable, the filter medium is at least 95 percent efficient, and all other requirements of this Article are met.

^f The assigned protection factors for gases and vapors are not applicable to radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin so that an overall pro-

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tection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard and protective actions for these contaminants should be based on external (submersion) dose considerations.

^g No NIOSH approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met. The minimum program requirements are provided in 10 CFR 20.1703.

^h The licensee shall implement institutional controls to assure that these devices are not used in areas immediately dangerous to life or health (IDLH).

ⁱ This type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure such as skin absorption shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

Historical Note

New Appendix A recodified from 12 A.A.C. 1, Article 4, Appendix A, effective March 22, 2018 (Supp. 18-1).

Appendix B. Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage**Introduction**

For each radionuclide, Table I indicates the chemical form which is to be used for selecting the appropriate ALI or DAC value. The ALIs and DACs for inhalation are given for an aerosol with an activity median aerodynamic diameter (AMAD) of 1 μm , micron, and for three classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks, or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for D if less than 10 days, for W from 10 to 100 days, and for Y greater than 100 days. Table II provides concentration limits for airborne and liquid effluents released to the general environment. Table III provides concentration limits for discharges to sanitary sewerage.

Note:

The values in Tables I, II, and III are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of 6×10^{-2} or 0.06, 6E+2 represents 6×10^2 or 600, and 6E+0 represents 6×10^0 or 6.

Table I "Occupational Values"

Note that the columns in Table I of this Appendix captioned "Oral Ingestion ALI," "Inhalation ALI," and "DAC" are applicable to occupational exposure to radioactive material.

The ALIs in this Appendix are the annual intakes of given radionuclide by "Reference Man" which would result in either (1) a committed effective dose equivalent of 0.05 Sv (5 rem), stochastic ALI, or (2) a committed dose equivalent of 0.5 Sv (50 rem) to an organ or tissue, nonstochastic ALI. The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep-dose equivalent to the whole body of 0.05 Sv (5 rem). The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting factor, W_T . This weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue, T, to the total risk of stochastic effects when the whole body is irradiated uniformly. The values of W_T are listed under the definition of weighting factor in R9-7-403. The nonstochastic ALIs were derived to avoid nonstochastic effects, such as prompt damage to tissue or reduction in organ function.

A value of $W_T = 0.06$ is applicable to each of the five organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of all other remaining tissues may be disregarded. The following portions of the GI tract -- stomach,

small intestine, upper large intestine, and lower large intestine -- are to be treated as four separate organs.

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that shall be met separately.

When an ALI is defined by the stochastic dose limit, this value alone is given. When an ALI is determined by the nonstochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used:

LLI wall	=	lower large intestine wall,
St. wall	=	stomach wall,
Blad wall	=	bladder wall, and
Bone surf	=	Bone surface.

The use of the ALIs listed first, the more limiting of the stochastic and nonstochastic ALIs, will ensure that nonstochastic effects are avoided and that the risk of stochastic effects is limited to an acceptably low value. If, in a particular situation involving a radionuclide for which the nonstochastic ALI is limiting, use of that nonstochastic ALI is considered unduly conservative, the licensee may use the stochastic ALI to determine the committed effective dose equivalent. However, the licensee shall also ensure that the 0.5 Sv (50 rem) dose equivalent limit for any organ or tissue is not exceeded by the sum of the external deep-dose equivalent plus the internal committed dose equivalent to that organ, not the effective dose. For the case where there is no external dose contribution, this would be demonstrated if the sum of the fractions of the nonstochastic ALIs (ALI_{ns}) that contribute to the committed dose equivalent to the organ receiving the highest dose does not exceed unity, that is, $\sum (\text{intake (in } \mu\text{Ci) of each radionuclide} / ALI_{ns}) \leq 1.0$. If there is an external deep dose equivalent contribution of H_d , then this sum must be less than $1 - (H_d/50)$, instead of ≤ 1.0 .

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that must be met separately.

The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

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$$\text{DAC} = \text{ALI (in } \mu\text{Ci)} / (2000 \text{ hours per working year} \times 60 \text{ minutes/hour} \times 2 \times 10^4 \text{ ml per minute}) = [\text{ALI} / 2.4 \times 10^9] \mu\text{Ci/ml},$$

where 2×10^4 ml is the volume of air breathed per minute at work by Reference Man under working conditions of light work.

The DAC values relate to one of two modes of exposure: either external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based upon submersion are for immersion in a semi-infinite cloud of uniform concentration and apply to each radionuclide separately.

The ALI and DAC values include contributions to exposure by the single radionuclide named and any in-growth of daughter radionuclides produced in the body by decay of the parent. However, intakes that include both the parent and daughter radionuclides shall be treated by the general method appropriate for mixtures.

The values of ALI and DAC do not apply directly when the individual both ingests and inhales a radionuclide, when the individual is exposed to a mixture of radionuclides by either inhalation or ingestion or both, or when the individual is exposed to both internal and external irradiation. See R9-7-407. When an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide, such as Class D, Class W, or Class Y, the exposure may be evaluated as if it were a mixture of different radionuclides.

It should be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radionuclides. For this reason, values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

Table II "Effluent Concentrations"

The columns in Table II of this Appendix captioned "Effluents," "Air," and "Water" are applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of R9-7-415. The concentration values given in Columns 1 and 2 of Table II are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously over the course of a year, would produce a total effective dose equivalent of 0.5 mSv (0.05 rem).

Consideration of nonstochastic limits has not been included in deriving the air and water effluent concentration limits because nonstochastic effects are presumed not to occur at or below the dose levels established for individual members of the public. For radionuclides, where the nonstochastic limit was governing in deriving the occupational DAC, the stochastic ALI was used in deriving the corresponding airborne effluent limit in Table II. For this reason,

the DAC and airborne effluent limits are not always proportional as they were in earlier versions of Appendix A of Article 4.

The air concentration values listed in Table II, Column 1 were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by 2.4×10^9 , relating the inhalation ALI to the DAC, as explained above, and then divided by a factor of 300. The factor of 300 includes the following components: a factor of 50 to relate the 0.05 Sv (5 rem) annual occupational dose limit to the 0.1 rem limit for members of the public, a factor of 3 to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and a factor of 2 to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

For those radionuclides for which submersion, that is external dose, is limiting, the occupational DAC in Table I, Column 3 was divided by 219. The factor of 219 is composed of a factor of 50, as described above, and a factor of 4.38 relating occupational exposure for 2,000 hours per year to full-time exposure (8,760 hours per year). Note that an additional factor of 2 for age considerations is not warranted in the submersion case.

The water concentrations were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^7 . The factor of 7.3×10^7 (ml) includes the following components: the factors of 50 and 2 described above and a factor of 7.3×10^5 (ml) which is the annual water intake of Reference Man.

Note 2 of this Appendix provides groupings of radionuclides which are applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations, and releases to sewer, require demonstrating that the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture is defined when the presence of one of the listed radionuclides cannot be definitely excluded as being present either from knowledge of the radionuclide composition of the source or from actual measurements.

Table III "Releases to Sewers"

The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in R9-7-435. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^6 (ml). The factor of 7.3×10^6 (ml) is composed of a factor of 7.3×10^5 (ml), the annual water intake by Reference Man, and a factor of 10, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a Reference Man during a year, would result in a committed effective dose equivalent of 0.5 rem.

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LIST OF ELEMENTS

<u>Name</u>	<u>Symbol</u>	<u>Atomic Number</u>	<u>Name</u>	<u>Symbol</u>	<u>Atomic Number</u>
Actinium	Ac	89	Molybdenum	Mo	42
Aluminum	Al	13	Neodymium	Nd	60
Americium	Am	95	Neptunium	Np	93
Antimony	Sb	51	Nickel	Ni	28
Argon	Ar	18	Niobium	Nb	41
Arsenic	As	33	Nitrogen	N	7
Astatine	At	85	Osmium	Os	76
Barium	Ba	56	Oxygen	O	8
Berkelium	Bk	97	Palladium	Pd	46
Beryllium	Be	4	Phosphorus	P	15
Bismuth	Bi	83	Platinum	Pt	78
Bromine	Br	35	Plutonium	Pu	94
Cadmium	Cd	48	Polonium	Po	84
Calcium	Ca	20	Potassium	K	19
Californium	Cf	98	Praseodymium	Pr	59
Carbon	C	6	Promethium	Pm	61
Cerium	Ce	58	Protactinium	Pa	91
Cesium	Cs	55	Radium	Ra	88
Chlorine	Cl	17	Radon	Rn	86
Chromium	Cr	24	Rhenium	Re	75
Cobalt	Co	27	Rhodium	Rh	45
Copper	Cu	29	Rubidium	Rb	37
Curium	Cm	96	Ruthenium	Ru	44
Dysprosium	Dy	66	Samarium	Sm	62
Einsteinium	Es	99	Scandium	Sc	21
Erbium	Er	68	Selenium	Se	34
Europium	Eu	63	Silicon	Si	14
Fermium	Fm	100	Silver	Ag	47
Fluorine	F	9	Sodium	Na	11
Francium	Fr	87	Strontium	Sr	38
Gadolinium	Gd	64	Sulfur	S	16
Gallium	Ga	31	Tantalum	Ta	73
Germanium	Ge	32	Technetium	Tc	43
Gold	Au	79	Tellurium	Te	52
Hafnium	Hf	72	Terbium	Tb	65
Holmium	Ho	67	Thallium	Tl	81
Hydrogen	H	1	Thorium	Th	90
Indium	In	49	Thulium	Tm	69
Iodine	I	53	Tin	Sn	50
Iridium	Ir	77	Titanium	Ti	22
Iron	Fe	26	Tungsten	W	74
Krypton	Kr	36	Uranium	U	92
Lanthanum	La	57	Vanadium	V	23
Lead	Pb	82	Xenon	Xe	54
Lutetium	Lu	71	Ytterbium	Yb	70
Magnesium	Mg	12	Yttrium	Y	39
Manganese	Mn	25	Zinc	Zn	30
Mendelevium	Md	101	Zirconium	Zr	40
Mercury	Hg	80			

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
1	Hydrogen-3	Water, DAC includes skin absorption	8E+4	8E+4	2E-5	1E-7	1E-3	1E-2
		Gas (HT or T ₂) Submersion ¹ : Use above values as HT and T ₂ oxidize in air and in the body to HTO.						
4	Beryllium-7	W, all compounds except those given for Y	4E+4	2E+4	9E-6	3E-8	6E-4	6E-3
		Y, oxides, halides, and nitrates	-	2E+4	8E-6	3E-8	-	-
4	Beryllium-10	W, see ⁷ Be	1E+3	2E+2	6E-8	2E-10	-	--
		LLI wall	(1E+3)	-	-	-	2E-5	2E-4
		Y, see ⁷ Be	-	1E+1	6E-9	2E-11	-	-
6	Carbon-11 ²	Monoxide	-	1E+6	5E-4	2E-6	-	-
		Dioxide	-	6E+5	3E-4	9E-7	-	-
		Compounds	4E+5	4E+5	2E-4	6E-7	6E-3	6E-2
6	Carbon-14	Monoxide	-	2E+6	7E-4	2E-6	-	-
		Dioxide	-	2E+5	9E-5	3E-7	-	-
		Compounds	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
7	Nitrogen-13 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
8	Oxygen-15 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
9	Fluorine-18 ²	D, fluorides of H, Li, Na, K, Rb, Cs, and Fr	5E+4	7E+4	3E-5	1E-7	-	-
		St wall	(5E+4)	-	-	-	7E-4	7E-3
		W, fluorides of Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, As, Sb, Bi, Fe, Ru, Os, Co, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, V, Nb, Ta, Mn, Tc, and Re	-	9E+4	4E-5	1E-7	-	-
		Y, Lanthanum fluoride	-	8E+4	3E-5	1E-7	-	-
11	Sodium-22	D, all compounds	4E+2	6E+2	3E-7	9E-10	6E-6	6E-5
11	Sodium-24	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
12	Magnesium-28	D, all compounds except those given for W	7E+2	2E+3	7E-7	2E-9	9E-6	9E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	1E+3	5E-7	2E-9	-	-
13	Aluminum-26	D, all compounds except those given for W	4E+2	6E+1	3E-8	9E-11	6E-6	6E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	9E+1	4E-8	1E-10	-	-
14	Silicon-31	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and nitrates	-	3E+4	1E-5	5E-8	-	-
		Y, aluminosilicate glass	-	3E+4	1E-5	4E-8	-	-
14	Silicon-32	D, see ³¹ Si	2E+3	2E+2	1E-7	3E-10	-	-
		LLI wall	(3E+3)	-	-	-	4E-5	4E-4
		W, see ³¹ Si	-	1E+2	5E-8	2E-10	-	-
		Y, see ³¹ Si	-	5E+0	2E-9	7E-12	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
15	Phosphorus-32	D, all compounds except phosphates given for W	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
		W, phosphates of Zn ²⁺ , S ³⁺ , Mg ²⁺ , Fe ³⁺ , Bi ³⁺ , and Lanthanides	-	4E+2	2E-7	5E-10	-	-
15	Phosphorus-33	D, see ³² P	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
		W, see ³² P	-	3E+3	1E-6	4E-9	-	-
16	Sulfur-35	Vapor	1E+4	6E-6	2E-8	-	-	-
		D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
		LLI wall	(8E+3)	-	-	-	1E-4	1E-3
		W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	-	2E+3	9E-7	3E-9	-	-
17	Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr	2E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, chlorides of Lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	-	2E+2	1E-7	3E-10	-	-
17	Chlorine-38 ²	D, see ³⁶ Cl	2E+4	4E+4	2E-5	6E-8	-	-
		St wall	(3E+4)	-	-	-3E-4	3E-3	-
		W, see ³⁶ Cl	-	5E+4	2E-5	6E-8	-	-
17	Chlorine-39 ²	D, see ³⁶ Cl	2E+4	5E+4	2E-5	7E-8	-	-
		St wall	(4E+4)	-	-	-5E-4	5E-3	-
		W, see ³⁶ Cl	-	6E+4	2E-5	8E-8	-	-
18	Argon-37	Submersion ¹	-	-	1E+0	6E-3	-	-
18	Argon-39	Submersion ¹	-	-	2E-4	8E-7	-	-
18	Argon-41	Submersion ¹	-	-	3E-6	1E-8	-	-
19	Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19	Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19	Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4
19	Potassium-44 ²	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
19	Potassium-45 ²	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
		St wall	(5E+4)	-	-	-	7E-4	7E-3

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
20	Calcium-41	W, all compounds	3E+3	4E+3	2E-6	-	-	-
			Bone surf (4E+3)	Bone surf (4E+3)	-	5E-9	6E-5	6E-4
20	Calcium-45	W, all compounds	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
20	Calcium-47	W, all compounds	8E+2	9E+2	4E-7	1E-9	1E-5	1E-4
21	Scandium-43	Y, all compounds	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
21	Scandium-44m	Y, all compounds	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
21	Scandium-44	Y, all compounds	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
21	Scandium-46	Y, all compounds	9E+2	2E+2	1E-7	3E-10	1E-5	1E-4
21	Scandium-47	Y, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
21	Scandium-48	Y, all compounds	8E+2	1E+3	6E-7	2E-9	1E-5	1E-4
21	Scandium-49 ²	Y, all compounds	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
22	Titanium-44	D, all compounds except those given for W and Y	3E+2	1E+1	5E-9	2E-11	4E-6	4E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	3E+1	1E-8	4E-11	-	-
		Y, SrTiO	-	6E+0	2E-9	8E-12	-	-
22	Titanium-45	D, see ⁴⁴ Ti	9E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ⁴⁴ Ti	-	4E+4	1E-5	5E-8	-	-
		Y, see ⁴⁴ Ti	-	3E+4	1E-5	4E-8	-	-
23	Vanadium-47 ²	D, all compounds except those given for W	3E+4	8E+4	3E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, oxides, hydroxides, carbides, and halides	-	1E+5	4E-5	1E-7	-	-
23	Vanadium-48	D, see ⁴⁷ V	6E+2	1E+3	5E-7	2E-9	9E-6	9E-5
		W, see ⁴⁷ V	-	6E+2	3E-7	9E-10	-	-
23	Vanadium-49	D, see ⁴⁷ V	7E+4	3E+4	1E-5	-	-	-
			LLI wall (9E+4)	Bone surf (3E+4)	-	5E-8	1E-3	1E-2
		W, see ⁴⁷ V	-	2E+4	8E-6	2E-8	-	-
24	Chromium-48	D, all compounds except those given for W and Y	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, halides and nitrates	-	7E+3	3E-6	1E-8	-	-
		Y, oxides and hydroxides	-	7E+3	3E-6	1E-8	-	-
24	Chromium-49 ²	D, see ⁴⁸ Cr	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, see ⁴⁸ Cr	-	1E+5	4E-5	1E-7	-	-
		Y, see ⁴⁸ Cr	-	9E+4	4E-5	1E-7	-	-
24	Chromium-51	D, see ⁴⁸ Cr	4E+4	5E+4	2E-5	6E-8	5E-4	5E-3
		W, see ⁴⁸ Cr	-	2E+4	1E-5	3E-8	-	-
		Y, see ⁴⁸ Cr	-	2E+4	8E-6	3E-8	-	-
25	Manganese-51 ²	D, all compounds except those given for W	2E+4	5E+4	2E-5	7E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	8E-8	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci}/\text{ml}$)	Air ($\mu\text{Ci}/\text{ml}$)	Water ($\mu\text{Ci}/\text{ml}$)	Monthly Average Concentration ($\mu\text{Ci}/\text{ml}$)
25	Manganese-52m ²	D, see ⁵¹ Mn	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (4E+4)	-	-	-	5E-4	5E-3
25	Manganese-52	W, see ⁵¹ Mn	-	1E+5	4E-5	1E-7	-	-
		D, see ⁵¹ Mn	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
25	Manganese-53	W, see ⁵¹ Mn	-	9E+2	4E-7	1E-9	-	-
		D, see ⁵¹ Mn	5E+4	1E+4	5E-6	-	7E-4	7E-3
25	Manganese-54			Bone surf (2E+4)	-	3E-8	-	-
		W, see ⁵¹ Mn	-	1E+4	5E-6	2E-8	-	-
25	Manganese-56	D, see ⁵¹ Mn	2E+3	9E+2	4E-7	1E-9	3E-5	3E-4
		W, see ⁵¹ Mn	-	8E+2	3E-7	1E-9	-	-
26	Iron-52	D, see ⁵¹ Mn	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ⁵¹ Mn	-	2E+4	9E-6	3E-8	-	-
26	Iron-55	D, all compounds except those given for W	9E+2	3E+3	1E-6	4E-9	1E-5	1E-4
		W, oxides, hydroxides, and halides	-	2E+3	1E-6	3E-9	-	-
26	Iron-59	D, see ⁵² Fe	9E+3	2E+3	8E-7	3E-9	1E-4	1E-3
		W, see ⁵² Fe	-	4E+3	2E-6	6E-9	-	-
26	Iron-60	D, see ⁵² Fe	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		W, see ⁵² Fe	-	5E+2	2E-7	7E-10	-	-
27	Cobalt-55	D, see ⁵² Fe	3E+1	6E+0	3E-9	9E-12	4E-7	4E-6
		W, see ⁵² Fe	-	2E+1	8E-9	3E-11	-	-
27	Cobalt-56	W, all compounds except those given for Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
27	Cobalt-57	W, see ⁵⁵ Co	5E+2	3E+2	1E-7	4E-10	6E-6	6E-5
		Y, see ⁵⁵ Co	4E+2	2E+2	8E-8	3E-10	-	-
27	Cobalt-58m	W, see ⁵⁵ Co	8E+3	3E+3	1E-6	4E-9	6E-5	6E-4
		Y, see ⁵⁵ Co	4E+3	7E+2	3E-7	9E-10	-	-
27	Cobalt-58	W, see ⁵⁵ Co	6E+4	9E+4	4E-5	1E-7	8E-4	8E-3
		Y, see ⁵⁵ Co	-	6E+4	3E-5	9E-8	-	-
27	Cobalt-60m ²	W, see ⁵⁵ Co	2E+3	1E+3	5E-7	2E-9	2E-5	2E-4
		Y, see ⁵⁵ Co	1E+3	7E+2	3E-7	1E-9	-	-
27	Cobalt-60	W, see ⁵⁵ Co	1E+6	4E+6	2E-3	6E-6	-	-
			St wall (1E+6)	-	-	-	2E-2	2E-1
27	Cobalt-61 ²	Y, see ⁵⁵ Co	-	3E+6	1E-3	4E-6	-	-
		W, see ⁵⁵ Co	5E+2	2E+2	7E-8	2E-10	3E-6	3E-5
27	Cobalt-61 ²	Y, see ⁵⁵ Co	2E+2	3E+1	1E-8	5E-11	-	-
		W, see ⁵⁵ Co	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ⁵⁵ Co	2E+4	6E+4	2E-5	8E-8	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
27	Cobalt-62m ²	W, see ⁵⁵ Co St wall	4E+4 (5E+4)	2E+5 -	7E-5 -	2E-7 -	- 7E-4	- 7E-3
28	Nickel-56	Y, see ⁵⁵ Co D, all compounds except those given for W W, oxides, hydroxides, and carbides Vapor	- 1E+3 -	2E+5 2E+3 1E+3	6E-5 8E-7 5E-7	2E-7 3E-9 2E-9	- 2E-5 -	- 2E-4 -
28	Nickel-57	D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor	2E+3 - -	5E+3 3E+3 6E+3	2E-6 1E-6 3E-6	7E-9 4E-9 9E-	2E-5 - -	2E-4 - -
28	Nickel-59	D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor	2E+4 - -	4E+3 7E+3 2E+3	2E-6 3E-6 8E-7	5E-9 1E-8 3E-9	3E-4 - -	3E-3 - -
28	Nickel-63	D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor	9E+3 - -	2E+3 3E+3 8E+2	7E-7 1E-6 3E-7	2E-9 4E-9 1E-9	1E-4 - -	1E-3 - -
28	Nickel-65	D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor	8E+3 - -	2E+4 3E+4 2E+4	1E-5 1E-5 7E-6	3E-8 4E-8 2E-8	1E-4 - -	1E-3 - -
28	Nickel-66	D, see ⁵⁶ Ni LLI wall W, see ⁵⁶ Ni Vapor	4E+2 (5E+2) - -	2E+3 - 6E+2 3E+3	7E-7 - 3E-7 1E-6	2E-9 - 9E-10 4E-9	- 6E-6 - -	- 6E-5 - -
29	Copper-60 ²	D, all compounds except those given for W and Y St wall W, sulfides, halides, and nitrates Y, oxides and hydroxides	3E+4 (3E+4) - -	9E+4 - 1E+5 1E+5	4E-5 - 5E-5 4E-5	1E-7 - 2E-7 1E-7	- 4E-4 - -	- 4E-3 - -
29	Copper-61	D, see ⁶⁰ Cu W, see ⁶⁰ Cu Y, see ⁶⁰ Cu	1E+4 - -	3E+4 4E+4 4E+4	1E-5 2E-5 1E-5	4E-8 6E-8 5E-8	2E-4 - -	2E-3 - -
29	Copper-64	D, see ⁶⁰ Cu W, see ⁶⁰ Cu Y, see ⁶⁰ Cu	1E+4 - -	3E+4 2E+4 2E+4	1E-5 1E-5 9E-6	4E-8 3E-8 3E-8	2E-4 - -	2E-3 - -
29	Copper-67	D, see ⁶⁰ Cu W, see ⁶⁰ Cu Y, see ⁶⁰ Cu	5E+3 - -	8E+3 5E+3 5E+3	3E-6 2E-6 2E-6	1E-8 7E-9 6E-9	6E-5 - -	6E-4 - -
30	Zinc-62	Y, all compounds	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
30	Zinc-63 ²	Y, all compounds St wall	2E+4 (3E+4)	7E+4 -	3E-5 -	9E-8 -	- 3E-4	- 3E-3

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
30	Zinc-65	Y, all compounds	4E+2	3E+2	1E-7	4E-10	5E-6	5E-5
30	Zinc-69m	Y, all compounds	4E+3	7E+3	3E-6	1E-8	6E-5	6E-4
30	Zinc-69 ²	Y, all compounds	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
30	Zinc-71m	Y, all compounds	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
30	Zinc-72	Y, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
31	Gallium-65 ²	D, all compounds except those given for W	5E+4	2E+5	7E-5	2E-7	-	-
		St wall	(6E+4),	-	-	-	9E-4	9E-3
		W, oxides, hydroxides, carbides, halides, and nitrates	-	2E+5	8E-5	3E-7	-	-
31	Gallium-66	D, see ⁶⁵ Ga	1E+3	4E+3	1E-6	5E-9	1E-5	1E-4
		W, see ⁶⁵ Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-67	D, see ⁶⁵ Ga	7E+3	1E+4	6E-6	2E-8	1E-4	1E-3
		W, see ⁶⁵ Ga	-	1E+4	4E-6	1E-8	-	-
31	Gallium-68 ²	D, see ⁶⁵ Ga	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ⁶⁵ Ga	-	5E+4	2E-5	7E-8	-	-
31	Gallium-70 ²	D, see ⁶⁵ Ga	5E+4	2E+5	7E-5	2E-7	-	-
		St wall	(7E+4)	-	-	-	1E-3	1E-2
		W, see ⁶⁵ Ga	-	2E+5	8E-5	3E-7	-	-
31	Gallium-72	D, see ⁶⁵ Ga	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ⁶⁵ Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-73	D, see ⁶⁵ Ga	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ⁶⁵ Ga	-	2E+4	6E-6	2E-8	-	-
32	Germanium-66	D, all compounds except those given for W	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
		W, oxides, sulfides, and halides	-	2E+4	8E-6	3E-8	-	-
32	Germanium-67 ²	D, see ⁶⁶ Ge	3E+4	9E+4	4E-5	1E-7	-	-
		St wall	(4E+4)	-	-	-	6E-4	6E-3
		W, see ⁶⁶ Ge	-	1E+5	4E-5	1E-7	-	-
32	Germanium-68	D, see ⁶⁶ Ge	5E+3	4E+3	2E-6	5E-9	6E-5	6E-4
		W, see ⁶⁶ Ge	-	1E+2	4E-8	1E-10	-	-
32	Germanium-69	D, see ⁶⁶ Ge	1E+4	2E+4	6E-6	2E-8	2E-4	2E-3
		W, see ⁶⁶ Ge	-	8E+3	3E-6	1E-8	-	-
32	Germanium-71	D, see ⁶⁶ Ge	5E+5	4E+5	2E-4	6E-7	7E-3	7E-2
		W, see ⁶⁶ Ge	-	4E+4	2E-5	6E-8	-	-
32	Germanium-75 ²	D, see ⁶⁶ Ge	4E+4	8E+4	3E-5	1E-7	-	-
		St wall	(7E+4)	-	-	-	9E-4	9E-3
		W, see ⁶⁶ Ge	-	8E+4	4E-5	1E-7	-	-
32	Germanium-77	D, see ⁶⁶ Ge	9E+3	1E+4	4E-6	1E-8	1E-4	1E-3
		W, see ⁶⁶ Ge	-	6E+3	2E-6	8E-9	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
32	Germanium-78 ²	D, see ⁶⁶ Ge	2E+4	2E+4	9E-6	3E-8	-	-
			St wall (2E+4)	-	-	-	3E-4	3E-3
		W, see ⁶⁶ Ge	-	2E+4	9E-6	3E-8	-	-
33	Arsenic-69 ²	W, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
33	Arsenic-70 ²	W, all compounds	1E+4	5E+4	2E-5	7E-8	2E-4	2E-3
33	Arsenic-71	W, all compounds	4E+3	5E+3	2E-6	6E-9	5E-5	5E-4
33	Arsenic-72	W, all compounds	9E+2	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-73	W, all compounds	8E+3	2E+3	7E-7	2E-9	1E-4	1E-3
33	Arsenic-74	W, all compounds	1E+3	8E+2	3E-7	1E-9	2E-5	2E-4
33	Arsenic-76	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-77	W, all compounds	4E+3	5E+3	2E-6	7E-9	-	-
			LLI wall (5E+3)	-	-	-	6E-5	6E-4
33	Arsenic-78 ²	W, all compounds	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
34	Selenium-70 ²	D, all compounds except those given for W	2E+4	4E+4	2E-5	5E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and elemental Se	1E+4	4E+4	2E-5	6E-8	-	-
34	Selenium-73m ²	D, see ⁷⁰ Se	6E+4	2E+5	6E-5	2E-7	4E-4	4E-3
		W, see ⁷⁰ Se	3E+4	1E+5	6E-5	2E-7	-	-
34	Selenium-73	D, see ⁷⁰ Se	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
		W, see ⁷⁰ Se	-	2E+4	7E-6	2E-8	-	-
34	Selenium-75	D, see ⁷⁰ Se	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
		W, see ⁷⁰ Se	-	6E+2	3E-7	8E-10	-	-
34	Selenium-79	D, see ⁷⁰ Se	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
		W, see ⁷⁰ Se	-	6E+2	2E-7	8E-10	-	-
34	Selenium-81m ²	D, see ⁷⁰ Se	4E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, see ⁷⁰ Se	2E+4	7E+4	3E-5	1E-7	-	-
34	Selenium-81 ²	D, see ⁷⁰ Se	6E+4	2E+5	9E-5	3E-7	-	-
			St wall (8E+4)	-	-	-	1E-3	1E-2
		W, see ⁷⁰ Se	-	2E+5	1E-4	3E-7	-	-
34	Selenium-83 ²	D, see ⁷⁰ Se	4E+4	1E+5	5E-5	2E-7	4E-4	4E-3
		W, see ⁷⁰ Se	3E+4	1E+5	5E-5	2E-7	-	-
35	Bromine-74m ²	D, bromides of H, Li, Na, K, Rb, Cs, and Fr	1E+4	4E+4	2E-5	5E-8	-	-
			St wall (2E+4)	-	-	-	3E-4	3E-3

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
		W, Bromides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Mn, Tc, and Re	-	4E+4	2E-5	6E-8	-	-
35	Bromine-74 ²	D, see ^{74m} Br	2E+4	7E+4	3E-5	1E-7	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
		W, see ^{74m} Br	-	8E+4	4E-5	1E-7	-	-
35	Bromine-75 ²	D, see ^{74m} Br	3E+4	5E+4	2E-5	7E-8	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
		W, see ^{74m} Br	-	5E+4	2E-5	7E-8	-	-
35	Bromine-76	D, see ^{74m} Br	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
		W, see ^{74m} Br	-	4E+3	2E-6	6E-9	-	-
35	Bromine-77	D, see ^{74m} Br	2E+4	2E+4	1E-5	3E-8	2E-4	2E-3
		W, see ^{74m} Br	-	2E+4	8E-6	3E-8	-	-
35	Bromine-80m	D, see ^{74m} Br	2E+4	2E+4	7E-6	2E-8	3E-4	3E-3
		W, see ^{74m} Br	-	1E+4	6E-6	2E-8	-	-
35	Bromine-80 ²	D, see ^{74m} Br	5E+4	2E+5	8E-5	3E-7	-	-
		St wall	(9E+4)	-	-	-	1E-3	1E-2
		W, see ^{74m} Br	-	2E+5	9E-5	3E-7	-	-
35	Bromine-82	D, see ^{74m} Br	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ^{74m} Br	-	4E+3	2E-6	5E-9	-	-
35	Bromine-83	D, see ^{74m} Br	5E+4	6E+4	3E-5	9E-8	-	-
		St wall	(7E+4)	-	-	-	9E-4	9E-3
		W, see ^{74m} Br	-	6E+4	3E-5	9E-8	-	-
35	Bromine-84 ²	D, see ^{74m} Br	2E+4	6E+4	2E-5	8E-8	-	-
		St wall	(3E+4)	-	-	-	4E-4	4E-3
		W, see ^{74m} Br	-	6E+4	3E-5	9E-8	-	-
36	Krypton-74 ²	Submersion ¹	-	-	3E-6	1E-8	-	-
36	Krypton-76	Submersion ¹	-	-	9E-6	4E-8	-	-
36	Krypton-77 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
36	Krypton-79	Submersion ¹	-	-	2E-5	7E-8	-	-
36	Krypton-81	Submersion ¹	-	-	7E-4	3E-6	-	-
36	Krypton-83m ²	Submersion ¹	-	-	1E-2	5E-5	-	-
36	Krypton-85m	Submersion ¹	-	-	2E-5	1E-7	-	-
36	Krypton-85	Submersion ¹	-	-	1E-4	7E-7	-	-
36	Krypton-87 ²	Submersion ¹	-	-	5E-6	2E-8	-	-
36	Krypton-88	Submersion ¹	-	-	2E-6	9E-9	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci}/\text{ml}$)	Air ($\mu\text{Ci}/\text{ml}$)	Water ($\mu\text{Ci}/\text{ml}$)	Monthly Average Concentration ($\mu\text{Ci}/\text{ml}$)
37	Rubidium-79 ²	D, all compounds	4E+4	1E+5	5E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
37	Rubidium-81m ²	D, all compounds	2E+5	3E+5	1E-4	5E-7	-	-
			St wall (3E+5)	-	-	-	4E-3	4E-2
37	Rubidium-81	D, all compounds	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
37	Rubidium 82m	D, all compounds	1E+4	2E+4	7E-6	2E-8	2E-4	2E-3
37	Rubidium-83	D, all compounds	6E+2	1E+3	4E-7	1E-9	9E-6	9E-5
37	Rubidium-84	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-86	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-87	D, all compounds	1E+3	2E+3	6E-7	2E-9	1E-5	1E-4
37	Rubidium-88 ²	D, all compounds	2E+4	6E+4	3E-5	9E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
37	Rubidium-89 ²	D, all compounds	4E+4	1E+5	6E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	9E-4	9E-3
38	Strontium-80 ²	D, all soluble compounds except SrTiO Y, all insoluble compounds and SrTiO	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
			-	1E+4	5E-6	2E-8	-	-
38	Strontium-81 ²	D, see ⁸⁰ Sr	3E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see ⁸⁰ Sr	2E+4	8E+4	3E-5	1E-7	-	-
38	Strontium-82	D, see ⁸⁰ Sr	3E+2	4E+2	2E-7	6E-10	-	-
			LLI wall (2E+2)	-	-	-	3E-6	3E-5
		Y, see ⁸⁰ Sr	2E+2	9E+1	4E-8	1E-10	-	-
38	Strontium-83	D, see ⁸⁰ Sr	3E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ⁸⁰ Sr	2E+3	4E+3	1E-6	5E-9	-	-
38	Strontium-85m ²	D, see ⁸⁰ Sr	2E+5	6E+5	3E-4	9E-7	3E-3	3E-2
		Y, see ⁸⁰ Sr	-	8E+5	4E-4	1E-6	-	-
38	Strontium-85	D, see ⁸⁰ Sr	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
		Y, see ⁸⁰ Sr	-	2E+3	6E-7	2E-9	-	-
38	Strontium-87m	D, see ⁸⁰ Sr	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ⁸⁰ Sr	4E+4	2E+5	6E-5	2E-7	-	-
38	Strontium-89	D, see ⁸⁰ Sr	6E+2	8E+2	4E-7	1E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		Y, see ⁸⁰ Sr	5E+2	1E+2	6E-8	2E-10	-	-
38	Strontium-90	D, see ⁸⁰ Sr	3E+1	2E+1	8E-9	-	-	-
			Bone surf (4E+1)	Bone surf (2E+1)	-	3E-11	5E-7	5E-6
		Y, see ⁸⁰ Sr	-	4E+0	2E-9	6E-12	-	-
38	Strontium-91	D, see ⁸⁰ Sr	2E+3	6E+3	2E-6	8E-9	2E-5	2E-4
		Y, see ⁸⁰ Sr	-	4E+3	1E-6	5E-9	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
38	Strontium-92	D, see ^{80}Sr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{80}Sr	-	7E+3	3E-6	9E-9	-	-
39	Yttrium-86m ²	W, all compounds except those given for Y	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		Y, oxides and hydroxides	-	5E+4	2E-5	8E-8	-	-
39	Yttrium-86	W, see ^{86m}Y	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-87	W, see ^{86m}Y	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-88	W, see ^{86m}Y	1E+3	3E+2	1E-7	3E-10	1E-5	1E-4
		Y, see ^{86m}Y	-	2E+2	1E-7	3E-10	-	-
39	Yttrium-90m	W, see ^{86m}Y	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
		Y, see ^{86m}Y	-	1E+4	5E-6	2E-8	-	-
39	Yttrium-90	W, see ^{86m}Y	4E+2	7E+2	3E-7	9E-10	-	-
		LLI wall (5E+2)	-	-	-	-	7E-6	7E-5
		Y, see ^{86m}Y	-	6E+2	3E-7	9E-10	-	-
39	Yttrium-91m ²	W, see ^{86m}Y	1E+5	2E+5	1E-4	3E-7	2E-3	2E-2
		Y, see ^{86m}Y	-	2E+5	7E-5	2E-7	-	-
39	Yttrium-91	W, see ^{86m}Y	5E+2	2E+2	7E-8	2E-10	-	-
		LLI wall (6E+2)	-	-	-	-	8E-6	8E-5
		Y, see ^{86m}Y	-	1E+2	5E-8	2E-10	-	-
39	Yttrium-92	W, see ^{86m}Y	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{86m}Y	-	8E+3	3E-6	1E-8	-	-
39	Yttrium-93	W, see ^{86m}Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ^{86m}Y	-	2E+3	1E-6	3E-9	-	-
39	Yttrium-94 ²	W, see ^{86m}Y	2E+4	8E+4	3E-5	1E-7	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		Y, see ^{86m}Y	-	8E+4	3E-5	1E-7	-	-
39	Yttrium-95 ²	W, see ^{86m}Y	4E+4	2E+5	6E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		Y, see ^{86m}Y	-	1E+5	6E-5	2E-7	-	-
40	Zirconium-86	D, all compounds except those given for W and Y	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
		Y, carbide	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-88	D, see ^{86}Zr	4E+3	2E+2	9E-8	3E-10	5E-5	5E-4
		W, see ^{86}Zr	-	5E+2	2E-7	7E-10	-	-
		Y, see ^{86}Zr	-	3E+2	1E-7	4E-10	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
40	Zirconium-89	D, see ⁸⁶ Zr	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ⁸⁶ Zr	-	2E+3	1E-6	3E-9	-	-
		Y, see ⁸⁶ Zr	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-93	D, see ⁸⁶ Zr	1E+3	6E+0	3E-9	-	-	-
		Bone surf (3E+3)	Bone surf (2E+1)	-	2E-11	4E-5	4E-4	
		W, see ⁸⁶ Zr	-	2E+1	1E-8	-	-	-
		Bone surf (6E+1)	-	9E-11	-	-	-	
		Y, see ⁸⁶ Zr	-	6E+1	2E-8	-	-	-
40	Zirconium-95	D, see ⁸⁶ Zr	1E+3	1E+2	5E-8	-	2E-5	2E-4
		Bone surf (3E+2)	-	4E-10	-	-	-	
		W, see ⁸⁶ Zr	-	4E+2	2E-7	5E-10	-	-
		Y, see ⁸⁶ Zr	-	3E+2	1E-7	4E-10	-	-
40	Zirconium-97	D, see ⁸⁶ Zr	6E+2	2E+3	8E-7	3E-9	9E-6	9E-5
		W, see ⁸⁶ Zr	-	1E+3	6E-7	2E-9	-	-
		Y, see ⁸⁶ Zr	-	1E+3	5E-7	2E-9	-	-
41	Niobium-88 ²	W, all compounds except those given for Y	5E+4	2E+5	9E-5	3E-7	-	-
		St wall (7E+4)	-	-	-	-	1E-3	1E-2
41	Niobium-89 ² (66 min)	Y, oxides and hydroxides	-	2E+5	9E-5	3E-7	-	-
		W, see ⁸⁸ Nb	1E+4	4E+4	2E-5	6E-8	1E-4	1E-3
41	Niobium-89 (122 min)	Y, see ⁸⁸ Nb	-	4E+4	2E-5	5E-8	-	-
		W, see ⁸⁸ Nb	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
41	Niobium-90	Y, see ⁸⁸ Nb	-	2E+4	6E-6	2E-8	-	-
		W, see ⁸⁸ Nb	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
41	Niobium-93m	Y, see ⁸⁸ Nb	-	2E+3	1E-6	3E-9	-	-
		W, see ⁸⁸ Nb	9E+3	2E+3	8E-7	3E-9	-	-
41	Niobium-94	LLI wall (1E+4)	-	-	-	-	2E-4	2E-3
		Y, see ⁸⁸ Nb	-	2E+2	7E-8	2E-10	-	-
41	Niobium-95m	W, see ⁸⁸ Nb	9E+2	2E+2	8E-8	3E-10	1E-5	1E-4
		Y, see ⁸⁸ Nb	-	2E+1	6E-9	2E-11	-	-
41	Niobium-95	W, see ⁸⁸ Nb	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall (2E+3)	-	-	-	-	3E-5	3E-4
41	Niobium-95	Y, see ⁸⁸ Nb	-	2E+3	9E-7	3E-9-	-	-
		W, see ⁸⁸ Nb	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		Y, see ⁸⁸ Nb	-	1E+3	5E-7	2E-9-	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
41	Niobium-96	W, see ⁸⁸ Nb	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ⁸⁸ Nb	-	2E+3	1E-6	3E-9	-	-
41	Niobium-97 ²	W, see ⁸⁸ Nb	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see ⁸⁸ Nb	-	7E+4	3E-5	1E-7	-	-
41	Niobium-98 ²	W, see ⁸⁸ Nb	1E+4	5E+4	2E-5	8E-8	2E-4	2E-3
		Y, see ⁸⁸ Nb	-	5E+4	2E-5	7E-8	-	-
42	Molybdenum-90	D, all compounds except those given for Y	4E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, oxides, hydroxides, and MoS	2E+3	5E+3	2E-6	6E-9	-	-
42	Molybdenum-93m	D, see ⁹⁰ Mo	9E+3	2E+4	7E-6	2E-8	6E-5	6E-4
		Y, see ⁹⁰ Mo	4E+3	1E+4	6E-6	2E-8	-	-
42	Molybdenum-93	D, see ⁹⁰ Mo	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		Y, see ⁹⁰ Mo	2E+4	2E+2	8E-8	2E-10	-	-
42	Molybdenum-99	D, see ⁹⁰ Mo	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall	(1E+3)	-	-	-	2E-5	2E-4
		Y, see ⁹⁰ Mo	1E+3	1E+3	6E-7	2E-9	-	-
42	Molybdenum-101 ²	D, see ⁹⁰ Mo	4E+4	1E+5	6E-5	2E-7	-	-
		St wall	(5E+4)	-	-	-	7E-4	7E-3
		Y, see ⁹⁰ Mo	-	1E+5	6E-5	2E-7	-	-
43	Technetium-93m ²	D, All compounds except those given for W	7E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, and nitrates	-	3E+5	1E-4	4E-7	-	-
43	Technetium-93	D, see ^{93m} Tc	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		W, see ^{93m} Tc	-	1E+5	4E-5	1E-7	-	-
43	Technetium-94m ²	D, see ^{93m} Tc	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, see ^{93m} Tc	-	6E+4	2E-5	8E-8	-	-
43	Technetium-94	D, see ^{93m} Tc	9E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ^{93m} Tc	-	2E+4	1E-5	3E-8	-	-
43	Technetium-95m	D, see ^{93m} Tc	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		W, see ^{93m} Tc	-	2E+3	8E-7	3E-9	-	-
43	Technetium-95	D, see ^{93m} Tc	1E+4	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{93m} Tc	-	2E+4	8E-6	3E-8	-	-
43	Technetium-96m ²	D, see ^{93m} Tc	2E+5	3E+5	1E-4	4E-7	2E-3	2E-2
		W, see ^{93m} Tc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-96	D, see ^{93m} Tc	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		W, see ^{93m} Tc	-	2E+3	9E-7	3E-9	-	-
43	Technetium-97m	D, see ^{93m} Tc	5E+3	7E+3	3E-6	-	6E-5	6E-4
		St wall	-	(7E+3)	-	1E-8	-	-
		W, see ^{93m} Tc	-	1E+3	5E-7	2E-9	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
43	Technetium-97	D, see ^{93}mTc	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
		W, see ^{93}mTc	-	6E+3	2E-6	8E-9	-	-
43	Technetium-98	D, see ^{93}mTc	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ^{93}mTc	-	3E+2	1E-7	4E-10	-	-
43	Technetium-99m	D, see ^{93}mTc	8E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, see ^{93}mTc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-99	D, see ^{93}mTc	4E+3	5E+3	2E-6	-	6E-5	6E-4
		St wall	-	(6E+3)	-	8E-9	-	-
43	Technetium-101 ²	W, see ^{93}mTc	-	7E+2	3E-7	9E-10	-	-
		D, see ^{93}mTc	9E+4	3E+5	1E-4	5E-7	-	-
43	Technetium-104 ²	St wall	(1E+5)	-	-	-	2E-3	2E-2
		D, see ^{93}mTc	2E+4	7E+4	3E-5	1E-7	-	-
43	Technetium-104 ²	St wall	(3E+4)	-	-	-	4E-4	4E-3
		W, see ^{93}mTc	-	9E+4	4E-5	1E-7	-	-
44	Ruthenium-94 ²	D, all compounds except those given for W and Y	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, halides	-	6E+4	3E-5	9E-8	-	-
		Y, oxides and hydroxides	-	6E+4	2E-5	8E-8	-	-
44	Ruthenium-97	D, see ^{94}Ru	8E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
		Y, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-103	D, see ^{94}Ru	2E+3	2E+3	7E-7	2E-9	3E-5	3E-4
		W, see ^{94}Ru	-	1E+3	4E-7	1E-9	-	-
		Y, see ^{94}Ru	-	6E+2	3E-7	9E-10	-	-
44	Ruthenium-105	D, see ^{94}Ru	5E+3	1E+4	6E-6	2E-8	7E-5	7E-4
		W, see ^{94}Ru	-	1E+4	6E-6	2E-8	-	-
		Y, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-106	D, see ^{94}Ru	2E+2	9E+1	4E-8	1E-10	-	-
		LLI wall	(2E+2)	-	-	-	3E-6	3E-5
		W, see ^{94}Ru	-	5E+1	2E-8	8E-11	-	-
45	Rhodium-99m	Y, see ^{94}Ru	-	1E+1	5E-9	2E-11	-	-
		D, all compounds except those given for W and Y	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		W, halides	-	8E+4	3E-5	1E-7	-	-
45	Rhodium-99	Y, oxides and hydroxides	-	7E+4	3E-5	9E-8	-	-
		D, see ^{99}mRh	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{99}mRh	-	2E+3	9E-7	3E-9	-	-
		Y, see ^{99}mRh	-	2E+3	8E-7	3E-9	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
45	Rhodium-100	D, see ^{99m}Rh	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see ^{99m}Rh	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{99m}Rh	-	4E+3	2E-6	5E-9	-	-
45	Rhodium-101m	D, see ^{99m}Rh	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{99m}Rh	-	8E+3	4E-6	1E-8	-	-
		Y, see ^{99m}Rh	-	8E+3	3E-6	1E-8	-	-
45	Rhodium-101	D, see ^{99m}Rh	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ^{99m}Rh	-	8E+2	3E-7	1E-9	-	-
		Y, see ^{99m}Rh	-	2E+2	6E-8	2E-10	-	-
45	Rhodium-102m	D, see ^{99m}Rh	1E+3	5E+2	2E-7	7E-10	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		W, see ^{99m}Rh	-	4E+2	2E-7	5E-10	-	-
45	Rhodium-102	D, see ^{99m}Rh	6E+2	9E+1	4E-8	1E-10	8E-6	8E-5
		W, see ^{99m}Rh	-	2E+2	7E-8	2E-10	-	-
		Y, see ^{99m}Rh	-	6E+1	2E-8	8E-11	-	-
45	Rhodium-103m ²	D, see ^{99m}Rh	4E+5	1E+6	5E-4	2E-6	6E-3	6E-2
		W, see ^{99m}Rh	-	1E+6	5E-4	2E-6	-	-
		Y, see ^{99m}Rh	-	1E+6	5E-4	2E-6	-	-
45	Rhodium-105	D, see ^{99m}Rh	4E+3	1E+4	5E-6	2E-8	-	-
		LLI wall (4E+3)	-	-	-	-	5E-5	5E-4
		W, see ^{99m}Rh	-	6E+3	3E-6	9E-9	-	-
45	Rhodium-106m	D, see ^{99m}Rh	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ^{99m}Rh	-	4E+4	2E-5	5E-8	-	-
		Y, see ^{99m}Rh	-	4E+4	1E-5	5E-8	-	-
45	Rhodium-107 ²	D, see ^{99m}Rh	7E+4	2E+5	1E-4	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see ^{99m}Rh	-	3E+5	1E-4	4E-7	-	-
46	Palladium-100	Y, see ^{99m}Rh	-	3E+5	1E-4	3E-7	-	-
		D, all compounds except those given for W and Y	1E+3	1E+3	6E-7	2E-9	2E-5	2E-4
		W, nitrates	-	1E+3	5E-7	2E-9	-	-
46	Palladium-101	Y, oxides and hydroxides	-	1E+3	6E-7	2E-9	-	-
		D, see ^{100}Pd	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{100}Pd	-	3E+4	1E-5	5E-8	-	-
		Y, see ^{100}Pd	-	3E+4	1E-5	4E-8	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Releases to Sewers Monthly Average Concentration ($\mu\text{Ci/ml}$)
46	Palladium-103	D, see ^{100}Pd	6E+3	6E+3	3E-6	9E-9	-	-
			LLI wall (7E+3)	-	-	-	1E-4	1E-3
		W, see ^{100}Pd	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{100}Pd	-	4E+3	1E-6	5E-9	-	-
46	Palladium-107	D, see ^{100}Pd	3E+4	2E+4	9E-6	-	-	-
			LLI wall (4E+4)	Kidneys (2E+4)	-	3E-8	5E-4	5E-3
		W, see ^{100}Pd	-	7E+3	3E-6	1E-8	-	-
		Y, see ^{100}Pd	-	4E+2	2E-7	6E-10	-	-
46	Palladium-109	D, see ^{100}Pd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		W, see ^{100}Pd	-	5E+3	2E-6	8E-9	-	-
		Y, see ^{100}Pd	-	5E+3	2E-6	6E-9	-	-
47	Silver-102 ²	D, all compounds except those given for W and Y	5E+4	2E+5	8E-5	2E-7	-	-
			St wall (6E+4)	-	-	-	9E-4	9E-3
		W, nitrates and sulfides	-	2E+5	9E-5	3E-7	-	-
		Y, oxides and hydroxides	-	2E+5	8E-5	3E-7	-	-
47	Silver-103 ²	D, see ^{102}Ag	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104m ²	D, see ^{102}Ag	3E+4	9E+4	4E-5	1E-7	4E-4	4E-3
		W, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104 ²	D, see ^{102}Ag	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{102}Ag	-	1E+5	6E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	6E-5	2E-7	-	-
47	Silver-105	D, see ^{102}Ag	3E+3	1E+3	4E-7	1E-9	4E-5	4E-4
		W, see ^{102}Ag	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{102}Ag	-	2E+3	7E-7	2E-9	-	-
47	Silver-106m	D, see ^{102}Ag	8E+2	7E+2	3E-7	1E-9	1E-5	1E-4
		W, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
		Y, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-106 ²	D, see ^{102}Ag	6E+4	2E+5	8E-5	3E-7	-	-
			St Wall (6E+4)	-	-	-	9E-4	9E-3
		W, see ^{102}Ag	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{102}Ag	-	2E+5	8E-5	3E-7	-	-
47	Silver-108m	D, see ^{102}Ag	6E+2	2E+2	8E-8	3E-10	9E-6	9E-5
		W, see ^{102}Ag	-	3E+2	1E-7	4E-10	-	-
		Y, see ^{102}Ag	-	2E+1	1E-8	3E-11	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
47	Silver-110m	D, see ^{102}Ag	5E+2	1E+2	5E-8	2E-10	6E-6	6E-5
		W, see ^{102}Ag	-	2E+2	8E-8	3E-10	-	-
		Y, see ^{102}Ag	-	9E+1	4E-8	1E-10	-	-
47	Silver-111	D, see ^{102}Ag	9E+2	2E+3	6E-7	-	-	-
		LLI wall (1E+3)	Liver (2E+3)	-	2E-9	2E-5	2E-4	
		W, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
		Y, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-112	D, see ^{102}Ag	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{102}Ag	-	1E+4	4E-6	1E-8	-	-
		Y, see ^{102}Ag	-	9E+3	4E-6	1E-8	-	-
47	Silver-115 ²	D, see ^{102}Ag	3E+4	9E+4	4E-5	1E-7	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		W, see ^{102}Ag	-	9E+4	4E-5	1E-7	-	-
		Y, see ^{102}Ag	-	8E+4	3E-5	1E-7	-	-
48	Cadmium-104 ²	D, all compounds except those given for W and Y	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
48	Cadmium-107	D, see ^{104}Cd	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
		W, see ^{104}Cd	-	6E+4	2E-5	8E-8	-	-
		Y, see ^{104}Cd	-	5E+4	2E-5	7E-8	-	-
48	Cadmium-109	D, see ^{104}Cd	3E+2	4E+1	1E-8	-	-	-
		Kidneys (4E+2)	Kidneys (5E+1)	-	7E-11	6E-6	6E-5	
		W, see ^{104}Cd	-	1E+2	5E-8	-	-	-
			Kidneys (1E+2)	-	2E-10	-	-	-
48	Cadmium-113m	Y, see ^{104}Cd	-	1E+2	5E-8	2E-10	-	-
		D, see ^{104}Cd	2E+1	2E+0	1E-9	-	-	-
		Kidneys (4E+1)	Kidneys (4E+0)	-	5E-12	5E-7	5E-6	
48	Cadmium-113	W, see ^{104}Cd	-	8E+0	4E-9	-	-	-
			Kidneys (1E+1)	-	2E-11	-	-	
		Y, see ^{104}Cd	-	1E+1	5E-9	2E-11	-	-
		D, see ^{104}Cd	2E+1	2E+0	9E-10	-	-	-
48	Cadmium-113	Kidneys (3E+1)	Kidneys (3E+0)	-	5E-12	4E-7	4E-6	
		W, see ^{104}Cd	-	8E+0	3E-9	-	-	-
			Kidneys (1E+1)	-	2E-11	-	-	
	Y, see ^{104}Cd	-	1E+1	6E-9	2E-11	-	-	

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
48	Cadmium-115m	D, see ^{104}Cd	3E+2	5E+1	2E-8	-	4E-6	4E-5
				Kidneys				
			-	(8E+1)	-	1E-10	-	-
	W, see ^{104}Cd	-	1E+2	5E-8	2E-10	-	-	
	Y, see ^{104}Cd	-	1E+2	6E-8	2E-10	-	-	
48	Cadmium-115	D, see ^{104}Cd	9E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
		W, see ^{104}Cd	-	1E+3	5E-7	2E-9	-	-
	Y, see ^{104}Cd	-	1E+3	6E-7	2E-9	-	-	
48	Cadmium-117m	D, see ^{104}Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ^{104}Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ^{104}Cd	-	1E+4	6E-6	2E-8	-	-
48	Cadmium-117	D, see ^{104}Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ^{104}Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ^{104}Cd	-	1E+4	6E-6	2E-8	-	-
49	Indium-109	D, all compounds except those given for W	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	9E-8	-	-
49	Indium-110 ² (69.1 min)	D, see ^{109}In	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{109}In	-	6E+4	2E-5	8E-8	-	-
49	Indium-110 (4.9 h)	D, see ^{109}In	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		W, see ^{109}In	-	2E+4	8E-6	3E-8	-	-
49	Indium-111	D, see ^{109}In	4E+3	6E+3	3E-6	9E-9	6E-5	6E-4
		W, see ^{109}In	-	6E+3	3E-6	9E-9	-	-
49	Indium-112 ²	D, see ^{109}In	2E+5	6E+5	3E-4	9E-7	2E-3	2E-2
		W, see ^{109}In	-	7E+5	3E-4	1E-6	-	-
49	Indium-113m ²	D, see ^{109}In	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		W, see ^{109}In	-	2E+5	8E-5	3E-7	-	-
49	Indium-114m	D, see ^{109}In	3E+2	6E+1	3E-8	9E-11	-	-
			LLI wall (4E+2)	-	-	-	5E-6	5E-5
		W, see ^{109}In	-	1E+2	4E-8	1E-10	-	-
49	Indium-115m	D, see ^{109}In	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{109}In	-	5E+4	2E-5	7E-8	-	-
49	Indium-115	D, see ^{109}In	4E+1	1E+0	6E-10	2E-12	5E-7	5E-6
		W, see ^{109}In	-	5E+0	2E-9	8E-12	-	-
49	Indium-116m ²	D, see ^{109}In	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{109}In	-	1E+5	5E-5	2E-7	-	-
49	Indium-117m ²	D, see ^{109}In	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{109}In	-	4E+4	2E-5	6E-8	-	-
49	Indium-117 ²	D, see ^{109}In	6E+4	2E+5	7E-5	2E-7	8E-4	8E-3
		W, see ^{109}In	-	2E+5	9E-5	3E-7	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
49	Indium-119m ²	D, see ¹⁰⁹ In	4E+4 St wall (5E+4)	1E+5 -	5E-5 -	2E-7 -	- 7E-4	- 7E-3
50	Tin-110	W, see ¹⁰⁹ In D, all compounds except those given for W W, sulfides, oxides, hydroxides, halides, nitrates, and stannic phosphate	4E+3 -	1E+4 1E+4	5E-6 5E-6	2E-8 2E-8	5E-5 -	5E-4 -
50	Tin-111 ²	D, see ¹¹⁰ Sn	7E+4	2E+5	9E-5	3E-7	1E-3	1E-2
50	Tin-113	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 2E+3 LLI wall (2E+3)	3E+5 1E+3 -	1E-4 5E-7 -	4E-7 2E-9 -	- -	- -
50	Tin-117m	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 2E+3 LLI wall (2E+3)	5E+2 1E+3 Bone surf (2E+3)	2E-7 5E-7 -	8E-10 -	- -	- -
50	Tin-119m	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 3E+3 LLI wall (4E+3)	1E+3 2E+3 -	4E-7 1E-6 -	1E-9 3E-9 -	- -	- -
50	Tin-121m	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 3E+3 LLI wall (4E+3)	1E+3 9E+2 -	4E-7 4E-7 -	1E-9 1E-9 -	- -	- -
50	Tin-121	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 6E+3 LLI wall (6E+3)	1E+3 2E+4 -	4E-7 6E-6 -	1E-9 2E-8 -	- -	- -
50	Tin-123m ²	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 5E+4	1E+3 1E+5	4E-7 5E-5	1E-9 2E-7	- 7E-4	- 7E-3
50	Tin-123	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 5E+2 LLI wall (6E+2)	1E+3 6E+2 -	4E-7 3E-7 -	1E-9 9E-10 -	- -	- -
50	Tin-125	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 4E+2 LLI wall (5E+2)	1E+3 2E+2 -	4E-7 7E-8 -	1E-9 2E-10 -	- -	- -
50	Tin-126	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 3E+2	1E+3 6E+1	4E-7 2E-8	1E-9 8E-11	- 4E-6	- 4E-5
50	Tin-127	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 7E+3	1E+3 2E+4	4E-7 8E-6	1E-9 3E-8	- 9E-5	- 9E-4
		W, see ¹¹⁰ Sn	-	2E+4	8E-6	3E-8	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
50	Tin-128 ²	D, see ¹¹⁰ Sn	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ¹¹⁰ Sn	-	4E+4	1E-5	5E-8	-	-
51	Antimony-115 ²	D, all compounds except those given for W	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, sulfides, sulfates, and nitrates	-	3E+5	1E-4	4E-7	-	-
51	Antimony-116m ²	D, see ¹¹⁵ Sb	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ¹¹⁵ Sb	-	1E+5	6E-5	2E-7	-	-
51	Antimony-116 ²	D, see ¹¹⁵ Sb	7E+4	3E+5	1E-4	4E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
51	Antimony-117	W, see ¹¹⁵ Sb	-	3E+5	1E-4	5E-7	-	-
		D, see ¹¹⁵ Sb	7E+4	2E+5	9E-5	3E-7	9E-4	9E-3
51	Antimony-118m	W, see ¹¹⁵ Sb	-	3E+5	1E-4	4E-7	-	-
		D, see ¹¹⁵ Sb	6E+3	2E+4	8E-6	3E-8	7E-5	7E-4
51	Antimony-119	W, see ¹¹⁵ Sb	5E+3	2E+4	9E-6	3E-8	-	-
		D, see ¹¹⁵ Sb	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
51	Antimony-120 ² (16 min)	W, see ¹¹⁵ Sb	2E+4	3E+4	1E-5	4E-8	-	-
		D, see ¹¹⁵ Sb	1E+5	4E+5	2E-4	6E-7	-	-
51	Antimony-120 (5.76 d)	St wall (2E+5)	-	-	-	-	2E-3	2E-2
		W, see ¹¹⁵ Sb	-	5E+5	2E-4	7E-7	-	-
51	Antimony-122	D, see ¹¹⁵ Sb	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		W, see ¹¹⁵ Sb	9E+2	1E+3	5E-7	2E-9	-	-
51	Antimony-124m ²	D, see ¹¹⁵ Sb	8E+2	2E+3	1E-6	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
51	Antimony-124	W, see ¹¹⁵ Sb	7E+2	1E+3	4E-7	2E-9	-	-
		D, see ¹¹⁵ Sb	3E+5	8E+5	4E-4	1E-6	3E-3	3E-2
51	Antimony-125	W, see ¹¹⁵ Sb	2E+5	6E+5	2E-4	8E-7	-	-
		D, see ¹¹⁵ Sb	6E+2	9E+2	4E-7	1E-9	7E-6	7E-5
51	Antimony-126m ²	W, see ¹¹⁵ Sb	5E+2	2E+2	1E-7	3E-10	-	-
		D, see ¹¹⁵ Sb	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
51	Antimony-126	W, see ¹¹⁵ Sb	-	5E+2	2E-7	7E-10	-	-
		D, see ¹¹⁵ Sb	5E+4	2E+5	8E-5	3E-7	-	-
51	Antimony-127	St wall (7E+4)	-	-	-	-	9E-4	9E-3
		W, see ¹¹⁵ Sb	-	2E+5	8E-5	3E-7	-	-
51	Antimony-127	D, see ¹¹⁵ Sb	6E+2	1E+3	5E-7	2E-9	7E-6	7E-5
		W, see ¹¹⁵ Sb	5E+2	5E+2	2E-7	7E-10	-	-
51	Antimony-127	D, see ¹¹⁵ Sb	8E+2	2E+3	9E-7	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
		W, see ¹¹⁵ Sb	7E+2	9E+2	4E-7	1E-9	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
51	Antimony-128 ² (10.4 min)	D, see ¹¹⁵ Sb	8E+4	4E+5	2E-4	5E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
		W, see ¹¹⁵ Sb	-	4E+5	2E-4	6E-7	-	-
51	Antimony-128 (9.01 h)	D, see ¹¹⁵ Sb	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
			W, see ¹¹⁵ Sb	-	3E+3	1E-6	5E-9	-
51	Antimony-129	D, see ¹¹⁵ Sb	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
			W, see ¹¹⁵ Sb	-	9E+3	4E-6	1E-8	-
51	Antimony-130 ²	D, see ¹¹⁵ Sb	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
			W, see ¹¹⁵ Sb	-	8E+4	3E-5	1E-7	-
51	Antimony-131 ²	D, see ¹¹⁵ Sb	1E+4	2E+4	1E-5	-	-	-
			Thyroid (2E+4)	Thyroid (4E+4)	-	6E-8	2E-4	2E-3
			W, see ¹¹⁵ Sb	-	2E+4	1E-5	-	-
			-	Thyroid (4E+4)	-	6E-8	-	-
52	Tellurium-116	D, all compounds except those given for W W, oxides, hydroxides, and nitrates	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
			-	3E+4	1E-5	4E-8	-	-
52	Tellurium-121m	D, see ¹¹⁶ Te	5E+2	2E+2	8E-8	-	-	-
			Bone surf (7E+2)	Bone surf (4E+2)	-	5E-10	1E-5	1E-4
		W, see ¹¹⁶ Te	-	4E+2	2E-7	6E-10	-	-
52	Tellurium-121	D, see ¹¹⁶ Te	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
			W, see ¹¹⁶ Te	-	3E+3	1E-6	4E-9	-
52	Tellurium-123m	D, see ¹¹⁶ Te	6E+2	2E+2	9E-8	-	-	-
			Bone surf (1E+3)	Bone surf (5E+2)	-	8E-10	1E-5	1E-4
		W, see ¹¹⁶ Te	-	5E+2	2E-7	8E-10	-	-
52	Tellurium-123	D, see ¹¹⁶ Te	5E+2	2E+2	8E-8	-	-	-
			Bone surf (1E+3)	Bone surf (5E+2)	-	7E-10	2E-5	2E-4
			W, see ¹¹⁶ Te	-	4E+2	2E-7	-	-
			-	Bone surf (1E+3)	-	2E-9	-	-
52	Tellurium-125m	D, see ¹¹⁶ Te	1E+3	4E+2	2E-7	-	-	-
			Bone surf (1E+3)	Bone surf (1E+3)	-	1E-9	2E-5	2E-4
		W, see ¹¹⁶ Te	-	7E+2	3E-7	1E-9	-	-
52	Tellurium-127m	D, see ¹¹⁶ Te	6E+2	3E+2	1E-7	-	9E-6	9E-5
			-	Bone surf (4E+2)	-	6E-10	-	-
		W, see ¹¹⁶ Te	-	3E+2	1E-7	4E-10	-	-
52	Tellurium-127	D, see ¹¹⁶ Te	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
			W, see ¹¹⁶ Te	-	2E+4	7E-6	2E-8	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III	
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers	
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)	
52	Tellurium-129m	D, see ^{116}Te	5E+2	6E+2	3E-7	9E-10	7E-6	7E-5	
		W, see ^{116}Te	-	2E+2	1E-7	3E-10	-	-	
52	Tellurium-129 ²	D, see ^{116}Te	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3	
		W, see ^{116}Te	-	7E+4	3E-5	1E-7	-	-	
52	Tellurium-131m	D, see ^{116}Te	3E+2	4E+2	2E-7	-	-	-	
		Thyroid	(6E+2)	Thyroid	(1E+3)	-	2E-9	8E-6	8E-5
		W, see ^{116}Te	-	4E+2	2E-7	-	-	-	
		Thyroid	(9E+2)	-	1E-9	-	-	-	
52	Tellurium-131 ²	D, see ^{116}Te	3E+3	5E+3	2E-6	-	-	-	
		Thyroid	(6E+3)	Thyroid	(1E+4)	-	2E-8	8E-5	8E-4
		W, see ^{116}Te	-	5E+3	2E-6	-	-	-	
		Thyroid	(1E+4)	-	2E-8	-	-	-	
52	Tellurium-132	D, see ^{116}Te	2E+2	2E+2	9E-8	-	-	-	
		Thyroid	(7E+2)	Thyroid	(8E+2)	-	1E-9	9E-6	9E-5
		W, see ^{116}Te	-	2E+2	9E-8	-	-	-	
		Thyroid	(6E+2)	-	9E-10	-	-	-	
52	Tellurium-133m ²	D, see ^{116}Te	3E+3	5E+3	2E-6	-	-	-	
		Thyroid	(6E+3)	Thyroid	(1E+4)	-	2E-8	9E-5	9E-4
		W, see ^{116}Te	-	5E+3	2E-6	-	-	-	
		Thyroid	(1E+4)	-	2E-8	-	-	-	
52	Tellurium-133 ²	D, see ^{116}Te	1E+4	2E+4	9E-6	-	-	-	
		Thyroid	(3E+4)	Thyroid	(6E+4)	-	8E-8	4E-4	4E-3
		W, see ^{116}Te	-	2E+4	9E-6	-	-	-	
		Thyroid	(6E+4)	-	8E-8	-	-	-	
52	Tellurium-134 ²	D, see ^{116}Te	2E+4	2E+4	1E-5	-	-	-	
		Thyroid	(2E+4)	Thyroid	(5E+4)	-	7E-8	3E-4	3E-3
		W, see ^{116}Te	-	2E+4	1E-5	-	-	-	
		Thyroid	(5E+4)	-	7E-8	-	-	-	
53	Iodine-120m ²	D, all compounds	1E+4	2E+4	9E-6	3E-8	-	-	
		Thyroid	(1E+4)	-	-	-	2E-4	2E-3	
53	Iodine-120 ²	D, all compounds	4E+3	9E+3	4E-6	-	-	-	
		Thyroid	(8E+3)	Thyroid	(1E+4)	-	2E-8	1E-4	1E-3

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
53	Iodine-121	D, all compounds	1E+4 Thyroid (3E+4)	2E+4 Thyroid (5E+4)	8E-6 -	- 7E-8	- 4E-4	- 4E-3
53	Iodine-123	D, all compounds	3E+3 Thyroid (1E+4)	6E+3 Thyroid (2E+4)	3E-6 -	- 2E-8	- 1E-4	- 1E-3
53	Iodine-124	D, all compounds	5E+1 Thyroid (2E+2)	8E+1 Thyroid (3E+2)	3E-8 -	- 4E-10	- 2E-6	- 2E-5
53	Iodine-125	D, all compounds	4E+1 Thyroid (1E+2)	6E+1 Thyroid (2E+2)	3E-8 -	- 3E-10	- 2E-6	- 2E-5
53	Iodine-126	D, all compounds	2E+1 Thyroid (7E+1)	4E+1 Thyroid (1E+2)	1E-8 -	- 2E-10	- 1E-6	- 1E-5
53	Iodine-128 ²	D, all compounds	4E+4 St wall (6E+4)	1E+5 -	5E-5 -	2E-7 -	- 8E-4	- 8E-3
53	Iodine-129	D, all compounds	5E+0 Thyroid (2E+1)	9E+0 Thyroid (3E+1)	4E-9 -	- 4E-11	- 2E-7	- 2E-6
53	Iodine-130	D, all compounds	4E+2 Thyroid (1E+3)	7E+2 Thyroid (2E+3)	3E-7 -	- 3E-9	- 2E-5	- 2E-4
53	Iodine-131	D, all compounds	3E+1 Thyroid (9E+1)	5E+1 Thyroid (2E+2)	2E-8 -	- 2E-10	- 1E-6	- 1E-5
53	Iodine-132m ²	D, all compounds	4E+3 Thyroid (1E+4)	8E+3 Thyroid (2E+4)	4E-6 -	- 3E-8	- 1E-4	- 1E-3
53	Iodine-132	D, all compounds	4E+3 Thyroid (9E+3)	8E+3 Thyroid (1E+4)	3E-6 -	- 2E-8	- 1E-4	- 1E-3
53	Iodine-133	D, all compounds	1E+2 Thyroid (5E+2)	3E+2 Thyroid (9E+2)	1E-7 -	- 1E-9	- 7E-6	- 7E-5
53	Iodine-134 ²	D, all compounds	2E+4 Thyroid (3E+4)	5E+4 -	2E-5 -	6E-8 -	- 4E-4	- 4E-3
53	Iodine-135	D, all compounds	8E+2 Thyroid (3E+3)	2E+3 Thyroid (4E+3)	7E-7 -	- 6E-9	- 3E-5	- 3E-4
54	Xenon-120 ²	Submersion ¹	-	-	1E-5	4E-8	-	-
54	Xenon-121 ²	Submersion ¹	-	-	2E-6	1E-8	-	-
54	Xenon-122	Submersion ¹	-	-	7E-5	3E-7	-	-
54	Xenon-123	Submersion ¹	-	-	6E-6	3E-8	-	-
54	Xenon-125	Submersion ¹	-	-	2E-5	7E-8	-	-
54	Xenon-127	Submersion ¹	-	-	1E-5	6E-8	-	-
54	Xenon-129m	Submersion ¹	-	-	2E-4	9E-7	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
54	Xenon-131m	Submersion ¹	-	-	4E-4	2E-6	-	-
54	Xenon-133m	Submersion ¹	-	-	1E-4	6E-7	-	-
54	Xenon-133	Submersion ¹	-	-	1E-4	5E-7	-	-
54	Xenon-135m ²	Submersion ¹	-	-	9E-6	4E-8	-	-
54	Xenon-135	Submersion ¹	-	-	1E-5	7E-8	-	-
54	Xenon-138 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
55	Cesium-125 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2
55	Cesium-127	D, all compounds	6E+4	9E+4	4E-5	1E-7	9E-4	9E-3
55	Cesium-129	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
55	Cesium-130 ²	D, all compounds	6E+4	2E+5	8E-5	3E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
55	Cesium-131	D, all compounds	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
55	Cesium-132	D, all compounds	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
55	Cesium-134m	D, all compounds	1E+5	1E+5	6E-5	2E-7	-	-
			St wall (1E+5)	-	-	-	2E-3	2E-2
55	Cesium-134	D, all compounds	7E+1	1E+2	4E-8	2E-10	9E-7	9E-6
55	Cesium-135m ²	D, all compounds	1E+5	2E+5	8E-5	3E-7	1E-3	1E-2
55	Cesium-135	D, all compounds	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
55	Cesium-136	D, all compounds	4E+2	7E+2	3E-7	9E-10	6E-6	6E-5
55	Cesium-137	D, all compounds	1E+2	2E+2	6E-8	2E-10	1E-6	1E-5
55	Cesium-138 ²	D, all compounds	2E+4	6E+4	2E-5	8E-8	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
56	Barium-126 ²	D, all compounds	6E+3	2E+4	6E-6	2E-8	8E-5	8E-4
56	Barium-128	D, all compounds	5E+2	2E+3	7E-7	2E-9	7E-6	7E-5
56	Barium-131m ²	D, all compounds	4E+5	1E+6	6E-4	2E-6	-	-
			St wall (5E+5)	-	-	-	7E-3	7E-2
56	Barium-131	D, all compounds	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
56	Barium-133m	D, all compounds	2E+3	9E+3	4E-6	1E-8	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
56	Barium-133	D, all compounds	2E+3	7E+2	3E-7	9E-10	2E-5	2E-4
56	Barium-135m	D, all compounds	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
56	Barium-139 ²	D, all compounds	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
56	Barium-140	D, all compounds	5E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
56	Barium-141 ²	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
56	Barium-142 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
57	Lanthanum-131 ²	D, all compounds except those given for W, oxides and hydroxides	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
			-	2E+5	7E-5	2E-7	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
57	Lanthanum-132	D, see ¹³¹ La	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
		W, see ¹³¹ La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-135	D, see ¹³¹ La	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ¹³¹ La	-	9E+4	4E-5	1E-7	-	-
57	Lanthanum-137	D, see ¹³¹ La	1E+4	6E+1	3E-8	-	2E-4	2E-3
				Liver				
			-	(7E+1)	-	1E-10	-	-
		W, see ¹³¹ La	-	3E+2	1E-7	-	-	-
				Liver				
		-	(3E+2)	-	4E-10	-	-	
57	Lanthanum-138	D, see ¹³¹ La	9E+2	4E+0	1E-9	5E-12	1E-5	1E-4
		W, see ¹³¹ La	-	1E+1	6E-9	2E-11	-	-
57	Lanthanum-140	D, see ¹³¹ La	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ¹³¹ La	-	1E+3	5E-7	2E-9	-	-
57	Lanthanum-141	D, see ¹³¹ La	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		W, see ¹³¹ La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-142 ²	D, see ¹³¹ La	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ¹³¹ La	-	3E+4	1E-5	5E-8	-	-
57	Lanthanum-143 ²	D, see ¹³¹ La	4E+4	1E+5	4E-5	1E-7	-	-
				St wall				
			(4E+4)	-	-	-	5E-4	5E-3
		W, see ¹³¹ La	-	9E+4	4E-5	1E-7	-	-
58	Cerium-134	W, all compounds except those given for Y	5E+2	7E+2	3E-7	1E-9	-	-
				LLI wall				
			(6E+2)	-	-	-	8E-6	8E-5
		Y, oxides, hydroxides, and fluorides	-	7E+2	3E-7	9E-10	-	-
58	Cerium-135	W, see ¹³⁴ Ce	2E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		Y, see ¹³⁴ Ce	-	4E+3	1E-6	5E-9	-	-
58	Cerium-137m	W, see ¹³⁴ Ce	2E+3	4E+3	2E-6	6E-9	-	-
				LLI wall				
			(2E+3)	-	-	-	3E-5	3E-4
		Y, see ¹³⁴ Ce	-	4E+3	2E-6	5E-9	-	-
58	Cerium-137	W, see ¹³⁴ Ce	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		Y, see ¹³⁴ Ce	-	1E+5	5E-5	2E-7	-	-
58	Cerium-139	W, see ¹³⁴ Ce	5E+3	8E+2	3E-7	1E-9	7E-5	7E-4
		Y, see ¹³⁴ Ce	-	7E+2	3E-7	9E-10	-	-
58	Cerium-141	W, see ¹³⁴ Ce	2E+3	7E+2	3E-7	1E-9	-	-
				LLI wall				
			(2E+3)	-	-	-	3E-5	3E-4
		Y, see ¹³⁴ Ce	-	6E+2	2E-7	8E-10	-	-
58	Cerium-143	W, see ¹³⁴ Ce	1E+3	2E+3	8E-7	3E-9	-	-
				LLI wall				
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ¹³⁴ Ce	-	2E+3	7E-7	2E-9	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
58	Cerium-144	W, see ^{134}Ce	2E+2	3E+1	1E-8	4E-11	-	-
		LLI wall	(3E+2)	-	-	-	3E-6	3E-5
		Y, see ^{134}Ce	-	1E+1	6E-9	2E-11	-	-
59	Praseodymium-136 ²	W, all compounds except those given for Y	5E+4	2E+5	1E-4	3E-7	-	-
		St wall	(7E+4)	-	-	-	1E-3	1E-2
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	9E-5	3E-7	-	-
59	Praseodymium-137 ²	W, see ^{136}Pr	4E+4	2E+5	6E-5	2E-7	5E-4	5E-3
		Y, see ^{136}Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-138m	W, see ^{136}Pr	1E+4	5E+4	2E-5	8E-8	1E-4	1E-3
		Y, see ^{136}Pr	-	4E+4	2E-5	6E-8	-	-
59	Praseodymium-139	W, see ^{136}Pr	4E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ^{136}Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-142m ²	W, see ^{136}Pr	8E+4	2E+5	7E-5	2E-7	1E-3	1E-2
		Y, see ^{136}Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-142	W, see ^{136}Pr	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		Y, see ^{136}Pr	-	2E+3	8E-7	3E-9	-	-
59	Praseodymium-143	W, see ^{136}Pr	9E+2	8E+2	3E-7	1E-9	-	-
		LLI wall	(1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{136}Pr	-	7E+2	3E-7	9E-10	-	-
59	Praseodymium-144 ²	W, see ^{136}Pr	3E+4	1E+5	5E-5	2E-7	-	-
		St wall	(4E+4)	-	-	-	6E-4	6E-3
		Y, see ^{136}Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-145	W, see ^{136}Pr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{136}Pr	-	8E+3	3E-6	1E-8	-	-
59	Praseodymium-147 ²	W, see ^{136}Pr	5E+4	2E+5	8E-5	3E-7	-	-
		St wall	(8E+4)	-	-	-	1E-3	1E-2
		Y, see ^{136}Pr	-	2E+5	8E-5	3E-7	-	-
60	Neodymium-136 ²	W, all compounds except those given for Y	1E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		Y, oxides, hydroxides, carbides, and fluorides	-	5E+4	2E-5	8E-8	-	-
60	Neodymium-138	W, see ^{136}Nd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		Y, see ^{136}Nd	-	5E+3	2E-6	7E-9	-	-
60	Neodymium-139m	W, see ^{136}Nd	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		Y, see ^{136}Nd	-	1E+4	6E-6	2E-8	-	-
60	Neodymium-139 ²	W, see ^{136}Nd	9E+4	3E+5	1E-4	5E-7	1E-3	1E-2
		Y, see ^{136}Nd	-	3E+5	1E-4	4E-7	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
60	Neodymium-141	W, see ^{136}Nd	2E+5	7E+5	3E-4	1E-6	2E-3	2E-2
		Y, see ^{136}Nd	-	6E+5	3E-4	9E-7	-	-
60	Neodymium-147	W, see ^{136}Nd	1E+3	9E+2	4E-7	1E-9	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see ^{136}Nd	-	8E+2	4E-7	1E-9	-	-
60	Neodymium-149 ²	W, see ^{136}Nd	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
		Y, see ^{136}Nd	-	2E+4	1E-5	3E-8	-	-
60	Neodymium-151 ²	W, see ^{136}Nd	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		Y, see ^{136}Nd	-	2E+5	8E-5	3E-7	-	-
61	Promethium-141 ²	W, all compounds except those given for Y	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (6E+4)	-	-	-	-	8E-4	8E-3
61	Promethium-143	Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	7E-5	2E-7	-	-
		W, see ^{141}Pm	5E+3	6E+2	2E-7	8E-10	7E-5	7E-4
61	Promethium-144	Y, see ^{141}Pm	-	7E+2	3E-7	1E-9	-	-
		W, see ^{141}Pm	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
61	Promethium-145	Y, see ^{141}Pm	-	1E+2	5E-8	2E-10	-	-
		W, see ^{141}Pm	1E+4	2E+2	7E-8	-	1E-4	1E-3
61	Promethium-146	Bone surf (2E+2)	-	-	-	3E-10	-	-
		Y, see ^{141}Pm	-	2E+2	8E-8	3E-10	-	-
		W, see ^{141}Pm	2E+3	5E+1	2E-8	7E-11	2E-5	2E-4
61	Promethium-147	Y see ^{141}Pm	-	4E+1	2E-8	6E-11	-	-
		W see ^{141}Pm	4E+3	1E+2	5E-8	-	-	-
61	Promethium-148m	LLI wall (5E+3)	-	-	-	3E-10	7E-5	7E-4
		Y, see ^{141}Pm	-	1E+2	6E-8	2E-10	-	-
		W, see ^{141}Pm	7E+2	3E+2	1E-7	4E-10	1E-5	1E-4
61	Promethium-148	Y, see ^{141}Pm	-	3E+2	1E-7	5E-10	-	-
		W, see ^{141}Pm	4E+2	5E+2	2E-7	8E-10	-	-
0	Promethium-149 ²	LLI wall (5E+2)	-	-	-	-	7E-6	7E-5
		Y, see ^{141}Pm	-	5E+2	2E-7	7E-10	-	-
61	Promethium-150	LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see ^{141}Pm	-	2E+3	8E-7	2E-9	-	-
		W, see ^{141}Pm	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
61	Promethium-151	Y, see ^{141}Pm	-	2E+4	7E-6	2E-8	-	-
		W, see ^{141}Pm	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
62	Samarium-141m ²	Y, see ^{141}Pm	-	3E+3	1E-6	4E-9	-	-
		W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
62	Samarium-141 ²	W, all compounds	5E+4 St wall (6E+4)	2E+5 -	8E-5 -	2E-7 -	- 8E-4	- 8E-3
62	Samarium-142 ²	W, all compounds	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
62	Samarium-145	W, all compounds	6E+3	5E+2	2E-7	7E-10	8E-5	8E-4
62	Samarium-146	W, all compounds	1E+1 Bone surf (3E+1)	4E2 Bone surf (6E-2)	1E-11 -	- 9E-14	- 3E-7	- 3E-6
62	Samarium-147	W, all compounds	2E+1 Bone surf (3E+1)	4E2 Bone surf (7E-2)	2E-11 -	- 1E-13	- 4E-7	- 4E-6
62	Samarium-151	W, all compounds	1E+4 LLI wall (1E+4)	1E+2 Bone surf (2E+2)	4E-8 -	- 2E-10	- 2E-4	- 2E-3
62	Samarium-153	W, all compounds	2E+3 LLI wall (2E+3)	3E+3 -	1E-6 -	4E-9 -	- 3E-5	- 3E-4
62	Samarium-155 ²	W, all compounds	6E+4 St wall (8E+4)	2E+5 -	9E-5 -	3E-7 -	- 1E-3	- 1E-2
62	Samarium-156	W, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
63	Europium-145	W, all compounds	2E+3	2E+3	8E-7	3E-9	2E-5	2E-4
63	Europium-146	W, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
63	Europium-147	W, all compounds	3E+3	2E+3	7E-7	2E-9	4E-5	4E-4
63	Europium-148	W, all compounds	1E+3	4E+2	1E-7	5E-10	1E-5	1E-4
63	Europium-149	W, all compounds	1E+4	3E+3	1E-6	4E-9	2E-4	2E-3
63	Europium-150 (12.62 h)	W, all compounds	3E+3	8E+3	4E-6	1E-8	4E-5	4E-4
63	Europium-150 (34.2 y)	W, all compounds	8E+2	2E+1	8E-9	3E-11	1E-5	1E-4
63	Europium-152m	W, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
63	Europium-152	W, all compounds	8E+2	2E+1	1E-8	3E-11	1E-5	1E-4
63	Europium-154	W, all compounds	5E+2	2E+1	8E-9	3E-11	7E-6	7E-5
63	Europium-155	W, all compounds	4E+3 -	9E+1 Bone surf (1E+2)	4E-8 -	- 2E-10	5E-5 -	5E-4 -
63	Europium-156	W, all compounds	6E+2	5E+2	2E-7	6E-10	8E-6	8E-5
63	Europium-157	W, all compounds	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
63	Europium-158 ²	W, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
64	Gadolinium-145 ²	D, all compounds except those given for W	5E+4 St wall (5E+4)	2E+5 -	6E-5 -	2E-7 -	- 6E-4	- 6E-3
		W, oxides, hydroxides, and fluorides	-	2E+5	7E-5	2E-7	-	-
64	Gadolinium-146	D, see ¹⁴⁵ Gd	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		W, see ¹⁴⁵ Gd	-	3E+2	1E-7	4E-10	-	-
64	Gadolinium-147	D, see ¹⁴⁵ Gd	2E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		W, see ¹⁴⁵ Gd	-	4E+3	1E-6	5E-9	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
64	Gadolinium-148	D, see ^{145}Gd	1E+1	8E+3	3E-12	-	-	-
			Bone surf (2E+1)	Bone surf (2E+2)	-	2E-14	3E-7	3E-6
		W, see ^{145}Gd	-	3E-2	1E-11	-	-	-
			-	Bone surf (6E-2)	-	8E-14	-	-
64	Gadolinium-149	D, see ^{145}Gd	3E+3	2E+3	9E-7	3E-9	4E-5	4E-4
		W, see ^{145}Gd	-	2E+3	1E-6	3E-9	-	-
64	Gadolinium-151	D, see ^{145}Gd	6E+3	4E+2	2E-7	-	9E-5	9E-4
			-	Bone surf (6E+2)	-	9E-10	-	-
		W, see ^{145}Gd	-	1E+3	5E-7	2E-9	-	-
			-	-	-	-	-	-
64	Gadolinium-152	D, see ^{145}Gd	2E+1	1E-2	4E-12	-	-	-
			Bone surf (3E+1)	Bone surf (2E-2)	-	3E-14	4E-7	4E-6
		W, see ^{145}Gd	-	4E-2	2E-11	-	-	-
			-	Bone surf (8E-2)	-	1E-13	-	-
64	Gadolinium-153	D, see ^{145}Gd	5E+3	1E+2	6E-8	-	6E-5	6E-4
			-	Bone surf (2E+2)	-	3E-10	-	-
		W, see ^{145}Gd	-	6E+2	2E-7	8E-10	-	-
			-	-	-	-	-	-
64	Gadolinium-159	D, see ^{145}Gd	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{145}Gd	-	6E+3	2E-6	8E-9	-	-
65	Terbium-147 ²	W, all compounds	9E+3	3E+4	1E-5	5E-8	1E-4	1E-3
65	Terbium-149	W, all compounds	5E+3	7E+2	3E-7	1E-9	7E-5	7E-4
65	Terbium-150	W, all compounds	5E+3	2E+4	9E-6	3E-8	7E-5	7E-4
65	Terbium-151	W, all compounds	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
65	Terbium-153	W, all compounds	5E+3	7E+3	3E-6	1E-8	7E-5	7E-4
65	Terbium-154	W, all compounds	2E+3	4E+3	2E-6	6E-9	2E-5	2E-4
65	Terbium-155	W, all compounds	6E+3	8E+3	3E-6	1E-8	8E-5	8E-4
65	Terbium-156m (5.0 h)	W, all compounds	2E+4	3E+4	1E-5	4E-8	2E-4	2E-3
65	Terbium-156m (24.4 h)	W, all compounds	7E+3	8E+3	3E-6	1E-8	1E-4	1E-3
65	Terbium-156	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
65	Terbium-157	W, all compounds	5E+4	3E+2	1E-7	-	-	-
			LLI wall (5E+4)	Bone surf (6E+2)	-	8E-10	7E-4	7E-3
65	Terbium-158	W, all compounds	1E+3	2E+1	8E-9	3E-11	2E-5	2E-4
65	Terbium-160	W, all compounds	8E+2	2E+2	9E-8	3E-10	1E-5	1E-4
65	Terbium-161	W, all compounds	2E+3	2E+3	7E-7	2E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
66	Dysprosium-155	W, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
66	Dysprosium-157	W, all compounds	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
66	Dysprosium-159	W, all compounds	1E+4	2E+3	1E-6	3E-9	2E-4	2E-3
66	Dysprosium-165	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
66	Dysprosium-166	W, all compounds	6E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
67	Holmium-155 ²	W, all compounds	4E+4	2E+5	6E-5	2E-7	6E-4	6E-3
67	Holmium-157 ²	W, all compounds	3E+5	1E+6	6E-4	2E-6	4E-3	4E-2
67	Holmium-159 ²	W, all compounds	2E+5	1E+6	4E-4	1E-6	3E-3	3E-2
67	Holmium-161	W, all compounds	1E+5	4E+5	2E-4	6E-7	1E-3	1E-2
67	Holmium-162m ²	W, all compounds	5E+4	3E+5	1E-4	4E-7	7E-4	7E-3
67	Holmium-162 ²	W, all compounds	5E+5	2E+6	1E-3	3E-6	-	-
			St wall (8E+5)	-	-	-	1E-2	1E-1
67	Holmium-164m ²	W, all compounds	1E+5	3E+5	1E-4	4E-7	1E-3	1E-2
67	Holmium-164 ²	W, all compounds	2E+5	6E+5	3E-4	9E-7	-	-
			St wall (2E+5)	-	-	-	3E-3	3E-2
67	Holmium-166m	W, all compounds	6E+2	7E+0	3E-9	9E-12	9E-6	9E-5
67	Holmium-166	W, all compounds	9E+2	2E+3	7E-7	2E-9	-	-
			LLI wall (9E+2)	-	-	-	1E-5	1E-4
67	Holmium-167	W, all compounds	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
68	Erbium-161	W, all compounds	2E+4	6E+4	3E-5	9E-8	2E-4	2E-3
68	Erbium-165	W, all compounds	6E+4	2E+5	8E-5	3E-7	9E-4	9E-3
68	Erbium-169	W, all compounds	3E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (4E+3)	-	-	-	5E-5	5E-4
68	Erbium-171	W, all compounds	4E+3	1E+4	4E-6	1E-8	5E-5	5E-4
68	Erbium-172	W, all compounds	1E+3	1E+3	6E-7	2E-9	-	-
			LLI wall (E+3)	-	-	-	2E-5	2E-4
69	Thulium-162 ²	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
69	Thulium-166	W, all compounds	4E+3	1E+4	6E-6	2E-8	6E-5	6E-4
69	Thulium-167	W, all compounds	2E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
69	Thulium-170	W, all compounds	8E+2	2E+2	9E-8	3E-10	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
69	Thulium-171	W, all compounds	1E+4	3E+2	1E-7	-	-	-
			LLI wall (1E+4)	Bone surf (6E+2)	-	8E-10	2E-4	2E-3
69	Thulium-172	W, all compounds	7E+2	1E+3	5E-7	2E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
69	Thulium-173	W, all compounds	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
69	Thulium-175 ²	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	Inhalation DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
70	Ytterbium-162 ²	W, all compounds except those given for Y Y, oxides, hydroxides, and fluorides	7E+4	3E+5	1E-4	4E-7	1E-3	1E-2
			-	3E+5	1E-4	4E-7	-	-
70	Ytterbium-166	W, see ¹⁶² Yb Y, see ¹⁶² Yb	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
			-	2E+3	8E-7	3E-9	-	-
70	Ytterbium-167 ²	W, see ¹⁶² Yb Y, see ¹⁶² Yb	3E+5	8E+5	3E-4	1E-6	4E-3	4E-2
			-	7E+5	3E-4	1E-6	-	-
70	Ytterbium-169	W, see ¹⁶² Yb Y, see ¹⁶² Yb	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
			-	7E+2	3E-7	1E-9	-	-
70	Ytterbium-175	W, see ¹⁶² Yb	3E+3	4E+3	1E-6	5E-9	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
		Y, see ¹⁶² Yb	-	3E+3	1E-6	5E-9	-	-
70	Ytterbium-177 ²	W, see ¹⁶² Yb Y, see ¹⁶² Yb	2E+4	5E+4	2E-5	7E-8	2E-4	2E-3
			-	5E+4	2E-5	6E-8	-	-
70	Ytterbium-178 ²	W, see ¹⁶² Yb Y, see ¹⁶² Yb	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
			-	4E+4	2E-5	5E-8	-	-
71	Lutetium-169	W, all compounds except those given for Y Y, oxides, hydroxides, and fluorides	3E+3	4E+3	2E-6	6E-9	3E-5	3E-4
			-	4E+3	2E-6	6E-9	-	-
71	Lutetium-170	W, see ¹⁶⁹ Lu Y, see ¹⁶⁹ Lu	1E+3	2E+3	9E-7	3E-9	2E-5	2E-4
			-	2E+3	8E-7	3E-9	-	-
71	Lutetium-171	W, see ¹⁶⁹ Lu Y, see ¹⁶⁹ Lu	2E+3	2E+3	8E-7	3E-9	3E-5	3E-4
			-	2E+3	8E-7	3E-9	-	-
71	Lutetium-172	W, see ¹⁶⁹ Lu Y, see ¹⁶⁹ Lu	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
			-	1E+3	5E-7	2E-9	-	-
71	Lutetium-173	W, see ¹⁶⁹ Lu	5E+3	3E+2	1E-7	-	7E-5	7E-4
		Bone surf (5E+2)	-	-	-	6E-10	-	-
		Y, see ¹⁶⁹ Lu	-	3E+2	1E-7	4E-10	-	-
71	Lutetium-174m	W, see ¹⁶⁹ Lu	2E+3	2E+2	1E-7	-	-	-
		LLI wall (3E+3)	-	Bone surf (3E+2)	-	5E-10	4E-5	4E-4
		Y, see ¹⁶⁹ Lu	-	2E+2	9E-8	3E-10	-	-
71	Lutetium-174	W, see ¹⁶⁹ Lu	5E+3	1E+2	5E-8	-	7E-5	7E-4
		Bone surf (2E+2)	-	-	-	3E-10	-	-
		Y, see ¹⁶⁹ Lu	-	2E+2	6E-8	2E-10	-	-
71	Lutetium-176m	W, see ¹⁶⁹ Lu Y, see ¹⁶⁹ Lu	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
			-	2E+4	9E-6	3E-8	-	-
71	Lutetium-176	W, see ¹⁶⁹ Lu	7E+2	5E+0	2E-9	-	1E-5	1E-4
		Bone surf (1E+1)	-	-	-	2E-11	-	-
		Y, see ¹⁶⁹ Lu	-	8E+0	3E-9	1E-1	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
71	Lutetium-177m	W, see ^{169}Lu	7E+2	1E+2	5E-8	-	1E-5	1E-4
				Bone surf				
			-	(1E+2)	-	2E-10	-	-
		Y, see ^{169}Lu	-	8E+1	3E-8	1E-10	-	-
71	Lutetium-177	W, see ^{169}Lu	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall					
			(3E+3)	-	-	-	4E-5	4E-4
		Y, see ^{169}Lu	-	2E+3	9E-7	3E-9	-	-
71	Lutetium-178m ²	W, see ^{169}Lu	5E+4	2E+5	8E-5	3E-7	-	-
			St. wall					
			(6E+4)	-	-	-	8E-4	8E-3
		Y, see ^{169}Lu	-	2E+5	7E-5	2E-7	-	-
71	Lutetium-178 ²	W, see ^{169}Lu	4E+4	1E+5	5E-5	2E-7	-	-
			St wall					
			(4E+4)	-	-	-	6E-4	6E-3
		Y, see ^{169}Lu	-	1E+5	5E-5	2E-7	-	-
71	Lutetium-179	W, see ^{169}Lu	6E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ^{169}Lu	-	2E+4	6E-6	3E-8	-	-
72	Hafnium-170	D, all compounds except those given for W	3E+3	6E+3	2E-6	8E-9	4E-5	4E-4
		W, oxides, hydroxides, carbides, and nitrates	-	5E+3	2E-6	6E-9	-	-
72	Hafnium-172	D, see ^{170}Hf	1E+3	9E+0	4E-9	-	2E-5	2E-4
				Bone surf				
			-	(2E+1)	-	3E-11	-	-
		W, see ^{170}Hf	-	4E+1	2E-8	-	-	-
				Bone surf				
			-	(6E+1)	-	8E-11	-	-
72	Hafnium-173	D, see ^{170}Hf	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{170}Hf	-	1E+4	5E-6	2E-8	-	-
72	Hafnium-175	D, see ^{170}Hf	3E+3	9E+2	4E-7	-	4E-5	4E-4
				Bone surf				
			-	(1E+3)	-	1E-9	-	-
		W, see ^{170}Hf	-	1E+3	5E-7	2E-9	-	-
72	Hafnium-177m ²	D, see ^{170}Hf	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		W, see ^{170}Hf	-	9E+4	4E-5	1E-7	-	-
72	Hafnium-178m	D, see ^{170}Hf	3E+2	1E+0	5E-10	-	3E-6	3E-5
				Bone surf				
			-	(2E+0)	-	3E-12	-	-
		W, see ^{170}Hf	-	5E+0	2E-9	-	-	-
				Bone surf				
			-	(9E+0)	-	1E-11	-	-
72	Hafnium-179m	D, see ^{170}Hf	1E+3	3E+2	1E-7	-	1E-5	1E-4
				Bone surf				
			-	(6E+2)	-	8E-10	-	-
		W, see ^{170}Hf	-	6E+2	3E-7	8E-10	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
72	Hafnium-180m	D, see ^{170}Hf	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{170}Hf	-	3E+4	1E-5	4E-8	-	-
72	Hafnium-181	D, see ^{170}Hf	1E+3	2E+2	7E-8	-	2E-5	2E-4
				Bone surf (4E+2)	-	6E-10	-	-
72	Hafnium-182m ²	W, see ^{170}Hf	-	4E+2	2E-7	6E-10	-	-
		D, see ^{170}Hf	4E+4	9E+4	4E-5	1E-7	5E-4	5E-3
72	Hafnium-182	W, see ^{170}Hf	-	1E+5	6E-5	2E-7	-	-
		D, see ^{170}Hf	2E+2	8E-1	3E-10	-	-	-
72	Hafnium-183 ²		Bone surf (4E+2)	Bone surf (2E+0)	-	2E-12	5E-6	5E-5
		W, see ^{170}Hf	-	3E+0	1E-9	-	-	-
72	Hafnium-184		-	Bone surf (7E+0)	-	1E-11	-	-
		D, see ^{170}Hf	2E+4	5E+4	2E-5	6E-8	3E-4	3E-3
72	Hafnium-184	W, see ^{170}Hf	-	6E+4	2E-5	8E-8	-	-
		D, see ^{170}Hf	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
72	Hafnium-184	W, see ^{170}Hf	-	6E+3	3E-6	9E-9	-	-
		W, all compounds except those given for Y	4E+4	1E+5	5E-5	2E-7	5E-4	5E-3
73	Tantalum-172 ²	Y, elemental Ta, oxides, hydroxides, halides, carbides, nitrates, and nitrides	-	1E+5	4E-5	1E-7	-	-
		W, see ^{172}Ta	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
73	Tantalum-173	Y, see ^{172}Ta	-	2E+4	7E-6	2E-8	-	-
		W, see ^{172}Ta	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
73	Tantalum-174 ²	Y, see ^{172}Ta	-	9E+4	4E-5	1E-7	-	-
		W, see ^{172}Ta	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
73	Tantalum-175	Y, see ^{172}Ta	-	1E+4	6E-6	2E-8	-	-
		W, see ^{172}Ta	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
73	Tantalum-176	Y, see ^{172}Ta	-	1E+4	5E-6	2E-8	-	-
		W, see ^{172}Ta	1E+4	2E+4	8E-6	3E-8	2E-4	2E-3
73	Tantalum-177	Y, see ^{172}Ta	-	2E+4	7E-6	2E-8	-	-
		W, see ^{172}Ta	2E+4	9E+4	4E-5	1E-7	2E-4	2E-3
73	Tantalum-178	Y, see ^{172}Ta	-	7E+4	3E-5	1E-7	-	-
		W, see ^{172}Ta	2E+4	5E+3	2E-6	8E-9	3E-4	3E-3
73	Tantalum-179	Y, see ^{172}Ta	-	9E+2	4E-7	1E-9	-	-
		W, see ^{172}Ta	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
73	Tantalum-180m	Y, see ^{172}Ta	-	6E+4	2E-5	8E-8	-	-
		W, see ^{172}Ta	1E+3	4E+2	2E-7	6E-10	2E-5	2E-4
73	Tantalum-180	Y, see ^{172}Ta	-	2E+1	1E-8	3E-11	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
73	Tantalum-182m ²	W, see ¹⁷² Ta	2E+5	5E+5	2E-4	8E-7	-	-
			St wall (2E+5)	-	-	-	3E-3	3E-2
		Y, see ¹⁷² Ta	-	4E+5	2E-4	6E-7	-	-
73	Tantalum-182	W, see ¹⁷² Ta	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		Y, see ¹⁷² Ta	-	1E+2	6E-8	2E-10	-	-
73	Tantalum-183	W, see ¹⁷² Ta	9E+2	1E+3	5E-7	2E-9	-	-
			LLI wall (1E+3)	-	-	-	2E-5	2E-4
		Y, see ¹⁷² Ta	-	1E+3	4E-7	1E-9	-	-
73	Tantalum-184	W, see ¹⁷² Ta	2E+3	5E+3	2E-6	8E-9	3E-5	3E-4
		Y, see ¹⁷² Ta	-	5E+3	2E-6	7E-9	-	-
73	Tantalum-185 ²	W, see ¹⁷² Ta	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		Y, see ¹⁷² Ta	-	6E+4	3E-5	9E-8	-	-
73	Tantalum-186 ²	W, see ¹⁷² Ta	5E+4	2E+5	1E-4	3E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
		Y, see ¹⁷² Ta	-	2E+5	9E-5	3E-7	-	-
74	Tungsten-176	D, all compounds	1E+4	5E+4	2E-5	7E-8	1E-4	1E-3
74	Tungsten-177	D, all compounds	2E+4	9E+4	4E-5	1E-7	3E-4	3E-3
74	Tungsten-178	D, all compounds	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
74	Tungsten-179 ²	D, all compounds	5E+5	2E+6	7E-4	2E-6	7E-3	7E-2
74	Tungsten-181	D, all compounds	2E+4	3E+4	1E-5	5E-8	2E-4	2E-3
74	Tungsten-185	D, all compounds	2E+3	7E+3	3E-6	9E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
74	Tungsten-187	D, all compounds	2E+3	9E+3	4E-6	1E-8	3E-5	3E-4
74	Tungsten-188	D, all compounds	4E+2	1E+3	5E-7	2E-9	-	-
			LLI wall (5E+2)	-	-	-	7E-6	7E-5
75	Rhenium-177 ²	D, all compounds except those given for W	9E+4	3E+5	1E-4	4E-7	-	-
			St wall (1E+5)	-	-	-	2E-3	2E-2
		W, oxides, hydroxides, and nitrates	-	4E+5	1E-4	5E-7	-	-
75	Rhenium-178 ²	D, see ¹⁷⁷ Re	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (1E+5)	-	-	-	1E-3	1E-2
		W, see ¹⁷⁷ Re	-	3E+5	1E-4	4E-7	-	-
75	Rhenium-181	D, see ¹⁷⁷ Re	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
		W, see ¹⁷⁷ Re	-	9E+3	4E-6	1E-8	-	-
75	Rhenium-182 (12.7 h)	D, see ¹⁷⁷ Re	7E+3	1E+4	5E-6	2E-8	9E-5	9E-4
		W, see ¹⁷⁷ Re	-	2E+4	6E-6	2E-8	-	-
75	Rhenium-182 (64.0 h)	D, see ¹⁷⁷ Re	1E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, see ¹⁷⁷ Re	-	2E+3	9E-7	3E-9	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
75	Rhenium-184m	D, see ¹⁷⁷ Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ¹⁷⁷ Re	-	4E+2	2E-7	6E-10	-	-
75	Rhenium-184	D, see ¹⁷⁷ Re	2E+3	4E+3	1E-6	5E-9	3E-5	3E-4
		W, see ¹⁷⁷ Re	-	1E+3	6E-7	2E-9	-	-
75	Rhenium-186m	D, see ¹⁷⁷ Re	1E+3	2E+3	7E-7	-	-	-
		St wall	(2E+3)	(2E+3)	-	3E-9	2E-5	2E-4
		W, see ¹⁷⁷ Re	-	2E+2	6E-8	2E-10	-	-
75	Rhenium-186	D, see ¹⁷⁷ Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ¹⁷⁷ Re	-	2E+3	7E-7	2E-9	-	-
75	Rhenium-187	D, see ¹⁷⁷ Re	6E+5	8E+5	4E-4	-	8E-3	8E-2
		St wall	-	(9E+5)	-	1E-6	-	-
		W, see ¹⁷⁷ Re	-	1E+5	4E-5	1E-7	-	-
75	Rhenium-188m ²	D, see ¹⁷⁷ Re	8E+4	1E+5	6E-5	2E-7	1E-3	1E-2
		W, see ¹⁷⁷ Re	-	1E+5	6E-5	2E-7	-	-
75	Rhenium-188	D, see ¹⁷⁷ Re	2E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		W, see ¹⁷⁷ Re	-	3E+3	1E-6	4E-9	-	-
75	Rhenium-189	D, see ¹⁷⁷ Re	3E+3	5E+3	2E-6	7E-9	4E-5	4E-4
		W, see ¹⁷⁷ Re	-	4E+3	2E-6	6E-9	-	-
76	Osmium-180 ²	D, all compounds except those given for W and Y	1E+5	4E+5	2E-4	5E-7	1E-3	1E-2
		W, halides and nitrates	-	5E+5	2E-4	7E-7	-	-
		Y, oxides and hydroxides	-	5E+5	2E-4	6E-7	-	-
76	Osmium-181 ²	D, see ¹⁸⁰ Os	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹⁸⁰ Os	-	5E+4	2E-5	6E-8	-	-
		Y, see ¹⁸⁰ Os	-	4E+4	2E-5	6E-8	-	-
76	Osmium-182	D, see ¹⁸⁰ Os	2E+3	6E+3	2E-6	8E-9	3E-5	3E-4
		W, see ¹⁸⁰ Os	-	4E+3	2E-6	6E-9	-	-
		Y, see ¹⁸⁰ Os	-	4E+3	2E-6	6E-9	-	-
76	Osmium-185	D, see ¹⁸⁰ Os	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ¹⁸⁰ Os	-	8E+2	3E-7	1E-9	-	-
		Y, see ¹⁸⁰ Os	-	8E+2	3E-7	1E-9	-	-
76	Osmium-189m	D, see ¹⁸⁰ Os	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, see ¹⁸⁰ Os	-	2E+5	9E-5	3E-7	-	-
		Y, see ¹⁸⁰ Os	-	2E+5	7E-5	2E-7	-	-
76	Osmium-191m	D, see ¹⁸⁰ Os	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ¹⁸⁰ Os	-	2E+4	8E-6	3E-8	-	-
		Y, see ¹⁸⁰ Os	-	2E+4	7E-6	2E-8	-	-
76	Osmium-191	D, see ¹⁸⁰ Os	2E+3	2E+3	9E-7	3E-9	-	-
		LLI wall	(3E+3)	-	-	-	3E-5	3E-4
		W, see ¹⁸⁰ Os	-	2E+3	7E-7	2E-9	-	-
		Y, see ¹⁸⁰ Os	-	1E+3	6E-7	2E-9	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	Inhalation DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
76	Osmium-193	D, see ^{180}Os	2E+3	5E+3	2E-6	6E-9	-	-
		LLI wall (2E+3)	-	-	-	-	2E-5	2E-4
		W, see ^{180}Os	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{180}Os	-	3E+3	1E-6	4E-9	-	-
76	Osmium-194	D, see ^{180}Os	4E+2	4E+1	2E-8	6E-11	-	-
		LLI wall (6E+2)	-	-	-	-	8E-6	8E-5
		W, see ^{180}Os	-	6E+1	2E-8	8E-11	-	-
		Y, see ^{180}Os	-	8E+0	3E-9	1E-11	-	-
77	Iridium-182 ²	D, all compounds except those given for W and Y	4E+4	1E+5	6E-5	2E-7	-	-
		St wall (4E+4)	-	-	-	-	6E-4	6E-3
		W, halides, nitrates, and metallic iridium	-	2E+5	6E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
77	Iridium-184	D, see ^{182}Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	5E-8	-	-
		Y, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-185	D, see ^{182}Ir	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{182}Ir	-	1E+4	5E-6	2E-8	-	-
		Y, see ^{182}Ir	-	1E+4	4E-6	1E-8	-	-
77	Iridium-186	D, see ^{182}Ir	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see ^{182}Ir	-	6E+3	3E-6	9E-9	-	-
		Y, see ^{182}Ir	-	6E+3	2E-6	8E-9	-	-
77	Iridium-187	D, see ^{182}Ir	1E+4	3E+4	1E-5	5E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-188	D, see ^{182}Ir	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		W, see ^{182}Ir	-	4E+3	1E-6	5E-9	-	-
		Y, see ^{182}Ir	-	3E+3	1E-6	5E-9	-	-
77	Iridium-189	D, see ^{182}Ir	5E+3	5E+3	2E-6	7E-9	-	-
		LLI wall (5E+3)	-	-	-	-	7E-5	7E-4
		W, see ^{182}Ir	-	4E+3	2E-6	5E-9	-	-
		Y, see ^{182}Ir	-	4E+3	1E-6	5E-9	-	-
77	Iridium-190m ²	D, see ^{182}Ir	2E+5	2E+5	8E-5	3E-7	2E-3	2E-2
		W, see ^{182}Ir	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{182}Ir	-	2E+5	8E-5	3E-7	-	-
77	Iridium-190	D, see ^{182}Ir	1E+3	9E+2	4E-7	1E-9	1E-5	1E-4
		W, see ^{182}Ir	-	1E+3	4E-7	1E-9	-	-
		Y, see ^{182}Ir	-	9E+2	4E-7	1E-9	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
77	Iridium-192m	D, see ^{182}Ir	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
		W, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
		Y, see ^{182}Ir	-	2E+1	6E-9	2E-11	-	-
77	Iridium-192	D, see ^{182}Ir	9E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		W, see ^{182}Ir	-	4E+2	2E-7	6E-10	-	-
		Y, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
77	Iridium-194m	D, see ^{182}Ir	6E+2	9E+1	4E-8	1E-10	9E-6	9E-5
		W, see ^{182}Ir	-	2E+2	7E-8	2E-10	-	-
		Y, see ^{182}Ir	-	1E+2	4E-8	1E-10	-	-
77	Iridium-194	D, see ^{182}Ir	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see ^{182}Ir	-	2E+3	9E-7	3E-9	-	-
		Y, see ^{182}Ir	-	2E+3	8E-7	3E-9	-	-
77	Iridium-195m	D, see ^{182}Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ^{182}Ir	-	2E+4	9E-6	3E-8	-	-
77	Iridium-195	D, see ^{182}Ir	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{182}Ir	-	5E+4	2E-5	7E-8	-	-
		Y, see ^{182}Ir	-	4E+4	2E-5	6E-8	-	-
78	Platinum-186	D, all compounds	1E+4	4E+4	2E-5	5E-8	2E-4	2E-3
78	Platinum-188	D, all compounds	2E+3	2E+3	7E-7	2E-9	2E-5	2E-4
78	Platinum-189	D, all compounds	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
78	Platinum-191	D, all compounds	4E+3	8E+3	4E-6	1E-8	5E-5	5E-4
78	Platinum-193m	D, all compounds	3E+3	6E+3	3E-6	8E-9	-	-
		LLI wall (3E+4)	-	-	-	4E-5	4E-4	
78	Platinum-193	D, all compounds	4E+4	2E+4	1E-5	3E-8	-	-
		LLI wall (5E+4)	-	-	-	6E-4	6E-3	
78	Platinum-195m	D, all compounds	2E+3	4E+3	2E-6	6E-9	-	-
		LLI wall (2E+3)	-	-	-	3E-5	3E-4	
78	Platinum-197m ²	D, all compounds	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
78	Platinum-197	D, all compounds	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
78	Platinum-199 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
78	Platinum-200	D, all compounds	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
79	Gold-193	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, halides and nitrates	-	2E+4	9E-6	3E-8	-	-
		Y, oxides and hydroxides	-	2E+4	8E-6	3E-8	-	-
79	Gold-194	D, see ^{193}Au	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{193}Au	-	5E+3	2E-6	8E-9	-	-
		Y, see ^{193}Au	-	5E+3	2E-6	7E-9	-	-
79	Gold-195	D see ^{193}Au	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W see ^{193}Au	-	1E+3	6E-7	2E-9	-	-
		Y see ^{193}Au	-	4E+2	2E-7	6E-10	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
79	Gold-198m	D see ¹⁹³ Au	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W see ¹⁹³ Au	-	1E+3	5E-7	2E-9	-	-
		Y see ¹⁹³ Au	-	1E+3	5E-7	2E-9	-	-
79	Gold-198	D see ¹⁹³ Au	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W see ¹⁹³ Au	-	2E+3	8E-7	3E-9	-	-
		Y see ¹⁹³ Au	-	2E+3	7E-7	2E-9	-	-
79	Gold-199	D see ¹⁹³ Au	3E+3	9E+3	4E-6	1E-8	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
		W, see ¹⁹³ Au	-	4E+3	2E-6	6E-9	-	-
79	Gold-200m	D, see ¹⁹³ Au	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ¹⁹³ Au	-	3E+3	1E-6	4E-9	-	-
		Y, see ¹⁹³ Au	-	2E+4	1E-6	3E-9	-	-
79	Gold-200 ²	D, see ¹⁹³ Au	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ¹⁹³ Au	-	8E+4	3E-5	1E-7	-	-
		Y, see ¹⁹³ Au	-	7E+4	3E-5	1E-7	-	-
79	Gold-201 ²	D, see ¹⁹³ Au	7E+4	2E+5	9E-5	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see ¹⁹³ Au	-	2E+5	1E-4	3E-7	-	-
80	Mercury-193m	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		D, sulfates	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
80	Mercury-193	W, oxides, hydroxides, halides, nitrates, and sulfides	-	8E+3	3E-6	1E-8	-	-
		Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
80	Mercury-194	D, see ^{193m} Hg	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{193m} Hg	-	4E+4	2E-5	6E-8	-	-
		Vapor	-	3E+1	1E-8	4E-11	-	-
80	Mercury-195m	Organic D	2E+1	3E+1	1E-8	4E-11	2E-7	2E-6
		D, see ^{193m} Hg	8E+2	4E+1	2E-8	6E-11	1E-5	1E-4
		W, see ^{193m} Hg	-	1E+2	5E-8	2E-10	-	-
80	Mercury-195	Vapor	-	4E+3	2E-6	6E-9	-	-
		Organic D	3E+3	6E+3	3E-6	8E-9	4E-5	4E-4
		D, see ^{193m} Hg	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
80	Mercury-195	W, see ^{193m} Hg	-	4E+3	2E-6	5E-9	-	-
		Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
80	Mercury-195	D, see ^{193m} Hg	1E+4	4E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{193m} Hg	-	3E+4	1E-5	5E-8	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
80	Mercury-197m	Vapor	-	5E+3	2E-6	7E-9	-	-
		Organic D	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		D, see ^{193m} Hg	3E+3	7E+3	3E-6	1E-8	4E-5	4E-4
80	Mercury-197	W, see ^{193m} Hg	-	5E+3	2E-6	7E-9	-	-
		Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	7E+3	1E+4	6E-6	2E-8	9E-5	9E-4
80	Mercury-199m ²	D, see ^{193m} Hg	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{193m} Hg	-	9E+3	4E-6	1E-8	-	-
		Vapor	-	8E+4	3E-5	1E-7	-	-
80	Mercury-203	Organic D	6E+4	2E+5	7E-5	2E-7	-	-
		St wall (1E+5)	-	-	-	-	1E-3	1E-2
		D, see ^{193m} Hg	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
80	Mercury-203	W, see ^{193m} Hg	-	2E+5	7E-5	2E-7	-	-
		Vapor	-	8E+2	4E-7	1E-9	-	-
		Organic D	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
81	Thallium-194m ²	D, see ^{193m} Hg	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		W, see ^{193m} Hg	-	1E+3	5E-7	2E-9	-	-
		D, all compounds	5E+4	2E+5	6E-5	2E-7	-	-
81	Thallium-194 ²	St wall (7E+4)	-	-	-	-	1E-3	1E-2
		D, all compounds	3E+5	6E+5	2E-4	8E-7	-	-
		St wall (3E+5)	-	-	-	-	4E-3	4E-2
81	Thallium-195 ²	D, all compounds	6E+4	1E+5	5E-5	2E-7	9E-4	9E-3
81	Thallium-197	D, all compounds	7E+4	1E+5	5E-5	2E-7	1E-3	1E-2
81	Thallium-198m ²	D, all compounds	3E+4	5E+4	2E-5	8E-8	4E-4	4E-3
81	Thallium-198	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
81	Thallium-199	D, all compounds	6E+4	8E+4	4E-5	1E-7	9E-4	9E-3
81	Thallium-200	D, all compounds	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
81	Thallium-201	D, all compounds	2E+4	2E+4	9E-6	3E-8	2E-4	2E-3
81	Thallium-202	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
81	Thallium-204	D, all compounds	2E+3	2E+3	9E-7	3E-9	2E-5	2E-4
82	Lead-195m ²	D, all compounds	6E+4	2E+5	8E-5	3E-7	8E-4	8E-3
82	Lead-198	D, all compounds	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
82	Lead-199 ²	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
82	Lead-200	D, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
82	Lead-201	D, all compounds	7E+3	2E+4	8E-6	3E-8	1E-4	1E-3
82	Lead-202m	D, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
82	Lead-202	D, all compounds	1E+2	5E+1	2E-8	7E-11	2E-6	2E-5
82	Lead-203	D, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
82	Lead-205	D, all compounds	4E+3	1E+3	6E-7	2E-9	5E-5	5E-4
82	Lead-209	D, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
82	Lead-210	D, all compounds	6E1	2E1	1E-10	-	-	-
		Bone surf (1E+0)	Bone surf (4E-1)	-	6E-13	1E-8	1E-7	
82	Lead-211 ²	D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E+3

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Releases to Sewers Monthly Average Concentration (μ Ci/ml)
82	Lead-212	D, all compounds	8E+1	3E+1	1E-8	5E-11	-	-
		Bone surf (1E+2)	-	-	-	-	2E-6	2E-5
82	Lead-214 ²	D, all compounds	9E+3	8E+2	3E-7	1E-9	1E-4	1E-3
83	Bismuth-200 ²	D, nitrates	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, all other compounds	-	1E+5	4E-5	1E-7	-	-
83	Bismuth-201 ²	D, see ²⁰⁰ Bi	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ²⁰⁰ Bi	-	4E+4	2E-5	5E-8	-	-
83	Bismuth-202 ²	D, see ²⁰⁰ Bi	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ²⁰⁰ Bi	-	8E+4	3E-5	1E-7	-	-
83	Bismuth-203	D, see ²⁰⁰ Bi	2E+3	7E+3	3E-6	9E-9	3E-5	3E-4
		W, see ²⁰⁰ Bi	-	6E+3	3E-6	9E-9	-	-
83	Bismuth-205	D, see ²⁰⁰ Bi	1E+3	3E+3	1E-6	3E-9	2E-5	2E-4
		W, see ²⁰⁰ Bi	-	1E+3	5E-7	2E-9	-	-
83	Bismuth-206	D, see ²⁰⁰ Bi	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ²⁰⁰ Bi	-	9E+2	4E-7	1E-9	-	-
83	Bismuth-207	D, see ²⁰⁰ Bi	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ²⁰⁰ Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-210m	D, see ²⁰⁰ Bi	4E+1	5E+0	2E-9	-	-	-
		Kidneys (6E+1)	Kidneys (6E+0)	-	9E-12	8E-7	8E-6	
		W, see ²⁰⁰ Bi	-	7E-1	3E-10	9E-13	-	
83	Bismuth-210	D, see ²⁰⁰ Bi	8E+2	2E+2	1E-7	-	1E-5	1E-4
		Kidneys (4E+2)	-	-	5E-10	-	-	
		W, see ²⁰⁰ Bi	-	3E+1	1E-8	4E-11	-	
83	Bismuth-212 ²	D, see ²⁰⁰ Bi	5E+3	2E+2	1E-7	3E-10	7E-5	7E-4
		W, see ²⁰⁰ Bi	-	3E+2	1E-7	4E-10	-	
83	Bismuth-213 ²	D, see ²⁰⁰ Bi	7E+3	3E+2	1E-7	4E-10	1E-4	1E-3
		W, see ²⁰⁰ Bi	-	4E+2	1E-7	5E-10	-	
83	Bismuth-214 ²	D, see ²⁰⁰ Bi	2E+4	8E+2	3E-7	1E-9	-	-
		St wall (2E+4)	-	-	-	-	3E-4	3E-3
		W, see ²⁰⁰ Bi	-	9E-2	4E-7	1E-9	-	
84	Polonium-203 ²	D, all compounds except those given for W	3E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, oxides, hydroxides, and nitrates	-	9E+4	4E-5	1E-7	-	
84	Polonium-205 ²	D, see ²⁰³ Po	2E+4	4E+4	2E-5	5E-8	3E-4	3E-3
		W, see ²⁰³ Po	-	7E+4	3E-5	1E-7	-	
84	Polonium-207	D, see ²⁰³ Po	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ²⁰³ Po	-	3E+4	1E-5	4E-8	-	
84	Polonium-210	D, see ²⁰³ Po	3E+0	6E-1	3E-10	9E-13	4E-8	4E-7
		W, see ²⁰³ Po	-	6E-1	3E-10	9E-13	-	

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
85	Astatine-207 ²	D, halides	6E+3	3E+3	1E-6	4E-9	8E-5	8E-4
		W	-	2E+3	9E-7	3E-9	-	-
85	Astatine-211	D, halides	1E+2	8E+1	3E-8	1E-10	2E-6	2E-5
		W	-	5E+1	2E-8	8E-11	-	-
86	Radon-220	With daughters removed	-	2E+4	7E-6	2E-8	-	-
		With daughters present	-	2E+1	9E-9	3E-11	-	-
			(or 12 working level months)			(or 1.0 working level)		
86	Radon-222	With daughters removed	-	1E+4	4E-6	1E-8	-	-
		With daughters present	-	1E+2	3E-8	1E-10	-	-
			(or 4 working level months)			(or 0.33 working level)		
87	Francium-222 ²	D, all compounds	2E+3	5E+2	2E-7	6E-10	3E-5	3E-4
87	Francium-223 ²	D, all compounds	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
88	Radium-223	W, all compounds	5E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (9E+0)	-	-	-	1E-7	1E-6
88	Radium-224	W, all compounds	8E+0	2E+0	7E-10	2E-12	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-225	W, all compounds	8E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-226	W, all compounds	2E+0	6E-1	3E-10	9E-13	-	-
			Bone surf (5E+0)	-	-	-	6E-8	6E-7
88	Radium-227 ²	W, all compounds	2E+4	1E+4	6E-6	-	-	-
			Bone surf (2E+4)	Bone surf (2E+4)	-	3E-8	3E-4	3E-3
88	Radium-228	W, all compounds	2E+0	1E+0	5E-10	2E-12	-	-
			Bone surf (4E+0)	-	-	-	6E-8	6E-7
89	Actinium-224	D, all compounds except those given for W and Y	2E+3	3E+1	1E-8	-	-	-
			LLI wall (2E+3)	Bone surf (4E+1)	-	5E-11	3E-5	3E-4
		W, halides and nitrates	-	5E+1	2E-8	7E-11	-	-
		Y, oxides and hydroxides	-	5E+1	2E-8	6E-11	-	-
89	Actinium-225	D, see ²²⁴ Ac	5E+1	3E-1	1E-10	-	-	-
			LLI wall (5E+1)	Bone surf (5E-1)	-	7E-13	7E-7	7E-6
		W, see ²²⁴ Ac	-	6E-1	3E-10	9E-13	-	-
		Y, see ²²⁴ Ac	-	6E-1	3E-10	9E-13	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
89	Actinium-226	D, see ²²⁴ Ac	1E+2	3E+0	1E-9	-	-	-
			LLI wall (1E+2)	Bone surf (4E+0)	-	5E-12	2E-6	2E-5
		W, see ²²⁴ Ac	-	5E+0	2E-9	7E-12	-	-
		Y, see ²²⁴ Ac	-	5E+0	2E-9	6E-12	-	-
89	Actinium-227	D, see ²²⁴ Ac	2E-1	4E-4	2E-13	-	-	-
			Bone surf (4E-1)	Bone surf (8E-4)	-	1E-15	5E-9	5E-8
		W, see ²²⁴ Ac	-	2E-3	7E-13	-	-	-
				Bone surf (3E-3)	-	4E-15	-	-
		Y, see ²²⁴ Ac	-	4E-3	2E-12	6E-15	-	-
89	Actinium-228	D, see ²²⁴ Ac	2E+3	9E+0	4E-9	-	3E-5	3E-4
			-	Bone surf (2E+1)	-	2E-11	-	-
		W see ²²⁴ Ac	-	4E+1	2E-8	-	-	-
			-	Bone surf (6E+1)	-	8E-11	-	-
		Y see ²²⁴ Ac	-	4E+1	2E-8	6E-11	-	-
90	Thorium-226 ²	W, all compounds except those given for Y	5E+3	2E+2	6E-8	2E-10	-	-
			St wall (5E+3)	-	-	-	7E-5	7E-4
		Y, oxides and hydroxides	-	1E+2	6E-8	2E-10	-	-
90	Thorium-227	W, see ²²⁶ Th	1E+2	3E-1	1E-10	5E-13	2E-6	2E-5
		Y, see ²²⁶ Th	-	3E-1	1E-10	5E-13	-	-
90	Thorium-228	W, see ²²⁶ Th	6E+0	1E-2	4E-12	-	-	-
			Bone surf (1E+1)	Bone surf (2E-2)	-	3E-14	2E-7	2E-6
		Y, see ²²⁶ Th	-	2E-2	7E-12	2E-14	-	-
90	Thorium-229	W, see ²²⁶ Th	6E-1	9E-4	4E-13	-	-	-
			Bone surf (1E+0)	Bone surf (2E-3)	-	3E-15	2E-8	2E-7
		Y, see ²²⁶ Th	-	2E-3	1E-12	-	-	-
			Bone surf (3E-3)	-	4E-15-	-	-	
90	Thorium-230	W, see ²²⁶ Th	4E+0	6E-3	3E-12	-	-	-
			Bone surf (9E+0)	Bone surf (2E-2)	-	2E-14	1E-6	-
		Y, see ²²⁶ Th	-	2E-2	6E-12	-	-	-
			Bone surf (2E-2)	-	3E-14-	-	-	
90	Thorium-231	W, see ²²⁸ Th	4E+3	6E+3	3E-6	9E-9	5E-5	5E-4
		Y, see ²²⁸ Th	-	6E+3	3E-6	9E-9-	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
90	Thorium-232	W, see ²²⁸ Th	7E-1	1E-3	5E-13	-	-	-
			Bone surf (2E+0)	Bone surf (3E-3)	-	4E-15	3E-8	3E-7
90	Thorium-232	Y, see ²²⁸ Th	-	3E-3	1E-12	-	-	-
			-	Bone surf (4E-3)	-	6E-15	-	-
90	Thorium-234	W, see ²²⁸ Th	3E+2	2E+2	8E-8	3E-10	-	-
			LLI wall (4E+2)	-	-	-	5E-6	5E-5
		Y, see ²²⁸ Th	-	2E+2	6E-8	2E-10	-	-
91	Protactinium-227 ²	W, all compounds except those given for Y	4E+3	1E+2	5E-8	2E-10	5E-5	5E-4
		Y, oxides and hydroxides	-	1E+2	4E-8	1E-10	-	-
91	Protactinium-228	W, see ²²⁷ Pa	1E+3	1E+1	5E-9	-	2E-5	2E-4
			-	Bone surf (2E+1)	-	3E-11	-	-
		Y, see ²²⁷ Pa	-	1E+1	5E-9	2E-11	-	-
91	Protactinium-230	W, see ²²⁷ Pa	6E+2	5E+0	2E-9	7E-12	-	-
			Bone surf (9E+2)	-	-	-	1E-5	1E-4
		Y, see ²²⁷ Pa	-	4E+0	1E-9	5E-12	-	-
91	Protactinium-231	W, see ²²⁷ Pa	2E-1	2E-3	6E-13	-	-	-
			Bone surf (5E-1)	Bone surf (4E-3)	-	6E-15	6E-9	6E-8
		Y, see ²²⁷ Pa	-	4E-3	2E-12	-	-	-
			-	Bone surf (6E-3)	-	8E-15	-	-
91	Protactinium-232	W, see ²²⁷ Pa	1E+3	2E+1	9E-9	-	2E-5	2E-4
			-	Bone surf (6E+1)	-	8E-11	-	-
		Y, see ²²⁷ Pa	-	6E+1	2E-8	-	-	-
			-	Bone surf (7E+1)	-	1E-10	-	-
91	Protactinium-233	W, see ²²⁷ Pa	1E+3	7E+2	3E-7	1E-9	-	-
			LLI wall (2E+3)	-	-	-	2E-5	2E-4
		Y, see ²²⁷ Pa	-	6E+2	2E-7	8E-10	-	-
91	Protactinium-234	W, see ²²⁷ Pa	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		Y, see ²²⁷ Pa	-	7E+3	3E-6	9E-9	-	-
92	Uranium-230	D, UF, UOF, UO(NO)	4E+0	4E-1	2E-10	-	-	-
			Bone surf (6E+0)	Bone surf (6E-1)	-	8E-13	8E-8	8E-7
		W, UO, UF, UCl	-	4E-1	1E-10	5E-13	-	-
		Y, UO, UO	-	3E-1	1E-10	4E-13	-	-

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
92	Uranium-231	D, see ^{230}U	5E+3	8E+3	3E-6	1E-8	-	-
			LLI wall (4E+3)	-	-	-	6E-5	6E-4
		W, see ^{230}U	-	6E+3	2E-6	8E-9	-	-
		Y, see ^{230}U	-	5E+3	2E-6	6E-9	-	-
92	Uranium-232	D, see ^{230}U	2E+0	2E-1	9E-11	-	-	-
			Bone surf (4E+0)	Bone surf (4E-1)	-	6E-13	6E-8	6E-7
		W, see ^{230}U	-	4E-1	2E-10	5E-13	-	-
		Y, see ^{230}U	-	8E-3	3E-12	1E-14	-	-
92	Uranium-233	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	7E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-234 ³	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	7E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-235 ³	D, see ^{230}U	1E+1	1E+0	6E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-236	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-237	D, see ^{230}U	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
		W, see ^{230}U	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{230}U	-	2E+3	6E-7	2E-9	-	-
92	Uranium-238 ³	D, see ^{230}U	1E+1	1E+0	6E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	1E-12	-	-
		Y, see ^{230}U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-239 ²	D, see ^{230}U	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		W, see ^{230}U	-	2E+5	7E-5	2E-7	-	-
		Y, see ^{230}U	-	2E+5	6E-5	2E-7	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
92	Uranium-240	D, see ²³⁰ U	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see ²³⁰ U	-	3E+3	1E-6	4E-9	-	-
		Y, see ²³⁰ U	-	2E+3	1E-6	3E-9	-	-
92	Uranium-natural ³	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	8E-1	3E-10	9E-13	-	-
		Y, see ²³⁰ U	-	5E-2	2E-11	9E-24	-	-
93	Neptunium-232 ²	W, all compounds	1E+5	2E+3	7E-7	-	2E-3	2E-2
			Bone surf (5E+2)	-	-	6E-9	-	-
93	Neptunium-233 ²	W, all compounds	8E+5	3E+6	1E-3	4E-6	1E-2	1E-1
93	Neptunium-234	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
93	Neptunium-235	W, all compounds	2E+4	8E+2	3E-7	-	-	-
			LLI wall (2E+4)	Bone surf (1E+3)	-	2E-9	3E-4	3E-3
			3E+0	2E-2	9E-12	-	-	-
93	Neptunium-236 (1.15E+5 y)	W, all compounds	Bone surf (6E+0)	Bone surf (5E-2)	-	8E-14	9E-8	9E-7
			3E+3	3E+1	1E-8	-	-	-
93	Neptunium-236 (22.5 h)	W, all compounds	Bone surf (4E+3)	Bone surf (7E+1)	-	1E-10	5E-5	5E-4
			5E-1	4E-3	2E-12	-	-	-
93	Neptunium-237	W, all compounds	Bone surf (1E+0)	Bone surf (1E-2)	-	1E-14	2E-8	2E-7
			1E+3	6E+1	3E-8	-	2E-5	2E-4
93	Neptunium-238	W, all compounds	Bone surf (2E+2)	-	-	2E-10	-	-
			2E+3	2E+3	9E-7	3E-9	-	-
93	Neptunium-239	W, all compounds	LLI wall (2E+3)	-	-	-	2E-5	2E-4
			2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
94	Plutonium-234	W, all compounds except PuO	8E+3	2E+2	9E-8	3E-10	1E-4	1E-3
94	Plutonium-234	Y, PuO	-	2E+2	8E-8	3E-10	-	-
			9E+5	3E+6	1E-3	4E-6	1E-2	1E-1
94	Plutonium-235 ²	W, see ²³⁴ Pu	-	3E+6	1E-3	3E-6	-	-
			2E+0	2E-2	8E-12	-	-	-
94	Plutonium-236	W, see ²³⁴ Pu	Bone surf (4E+0)	Bone surf (4E-2)	-	5E-14	6E-8	6E-7
			-	4E-2	2E-11	6E-14	-	-
94	Plutonium-237	W, see ²³⁴ Pu	1E+4	3E+3	1E-6	5E-9	2E-4	2E-3
			-	3E+3	1E-6	4E-9	-	-
94	Plutonium-238	W, see ²³⁴ Pu	9E-1	7E-3	3E-12	-	-	-
			Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ²³⁴ Pu	-	2E-2	8E-12	2E-14	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μ Ci)	Inhalation ALI (μ Ci)	DAC (μ Ci/ml)	Air (μ Ci/ml)	Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
94	Plutonium-239	W, see ²³⁴ Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ²³⁴ Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-240	W, see ²³⁴ Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ²³⁴ Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-241	W, see ²³⁴ Pu	4E+1	3E-1	1E-10	-	-	-
			Bone surf (7E+1)	Bone surf (6E-1)	-	8E-13	1E-6	1E-5
		Y, see ²³⁴ Pu	-	8E-1	3E-10	-	-	-
			-	Bone surf (1E+0)	-	1E-12	-	-
94	Plutonium-242	W, see ²³⁴ Pu	8E-1	7E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ²³⁴ Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-243	W, see ²³⁴ Pu	2E+4	4E+4	2E-5	5E-8	2E-4	2E-3
			-	4E+4	2E-5	5E-8	-	-
94	Plutonium-244	W, see ²³⁴ Pu	8E-1	7E-3	3E-12	-	-	-
			Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ²³⁴ Pu	-	2E-2	7E-12	-	-	-
			-	Bone surf (2E-2)	-	2E-14	-	-
94	Plutonium-245	W, see ²³⁴ Pu	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
			-	4E+3	2E-6	6E-9	-	-
94	Plutonium-246	W, see ²³⁴ Pu	4E+2	3E+2	1E-7	4E-10	-	-
			LLI wall (4E+2)	-	-	-	6E-6	6E-5
		Y, see ²³⁴ Pu	-	3E+2	1E-7	4E-10	-	-
			-	3E+2	1E-7	4E-10	-	-
95	Americium-237 ²	W, all compounds	8E+4	3E+5	1E-4	4E-7	1E-3	1E-2
95	Americium-238 ²	W, all compounds	4E+4	3E+3	1E-6	-	5E-4	5E-3
				-	Bone surf (6E+3)	-	9E-9	-
95	Americium-239	W, all compounds	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
95	Americium-240	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
95	Americium-241	W, all compounds	8E-1	6E-3	3E-12	-	-	-
				Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
95	Americium-242m	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95	Americium-242	W, all compounds	4E+3	8E+1	4E-8	-	5E-5	5E-4
				Bone surf (9E+1)	-	1E-10	-	-
95	Americium-243	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95	Americium-244m ²	W, all compounds	6E+4	4E+3	2E-6	-	-	-
			St wall (8E+4)	Bone surf (7E+3)	-	1E-8	1E-3	1E-2
95	Americium-244	W, all compounds	3E+3	2E+2	8E-8	-	4E-5	4E-4
				Bone surf (3E+2)	-	4E-10	-	-
95	Americium-245	W, all compounds	3E+4	8E+4	3E-5	1E-7	4E-4	4E-3
95	Americium-246m ²	W, all compounds	5E+4	2E+5	8E-5	3E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
95	Americium-246 ²	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
96	Curium-238	W, all compounds	2E+4	1E+3	5E-7	2E-9	2E-4	2E-3
96	Curium-240	W, all compounds	6E+1	6E-1	2E-10	-	-	-
			Bone surf (8E+1)	Bone surf (6E-1)	-	9E-13	1E-6	1E-5
96	Curium-241	W, all compounds	1E+3	3E+1	1E-8	-	2E-5	2E-4
				Bone surf (4E+1)	-	5E-11	-	-
96	Curium-242	W, all compounds	3E+1	3E-1	1E-10	-	-	-
			Bone surf (5E+1)	Bone surf (3E-1)	-	4E-13	7E-7	7E-6
96	Curium-243	W, all compounds	1E+0	9E-3	4E-12	-	-	-
			Bone surf (2E+0)	Bone surf (2E-2)	-	2E-14	3E-8	3E-7
96	Curium-244	W, all compounds	1E+0	1E-2	5E-12	-	-	-
			Bone surf (3E+0)	Bone surf (2E-2)	-	3E-14	3E-8	3E-7
96	Curium-245	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-246	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-247	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-248	W, all compounds	2E-1	2E-3	7E-13	-	-	-
			Bone surf (4E-1)	Bone surf (3E-3)	-	4E-15	5E-9	5E-8

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
96	Curium-249 ²	W, all compounds	5E+4	2E+4	7E-6	-	7E-4	7E-3
				Bone surf				
			-	(3E+4)	-	4E-8	-	-
96	Curium-250	W, all compounds	4E-2	3E-4	1E-13	-	-	-
			Bone surf	Bone surf				
			(6E-2)	(5E-4)	-	8E-16	9E-10	9E-9
97	Berkelium-245	W, all compounds	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
97	Berkelium-246	W, all compounds	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
97	Berkelium-247	W, all compounds	5E-1	4E-3	2E-12	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
97	Berkelium-249	W, all compounds	2E+2	2E+0	7E-10	-	-	-
			Bone surf	Bone surf				
			(5E+2)	(4E+0)	-	5E-12	6E-6	6E-5
97	Berkelium-250	W, all compounds	9E+3	3E+2	1E-7	-	1E-4	1E-3
				Bone surf				
			-	(7E+2)	-	1E-9	-	-
98	Californium-244 ²	W, all compounds except those given for Y	3E+4	6E+2	2E-7	8E-10	-	-
			St wall					
			(3E+4)	-	-	-	4E-4	4E-3
		Y, oxides and hydroxides	-	6E+2	2E-7	8E-10	-	-
98	Californium-246	W, see ²⁴⁴ Cf	4E+2	9E+0	4E-9	1E-11	5E-6	5E-5
		Y, see ²⁴⁴ Cf	-	9E+0	4E-9	1E-11	-	-
98	Californium-248	W, see ²⁴⁴ Cf	8E+0	6E-2	3E-11	-	-	-
			Bone surf	Bone surf				
			(2E+1)	(1E-1)	-	2E-13	2E-7	2E-6
		Y, see ²⁴⁴ Cf	-	1E-1	4E-11	1E-13	-	-
98	Californium-249	W, see ²⁴⁴ Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
		Y, see ²⁴⁴ Cf	-	1E-2	4E-12	-	-	-
				Bone surf				
			-	(1E-2)	-	2E-14	-	-
98	Californium-250	W, see ²⁴⁴ Cf	1E+0	9E-3	4E-12	-	-	-
			Bone surf	Bone surf				
			(2E+0)	(2E-2)	-	3E-14	3E-8	3E-7
		Y, see ²⁴⁴ Cf	-	3E-2	1E-11	4E-14	-	-
98	Californium-251	W, see ²⁴⁴ Cf	5E-1	4E-3	2E-12	-	-	-
			Bone surf	Bone surf				
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
		Y, see ²⁴⁴ Cf	-	1E-2	4E-12	-	-	-
				Bone surf				
			-	(1E-2)	-	2E-14	-	-
98	Californium-252	W, see ²⁴⁴ Cf	2E+0	2E-2	8E-12	-	-	-
			Bone surf	Bone surf				
			(5E+0)	(4E-2)	-	5E-14	7E-8	7E-7
		Y, see ²⁴⁴ Cf	-	3E-2	1E-11	5E-14	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
98	Californium-253	W, see ²⁴⁴ Cf	2E+2	2E+0	8E-10	3E-12	-	-
			Bone surf (4E+2)	-	-	-	5E-6	5E-5
		Y, see ²⁴⁴ Cf	-	2E+0	7E-10	2E-12	-	-
98	Californium-254	W, see ²⁴⁴ Cf	2E+0	2E-2	9E-12	3E-14	3E-8	3E-7
		Y, see ²⁴⁴ Cf	-	2E-2	7E-12	2E-14	-	-
99	Einsteinium-250	W, all compounds	4E+4	5E+2	2E-7	-	6E-4	6E-3
				Bone surf (1E+3)	-	2E-9	-	-
99	Einsteinium-251	W, all compounds	7E+3	9E+2	4E-7	-	1E-4	1E-3
				Bone surf (1E+3)	-	2E-9	-	-
99	Einsteinium-253	W, all compounds	2E+2	1E+0	6E-10	2E-12	2E-6	2E-5
99	Einsteinium-254m	W, all compounds	3E+2	1E+1	4E-9	1E-11	-	-
			LLI wall (3E+2)	-	-	-	4E-6	4E-5
99	Einsteinium-254	W, all compounds	8E+0	7E-2	3E-11	-	-	-
			Bone surf (2E+1)	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
100	Fermium-252	W, all compounds	5E+2	1E+1	5E-9	2E-11	6E-6	6E-5
100	Fermium-253	W, all compounds	1E+3	1E+1	4E-9	1E-11	1E-5	1E-4
100	Fermium-254	W, all compounds	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
100	Fermium-255	W, all compounds	5E+2	2E+1	9E-9	3E-11	7E-6	7E-5
100	Fermium-257	W, all compounds	2E+1	2E-1	7E-11	-	-	-
			Bone surf (4E+1)	Bone surf (2E-1)	-	3E-13	5E-7	5E-6
101	Mendelevium-257	W, all compounds	7E+3	8E+1	4E-8	-	1E-4	1E-3
				Bone surf (9E+1)	-	1E-10	-	-
101	Mendelevium-258	W, all compounds	3E+1	2E-1	1E-10	-	-	-
			Bone surf (5E+1)	Bone surf (3E-1)	-	5E-13	6E-7	6E-6
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours	Submersion ¹	-	2E+2	1E-7	1E-9	-	-
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than 2 hours.	...	-	2E-1	1E-10	1E-12	1E-8	1E-7

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
	Any single radionuclide not listed above that decays by alpha emission or spontaneous fission, or any mixture for which either the identity or the concentration of any radionuclide in the mixture is not known.	...	-	4E-4	2E-13	1E-15	2E-9	2E-8

FOOTNOTES:

- ¹ "Submersion" means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.
- ² These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides might include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class "Submersion," are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do NOT include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute 1E-7 μCi/ml for the listed DAC to account for the submersion dose prospectively but shall use individual monitoring devices or other radiation-measuring instruments that measure external exposure to demonstrate compliance with the limits. (See R12-1-410)
- ³ For soluble mixtures of U-238, U-234, and U-235 in air, chemical toxicity may be the limiting factor (see R12-1-408(E)). If the percent by weight (enrichment) of U-235 is not greater than 5, the concentration value for a 40-hour work week is 0.2 milligrams uranium per cubic meter of air average. For any enrichment, the product of the average concentration and time of exposure during a 40-hour work week shall not exceed 8E-3 (SA) μCi-hr/ml, where SA is the specific activity of the uranium inhaled. The specific activity for natural uranium is 6.77E-7 curies per gram U. The specific activity for other mixtures of U-238, U-235, and U-234, if not known, shall be:

$$SA = 3.6E-7 \text{ curies/gram U U-depleted}$$

$$SA = [0.4 + 0.38 (\text{enrichment}) + 0.0034 (\text{enrichment})^2] E-6, \text{ enrichment} > 0.72$$

where enrichment is the percentage by weight of U-235, expressed as percent.

NOTE:

- 1. If the identity of each radionuclide in a mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.
- 2. If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in this Appendix are not present in the mixture, the inhalation ALI, DAC, and effluent and sewage concentrations for the mixture are the lowest values specified in this Appendix for any radionuclide that is not known to be absent from the mixture; or\

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
	If it is known that Ac-227-D and Cm-250-W are not present		-	7E-4	3E-13	-	-	-
	If, in addition, it is known that Ac-227-W,Y, Th-229-W,Y, Th-230-W, Th-232-W,Y, Pa-231-W,Y, Np-237-W, Pu-239-W, Pu-240-W, Pu-242-W, Am-241-W, Am-242m-W, Am-243-W, Cm-245-W, Cm-246-W, Cm-247-W, Cm-248-W, Bk-247-W, Cf-249-W, and Cf-251-W are not present		-	7E-3	3E-12	-	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Releases to Sewers
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
	If, in addition, it is known that Sm-146-W, Sm-147-W, Gd-148-D,W, Gd-152-D,W, Th-228-W,Y, Th-230-Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, Np-236-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-Y, Pu-240-Y, Pu-242-Y, Pu-244-W,Y, Cm-243-W, Cm-244-W, Cf-248-W, Cf-249-Y, Cf-250-W,Y, Cf-251-Y, Cf-252-WY, and Cf-254-W,Y are not present		-	7E-2	3E-11	-	-	-
	If, in addition, it is known that Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-Y, Es-254-W, Fm-257-W, and Md-258-W are not present		-	7E-1	3E-10	-	-	-
	If, in addition, it is known that Si-32-Y, Ti-44-Y, Fe-60-D, Sr-90-Y, Zr-93-D, Cd-113m-D, Cd-113-D, In-115-D,W, La-138-D, Lu-176-W, Hf-178m-D,W, Hf-182-D,W, Bi-210m-D, Ra-224-W, Ra-228-W, Ac-226-D,W,Y, Pa-230-W,Y, U-233-D,W, U-234-D,W, U-235-D,W, U-236-D,W, U-238-D,W, Pu-241-Y, Bk-249-W, Cf-253-W,Y, and Es-253-W are not present		-	7E+0	3E-9	-	-	-
	If it is known that Ac-227-D,W,Y, Th-229-W,Y, Th-232-W,Y, Pa-231-W,Y, Cm-248-W, and Cm-250-W are not present		-	-	-	1E-14	-	-
	If, in addition, it is known that Sm-146-W, Gd-148-D,W, Gd-152-D, Th-228-W,Y, Th-230-W,Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, U-Nat-Y, Np-236-W, Np-237-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-W,Y, Pu-240-W,Y, Pu-242-W,Y, Pu-244-W,Y, Am-241-W, Am-242m-W, Am-243-W, Cm-243-W, Cm-244-W, Cm-245-W, Cm-246-W, Cm-247-W, Bk-247-W, Cf-249-W,Y, Cf-250-W,Y, Cf-251-W,Y, Cf-252-W,Y, and Cf-254-W,Y are not present		-	-	-	1E-13	-	-
	If, in addition, it is known that Sm-147-W, Gd-152-W, Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, U-Nat-W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-W,Y, Es-254-W, Fm-257-W, and Md-258-W are not present		-	-	-	-	1E-12	-
	If, in addition it is known that Fe-60, Sr-90, Cd-113m, Cd-113, In-115, I-129, Cs-134, Sm-145, Sm-147, Gd-148, Gd-152, Hg-194 (organic), Bi-210m, Ra-223, Ra-224, Ra-225, Ac-225, Th-228, Th-230, U-233, U-234, U-235, U-236, U-238, U-Nat, Cm-242, Cf-248, Es-254, Fm-257, and Md-258 are not present		-	-	-	-	1E-6	1E-5

3. If a mixture of radionuclides consists of Uranium and its daughters in ore dust (10 μm AMAD particle distribution assumed) prior to chemical separation of the Uranium from the ore, the following values may be used for the DAC of the mixture: 6E-11 μCi of gross

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alpha activity from Uranium-238, Uranium-234, Thorium-230, and Radium-226 per milliliter of air; 3E-11 μ Ci of natural uranium per milliliter of air; or 45 micrograms of natural uranium per cubic meter of air.

4. If the identity and concentration of each radionuclide in a mixture are known, the limiting values should be derived as follows: determine, for each radionuclide in the mixture, the ratio between the concentration present in the mixture and the concentration otherwise established in Appendix B to Article 4 for the specific radionuclide when not in a mixture. The sum of such ratios for all of the radionuclides in the mixture may not exceed "1" (i.e., "unity").

Example: If radionuclides "A," "B," and "C" are present in concentrations C_A , C_B , and C_C , and if the applicable DACs are DAC_A , DAC_B , and DAC_C respectively then the concentrations shall be limited so that the following relationship exists:

$$\frac{C_A}{DAC_A} + \frac{C_B}{DAC_B} + \frac{C_C}{DAC_C} \leq 1$$

Historical Note

New Appendix B recodified from 12 A.A.C. 1, Article 4, Appendix B, effective March 22, 2018 (Supp. 18-1).

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Appendix C. Quantities¹ of Licensed or Registered Material Requiring Labeling

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Hydrogen-3	1,000	Nickel-57	100	Krypton-83m	1,000
Beryllium-7	1,000	Nickel-59	100	Krypton-85m	1,000
Beryllium-10	1	Nickel-63	100	Krypton-85	1,000
Carbon-11	1,000	Nickel-65	1,000	Krypton-87	1,000
Carbon-14	1,000	Nickel-66	10	Krypton-88	1,000
Fluorine-18	1,000	Copper-60	1,000	Rubidium-79	1,000
Sodium-22	10	Copper-61	1,000	Rubidium-81m	1,000
Sodium-24	100	Copper-64	1,000	Rubidium-81	1,000
Magnesium-28	100	Copper-67	1,000	Rubidium-82m	1,000
Aluminum-26	10	Zinc-62	100	Rubidium-83	100
Silicon-31	1,000	Zinc-63	1,000	Rubidium-84	100
Silicon-32	1	Zinc-65	10	Rubidium-86	100
Phosphorus-32	10	Zinc-69m	100	Rubidium-87	100
Phosphorus-33	100	Zinc-69	1,000	Rubidium-88	1,000
Sulfur-35	100	Zinc-71m	1,000	Rubidium-89	1,000
Chlorine-36	10	Zinc-72	100	Strontium-80	100
Chlorine-38	1,000	Gallium-65	1,000	Strontium-81	1,000
Chlorine-39	1,000	Gallium-66	100	Strontium-83	100
Argon-39	1,000	Gallium-67	1,000	Strontium-85m	1,000
Argon-41	1,000	Gallium-68	1,000	Strontium-85	100
Potassium-40	100	Gallium-70	1,000	Strontium-87m	1,000
Potassium-42	1,000	Gallium-72	100	Strontium-89	10
Potassium-43	1,000	Gallium-73	1,000	Strontium-90	0.1
Potassium-44	1,000	Germanium-66	1,000	Strontium-91	100
Potassium-45	1,000	Germanium-67	1,000	Strontium-92	100
Calcium-41	100	Germanium-68	10	Yttrium-86m	1,000
Calcium-45	100	Germanium-69	1,000	Yttrium-86	100
Calcium-47	100	Germanium-71	1,000	Yttrium-87	100
Scandium-43	1,000	Germanium-75	1,000	Yttrium-88	10
Scandium-44m	100	Germanium-77	1,000	Yttrium-90m	1,000
Scandium-44	100	Germanium-78	1,000	Yttrium-90	10
Scandium-46	10	Arsenic-69	1,000	Yttrium-91m	1,000
Scandium-47	100	Arsenic-70	1,000	Yttrium-91	10
Scandium-48	100	Arsenic-71	100	Yttrium-92	100
Scandium-49	1,000	Arsenic-72	100	Yttrium-93	100
Titanium-44	1	Arsenic-73	100	Yttrium-94	1,000
Titanium-45	1,000	Arsenic-74	100	Yttrium-95	1,000
Vanadium-47	1,000	Arsenic-76	100	Zirconium-86	100
Vanadium-48	100	Arsenic-77	100	Zirconium-88	10
Vanadium-49	1,000	Arsenic-78	1,000	Zirconium-89	100
Chromium-48	1,000	Selenium-70	1,000	Zirconium-93	1
Chromium-49	1,000	Selenium-73m	1,000	Zirconium-95	10
Chromium-51	1,000	Selenium-73	100	Zirconium-97	100
Manganese-51	1,000	Selenium-75	100	Niobium-88	1,000
Manganese-52m	1,000	Selenium-79	100	Niobium-89m	
Manganese-52	100	Selenium-81m	1,000	(66 min)	1,000
Manganese-53	1,000	Selenium-81	1,000	Niobium-89	
Manganese-54	100	Selenium-83	1,000	(122 min)	1,000
Manganese-56	1,000	Bromine-74m	1,000	Niobium-90	100
Iron-52	100	Bromine-74	1,000	Niobium-93m	10
Iron-55	100	Bromine-75	1,000	Niobium-94	1
Iron-59	10	Bromine-76	100	Niobium-95m	100
Iron-60	1	Bromine-77	1,000	Niobium-95	100
Cobalt-55	100	Bromine-80m	1,000	Niobium-96	100
Cobalt-56	10	Bromine-80	1,000	Niobium-97	1,000
Cobalt-57	100	Bromine-82	100	Niobium-98	1,000
Cobalt-58m	1,000	Bromine-83	1,000	Molybdenum-90	100
Cobalt-58	100	Bromine-84	1,000	Molybdenum-93m	100
Cobalt-60m	1,000	Krypton-74	1,000	Molybdenum-93	10
Cobalt-60	1	Krypton-76	1,000	Molybdenum-99	100
Cobalt-61	1,000	Krypton-77	1,000	Molybdenum-101	1,000
Cobalt-62m	1,000	Krypton-79	1,000	Technetium-93m	1,000
Nickel-56	100	Krypton-81	1,000	Technetium-93	1,000

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Technetium-94m	1,000	Indium-116m	1,000	Iodine-128	1,000
Technetium-94	1,000	Indium-117m	1,000	Iodine-129	1
Technetium-96m	1,000	Indium-117	1,000	Iodine-130	10
Technetium-96	100	Indium-119m	1,000	Iodine-131	1
Technetium-97m	100	Tin-110	100	Iodine-132m	100
Technetium-97	1,000	Tin-111	1,000	Iodine-132	100
Technetium-98	10	Tin-113	100	Iodine-133	10
Technetium-99m	1,000	Tin-117m	100	Iodine-134	1,000
Technetium-99	100	Tin-119m	100	Iodine-135	100
Technetium-101	1,000	Tin-121m	100	Xenon-120	1,000
Technetium-104	1,000	Tin-121	1,000	Xenon-121	1,000
Ruthenium-94	1,000	Tin-123m	1,000	Xenon-122	1,000
Ruthenium-97	1,000	Tin-123	10	Xenon-123	1,000
Ruthenium-103	100	Tin-125	10	Xenon-125	1,000
Ruthenium-105	1,000	Tin-126	10	Xenon-127	1,000
Ruthenium-106	1	Tin-127	1,000	Xenon-129m	1,000
Rhodium-99m	1,000	Tin-128	1,000	Xenon-131m	1,000
Rhodium-99	100	Antimony-115	1,000	Xenon-133m	1,000
Rhodium-100	100	Antimony-116m	1,000	Xenon-133	1,000
Rhodium-101m	1,000	Antimony-116	1,000	Xenon-135m	1,000
Rhodium-101	10	Antimony-117	1,000	Xenon-135	1,000
Rhodium-102m	10	Antimony-118m	1,000	Xenon-138	1,000
Rhodium-102	10	Antimony-119	1,000	Cesium-125	1,000
Rhodium-103m	1,000	Antimony-120		Cesium-127	1,000
Rhodium-105	100	(16m)	1,000	Cesium-129	1,000
Rhodium-106m	1,000	Antimony-120		Cesium-130	1,000
Rhodium-107	1,000	(5.76d)	100	Cesium-131	1,000
Palladium-100	100	Antimony-122	100	Cesium-132	100
Palladium-101	1,000	Antimony-124m	1,000	Cesium-134m	1,000
Palladium-103	100	Antimony-124	10	Cesium-134	10
Palladium-107	10	Antimony-125	100	Cesium-135m	1,000
Palladium-109	100	Antimony-126m	1,000	Cesium-135	100
Silver-102	1,000	Antimony-126	100	Cesium-136	10
Silver-103	1,000	Antimony-127	100	Cesium-137	10
Silver-104m	1,000	Antimony-128		Cesium-138	1,000
Silver-104	1,000	(10.4m)	1,000	Barium-126	1,000
Silver-105	100	Antimony-128		Barium-128	100
Silver-106m	100	(9.01h)	100	Barium-131m	1,000
Silver-106	1,000	Antimony-129	100	Barium-131	100
Silver-108m	1	Antimony-130	1,000	Barium-133m	100
Silver-110m	10	Antimony-131	1,000	Barium-133	100
Silver-111	100	Tellurium-116	1,000	Barium-135m	100
Silver-112	100	Tellurium-121m	10	Barium-139	1,000
Silver-115	1,000	Tellurium-121	100	Barium-140	100
Cadmium-104	1,000	Tellurium-123m	10	Barium-141	1,000
Cadmium-107	1,000	Tellurium-123	100	Barium-142	1,000
Cadmium-109	1	Tellurium-125m	10	Lanthanum-131	1,000
Cadmium-113m	0.1	Tellurium-127m	10	Lanthanum-132	100
Cadmium-113	100	Tellurium-127	1,000	Lanthanum-135	1,000
Cadmium-115m	10	Tellurium-129m	10	Lanthanum-137	10
Cadmium-115	100	Tellurium-129	1,000	Lanthanum-138	100
Cadmium-117m	1,000	Tellurium-131m	10	Lanthanum-140	100
Cadmium-117	1,000	Tellurium-131	100	Lanthanum-141	100
Indium-109	1,000	Tellurium-132	10	Lanthanum-142	1,000
Indium-110m		Tellurium-133m	100	Lanthanum-143	1,000
(69.1m)	1,000	Tellurium-133	1,000	Cerium-134	100
Indium-110		Tellurium-134	1,000	Cerium-135	100
(4.9h)	1,000	Iodine-120m	1,000	Cerium-137m	100
Indium-111	100	Iodine-120	100	Cerium-137	1,000
Indium-112	1,000	Iodine-121	1,000	Cerium-139	100
Indium-113m	1,000	Iodine-123	100	Cerium-141	100
Indium-114m	10	Iodine-124	10	Cerium-143	100
Indium-115m	1,000	Iodine-125	1	Cerium-144	1
Indium-115	100	Iodine-126	1	Praseodymium-136	1,000

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Praseodymium-137	1,000	Terbium-149	100	Lutetium-179	1,000
Praseodymium-138m	1,000	Terbium-150	1,000	Hafnium-170	100
Praseodymium-139	1,000	Terbium-151	100	Hafnium-172	1
Praseodymium-142m	1,000	Terbium-153	1,000	Hafnium-173	1,000
Praseodymium-142	100	Terbium-154	100	Hafnium-175	100
Praseodymium-143	100	Terbium-155	1,000	Hafnium-177m	1,000
Praseodymium-144	1,000	Terbium-156m		Hafnium-178m	0.1
Praseodymium-145	100	(5.0h)	1,000	Hafnium-179m	10
Praseodymium-147	1,000	Terbium-156m		Hafnium-180m	1,000
Neodymium-136	1,000	(24.4h)	1,000	Hafnium-181	10
Neodymium-138	100	Terbium-156	100	Hafnium-182m	1,000
Neodymium-139m	1,000	Terbium-157	10	Hafnium-182	0.1
Neodymium-139	1,000	Terbium-158	1	Hafnium-183	1,000
Neodymium-141	1,000	Terbium-160	10	Hafnium-184	100
Neodymium-147	100	Terbium-161	100	Tantalum-172	1,000
Neodymium-149	1,000	Dysprosium-155	1,000	Tantalum-173	1,000
Neodymium-151	1,000	Dysprosium-157	1,000	Tantalum-174	1,000
Promethium-141	1,000	Dysprosium-159	100	Tantalum-175	1,000
Promethium-143	100	Dysprosium-165	1,000	Tantalum-176	100
Promethium-144	10	Dysprosium-166	100	Tantalum-177	1,000
Promethium-145	10	Holmium-155	1,000	Tantalum-178	1,000
Promethium-146	1	Holmium-157	1,000	Tantalum-179	100
Promethium-147	10	Holmium-159	1,000	Tantalum-180m	1,000
Promethium-148m	10	Holmium-161	1,000	Tantalum-180	100
Promethium-148	10	Holmium-162m	1,000	Tantalum-182m	1,000
Promethium-149	100	Holmium-162	1,000	Tantalum-182	10
Promethium-150	1,000	Holmium-164m	1,000	Tantalum-183	100
Promethium-151	100	Holmium-164	1,000	Tantalum-184	100
Samarium-141m	1,000	Holmium-166m	1	Tantalum-185	1,000
Samarium-141	1,000	Holmium-166	100	Tantalum-186	1,000
Samarium-142	1,000	Holmium-167	1,000	Tungsten-176	1,000
Samarium-145	100	Erbium-161	1,000	Tungsten-177	1,000
Samarium-146	1	Erbium-165	1,000	Tungsten-178	1,000
Samarium-147	100	Erbium-169	100	Tungsten-179	1,000
Samarium-151	10	Erbium-171	100	Tungsten-181	1,000
Samarium-153	100	Erbium-172	100	Tungsten-185	100
Samarium-155	1,000	Thulium-162	1,000	Tungsten-187	100
Samarium-156	1,000	Thulium-166	100	Tungsten-188	10
Europium-145	100	Thulium-167	100	Rhenium-177	1,000
Europium-146	100	Thulium-170	10	Rhenium-178	1,000
Europium-147	100	Thulium-171	10	Rhenium-181	1,000
Europium-148	10	Thulium-172	100	Rhenium-182	
Europium-149	100	Thulium-173	100	(12.7h)	1,000
Europium-150		Thulium-175	1,000	Rhenium-182	
(12.62h)	100	Ytterbium-162	1,000	(64.0h)	100
Europium-150		Ytterbium-166	100	Rhenium-184m	10
(34.2y)	1	Ytterbium-167	1,000	Rhenium-184	100
Europium-152m	100	Ytterbium-169	100	Rhenium-186m	10
Europium-152	1	Ytterbium-175	100	Rhenium-186	100
Europium-154	1	Ytterbium-177	1,000	Rhenium-187	1,000
Europium-155	10	Ytterbium-178	1,000	Rhenium-188m	1,000
Europium-156	100	Lutetium-169	100	Rhenium-188	100
Europium-157	100	Lutetium-170	100	Rhenium-189	100
Europium-158	1,000	Lutetium-171	100	Osmium-180	1,000
Gadolinium-145	1,000	Lutetium-172	100	Osmium-181	1,000
Gadolinium-146	10	Lutetium-173	10	Osmium-182	100
Gadolinium-147	100	Lutetium-174m	10	Osmium-185	100
Gadolinium-148	0.001	Lutetium-174	10	Osmium-189m	1,000
Gadolinium-149	100	Lutetium-176m	1,000	Osmium-191m	1,000
Gadolinium-151	10	Lutetium-176	100	Osmium-191	100
Gadolinium-152	100	Lutetium-177m	10	Osmium-193	100
Gadolinium-153	10	Lutetium-177	100	Osmium-194	1
Gadolinium-159	100	Lutetium-178m	1,000	Iridium-182	1,000
Terbium-147	1,000	Lutetium-178	1,000	Iridium-184	1,000

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Iridium-185	1,000	Lead-209	1,000	Uranium-240	100
Iridium-186	100	Lead-210	0.01	Uranium-natural	100
Iridium-187	1,000	Lead-211	100	Neptunium-232	100
Iridium-188	100	Lead-212	1	Neptunium-233	1,000
Iridium-189	100	Lead-214	100	Neptunium-234	100
Iridium-190m	1,000	Bismuth-200	1,000	Neptunium-235	100
Iridium-190	100	Bismuth-201	1,000	Neptunium-236	
Iridium-192m		Bismuth-202	1,000	(1.15E + 5)	0.001
(1.4m)	10	Bismuth-203	100	Neptunium-236	
Iridium-192		Bismuth-205	100	(22.5h)	1
(73.8d)	1	Bismuth-206	100	Neptunium-237	0.001
Iridium-194m	10	Bismuth-207	10	Neptunium-238	10
Iridium-194	100	Bismuth-210m	0.1	Neptunium-239	100
Iridium-195m	1,000	Bismuth-210	1	Neptunium-240	1,000
Iridium-195	1,000	Bismuth-212	10	Plutonium-234	10
Platinum-186	1,000	Bismuth-213	10	Plutonium-235	1,000
Platinum-188	100	Bismuth-214	100	Plutonium-236	0.001
Platinum-189	1,000	Polonium-203	1,000	Plutonium-237	100
Platinum-191	100	Polonium-205	1,000	Plutonium-238	0.001
Platinum-193m	100	Polonium-207	1,000	Plutonium-239	0.001
Platinum-193	1,000	Polonium-210	0.1	Plutonium-240	0.001
Platinum-195m	100	Astatine-207	100	Plutonium-241	0.01
Platinum-197m	1,000	Astatine-211	10	Plutonium-242	0.001
Platinum-197	100	Radon-220	1	Plutonium-243	1,000
Platinum-199	1,000	Radon-222	1	Plutonium-244	0.001
Platinum-200	100	Francium-222	100	Plutonium-245	100
Gold-193	1,000	Francium-223	100	Americium-237	1,000
Gold-194	100	Radium-223	0.1	Americium-238	100
Gold-195	10	Radium-224	0.1	Americium-239	1,000
Gold-198m	100	Radium-225	0.1	Americium-240	100
Gold-198	100	Radium-226	0.1	Americium-241	0.001
Gold-199	100	Radium-227	1,000	Americium-242m	0.001
Gold-200m	100	Radium-228	0.1	Americium-242	10
Gold-200	1,000	Actinium-224	1	Americium-243	0.001
Gold-201	1,000	Actinium-225	0.01	Americium-244m	100
Mercury-193m	100	Actinium-226	0.1	Americium-244	10
Mercury-193	1,000	Actinium-227	0.001	Americium-245	1,000
Mercury-194	1	Actinium-228	1	Americium-246m	1,000
Mercury-195m	100	Thorium-226	10	Americium-246	1,000
Mercury-195	1,000	Thorium-227	0.01	Curium-238	100
Mercury-197m	100	Thorium-228	0.001	Curium-240	0.1
Mercury-197	1,000	Thorium-229	0.001	Curium-241	1
Mercury-199m	1,000	Thorium-230	0.001	Curium-242	0.01
Mercury-203	100	Thorium-231	100	Curium-243	0.001
Thallium-194m	1,000	Thorium-232	100	Curium-244	0.001
Thallium-194	1,000	Thorium-234	10	Curium-245	0.001
Thallium-195	1,000	Thorium-natural	100	Curium-246	0.001
Thallium-197	1,000	Protactinium-227	10	Curium-247	0.001
Thallium-198m	1,000	Protactinium-228	1	Curium-248	0.001
Thallium-198	1,000	Protactinium-230	0.1	Curium-249	1,000
Thallium-199	1,000	Protactinium-231	0.001	Berkelium-245	100
Thallium-201	1,000	Protactinium-232	1	Berkelium-246	100
Thallium-200	1,000	Protactinium-233	100	Berkelium-247	0.001
Thallium-202	100	Protactinium-234	100	Berkelium-249	0.1
Thallium-204	100	Uranium-230	0.01	Berkelium-250	10
Lead-195m	1,000	Uranium-231	100	Californium-244	100
Lead-198	1,000	Uranium-232	0.001	Californium-246	1
Lead-199	1,000	Uranium-233	0.001	Californium-248	0.01
Lead-200	100	Uranium-234	0.001	Californium-249	0.001
Lead-201	1,000	Uranium-235	0.001	Californium-250	0.001
Lead-202m	1,000	Uranium-236	0.001	Californium-251	0.001
Lead-202	10	Uranium-237	100	Californium-252	0.001
Lead-203	1,000	Uranium-238	100	Californium-253	0.1
Lead-205	100	Uranium-239	1,000	Californium-254	0.001

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Einsteinium-250	100	Any alpha-emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.001
Einsteinium-251	100		
Einsteinium-253	0.1		
Einsteinium-254m	1		
Einsteinium-254	0.01		
Fermium-252	1		
Fermium-253	1		
Fermium-254	10		
Fermium-255	1		
Fermium-257	0.01		
Mendelevium-257	10	Any radionuclide other than alpha-emitting radionuclides not listed above, or mixtures of beta emitters of unknown composition	0.01
Mendelevium-258	0.01		

* To convert μCi to kBq, multiply the μCi value by 37.

NOTE: Where there is involved a combination of radionuclides in known amounts, the limit for the combination shall be derived as follows: determine, for each radionuclide in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific radionuclide when not in combination. The sum of such ratios for all radionuclides in the combination may not exceed "1" -- that is, unity.

¹ The quantities listed above were derived by taking 1/10 of the most restrictive ALI listed in Table I, Columns 1 and 2, of Appendix B to Article 4, rounding to the nearest factor of 10, and constraining the values listed between 37 Bq and 37 MBq (0.001 and 1,000 μCi). Values of 3.7 MBq (100 μCi) have been assigned for radionuclides having a radioactive half-life in excess of E+9 years, except rhenium, 37 MBq (1,000 μCi), to take into account their low specific activity.

Historical Note

New Appendix C recodified from 12 A.A.C. 1, Article 4, Appendix C, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix D. Classification and Characteristics of Low-level Radioactive Waste

- I. Classification of Radioactive Waste for Land Disposal
- a) Considerations. Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radio nuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.
 - b) Classes of waste.
 - 1) Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in Section II(a). If Class A waste also meets the stability requirements set forth in Section II(b), it is not necessary to segregate the waste for disposal.
 - 2) Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in Section II.
 - 3) Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in Section II.
 - c) Classification determined by long-lived radionuclides. If the radioactive waste contains only radionuclides listed in Table I, classification shall be determined as follows:
 - 1) If the concentration does not exceed 0.1 times the value in Table I, the waste is Class A.
 - 2) If the concentration exceeds 0.1 times the value in Table I but does not exceed the value in Table I, the waste is Class C.
 - 3) If the concentration exceeds the value in Table I, the waste is not generally acceptable for land disposal.
 - 4) For wastes containing mixtures of radionuclides listed in Table I, the total concentration shall be determined by the sum of fractions rule described in Section I(g).

Alpha-emitting transuranic radionuclides with half-life greater than five years	100
Pu-241	3,500
Cm-242	20,000
Ra-226	100

^aTo convert the Ci/m³ values to gigabecquerel (GBq) per cubic meter, multiply the Ci/m³ value by 37.
^bTo convert the nCi/g values to becquerel (Bq) per gram, multiply the nCi/g value by 37.

- d) Classification determined by short-lived radionuclides. If the waste does not contain any of the radionuclides listed in Table I, classification shall be determined based on the concentrations shown in Table II. However, as specified in Section I(f), if radioactive waste does not contain any nuclides listed in either Table I or II, it is Class A.
 - 1) If the concentration does not exceed the value in Column 1, the waste is Class A.
 - 2) If the concentration exceeds the value in Column 1 but does not exceed the value in Column 2, the waste is Class B.
 - 3) If the concentration exceeds the value in Column 2 but does not exceed the value in Column 3, the waste is Class C.
 - 4) If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.
 - 5) For wastes containing mixtures of the radionuclides listed in Table II, the total concentration shall be determined by the sum of fractions rule described in Section I(g).

Appendix D. Table II

Radionuclide	TABLE II Concentration,		Curie/cubic meter* Column 3
	Column 1	Column 2	
Total of all radionuclides with less than 5-year half-life	700	*	*
H-3	40	*	*
Co-60	700	*	*
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

* DEPARTMENT NOTE: To convert the Ci/m³ value to gigabecquerel (GBq) per cubic meter, multiply the Ci/m³ value by 37. There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other radionuclides in Table II determine the waste to be Class C independent of these radionuclides.

Appendix D. Table I

Radionuclide	TABLE I Concentration	
	curie/cubic meter ^a	nanocuries/gram ^b
C-14	8	
C-14 in activated metal	80	
Ni-59 in activated metal	220	
Nb-94 in activated metal	0.2	
Tc-99	3	
I-129	0.08	

- e) Classification determined by both long- and short-lived radionuclides. If the radioactive waste contains a mixture of radionuclides, some of which are listed in Table I and some of which are listed in Table II, classification shall be determined as follows:

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Each package of waste shall be clearly labeled to identify whether it is Class A, Class B, or Class C waste, in accordance with Section I.

*****See Section R9-7-102 for definition of pyrophoric.

Historical Note

New Appendix D, including Tables 1 and 2 recodified from 12 A.A.C. 1, Article 4, Appendix D, Tables 1 and 2, effective March 22, 2018 (Supp. 18-1).

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix E. Quantities for Use with Decommissioning

Material	Microcurie	Material	Microcurie
Americium-241	0.01	Iodine-135	10
Antimony-122	100	Iridium-192	10
Antimony-124	10	Iridium-194	100
Antimony-125	10	Iron-55	100
Arsenic-73	100	Iron-59	10
Arsenic-74	10	Krypton-85	100
Arsenic-76	10	Krypton-87	10
Arsenic-77	100	Lanthanum-140	10
Barium-131	10	Lutetium-177	100
Barium-133	10	Manganese-52	10
Barium-140	10	Manganese-54	10
Bismuth-210	1	Manganese-56	10
Bromine-82	10	Mercury-197m	100
Cadmium-109	10	Mercury-197	100
Cadmium-115m	10	Mercury-203	10
Cadmium-115	100	Molybdenum-99	100
Calcium-45	10	Neodymium-147	100
Calcium-47	10	Neodymium-149	100
Carbon-14	100	Nickel-59	100
Cerium-141	100	Nickel-63	10
Cerium-143	100	Nickel-65	100
Cerium-144	1	Niobium-93m	10
Cesium-131	1,000	Niobium-95	10
Cesium-134m	100	Niobium-97	10
Cesium-134	1	Osmium-185	10
Cesium-135	10	Osmium-191m	100
Cesium-136	10	Osmium-191	100
Cesium-137	10	Osmium-193	100
Chlorine-36	10	Palladium-103	100
Chlorine-38	10	Palladium-109	100
Chromium-51	1,000	Phosphorus-32	10
Cobalt-58m	10	Platinum-191	100
Cobalt-58	10	Platinum-193m	100
Cobalt-60	1	Platinum-193	100
Copper-64	100	Platinum-197m	100
Dysprosium-165	10	Platinum-197	100
Dysprosium-166	100	Plutonium-239	0.01
Erbium-169	100	Polonium-210	0.1
Erbium-171	100	Potassium-42	10
Europium-152 (9.2 h)	100	Praseodymium-142	100
Europium-152 (13 yr)	1	Praseodymium-143	100
Europium-154	1	Promethium-147	10
Europium-155	10	Promethium-149	10
Fluorine-18	1,000	Radium-226	0.01
Gadolinium-153	10	Rhenium-186	100
Gadolinium-159	100	Rhenium-188	100
Gallium-72	10	Rhodium-103m	100
Germanium-71	100	Rhodium-105	100
Gold-198	100	Rubidium-86	10
Gold-199	100	Rubidium-87	10
Hafnium-181	10	Ruthenium-97	100
Holmium-166	100	Ruthenium-103	10
Hydrogen-3	1,000	Ruthenium-105	10
Indium-113m	100	Ruthenium-106	1
Indium-114m	10	Samarium-151	10
Indium-115m	100	Samarium-153	100
Indium-115	10	Scandium-46	10
Iodine-125	1	Scandium-47	100
Iodine-126	1	Scandium-48	10
Iodine-129	0.1	Selenium-75	10
Iodine-131	1	Silicon-31	100
Iodine-132	10	Silver-105	10
Iodine-133	1	Silver-110m	1
Iodine-134	10	Silver-111	100

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Material	Microcurie	Material	Microcurie
Sodium-22	1	Tungsten-185	10
Sodium-24	10	Tungsten-187	100
Strontium-85	10	Uranium (natural)**	100
Strontium-89	1	Uranium-233	0.01
Strontium-90	0.1	Uranium-234	0.01
Strontium-91	10	Uranium-235	0.01
Strontium-92	10	Vanadium-48	10
Sulfur-35	100	Xenon-131m	1,000
Tantalum-182	10	Xenon-133	100
Technetium-96	10	Xenon-135	100
Technetium-97m	100	Ytterbium-175	100
Technetium-97	100	Yttrium-90	10
Technetium-99m	100	Yttrium-91	10
Technetium-99	10	Yttrium-92	100
Tellurium-125m	10	Yttrium-93	100
Tellurium-127m	10	Zinc-65	10
Tellurium-127	100	Zinc-69m	100
Tellurium-129m	10	Zinc-69	1,000
Tellurium-129	100	Zirconium-93	10
Tellurium-131m	10	Zirconium-95	10
Tellurium-132	10	Zirconium-97	10
Terbium-160	10	Any alpha emitting radionuclide not listed	
Thallium-200	100	above or mixtures of alpha emitters of unknown composition	0.01
Thallium-201	100	Any radionuclide other than alpha emitting radionuclides, not listed	
Thallium-202	100	above or mixtures of beta emitters of unknown composition	0.1
Thallium-204	10		
Thorium (natural)**	100		
Thulium-170	10		
Thulium-171	10		
Tin-113	10		
Tin-125	10		
Tungsten-181	10		

* To convert µCi to kBq, multiply the µCi value by 37.

** Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.

*** Based on alpha disintegration rate of U-238, U-234, and U-235.

NOTE: Where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" - that is, unity.

Historical Note

New Appendix E recodified from 12 A.A.C. 1, Article 4, Appendix E, effective March 22, 2018 (Supp. 18-1).

ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY

R9-7-501. Definitions

“Access panel” means any panel that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

“Annual refresher safety training” means a review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equipment, new or revised state rules, accidents or errors that have occurred, and provide opportunities for employees to ask safety questions.

“Aperture” means any opening in the outside surface of the cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

“Associated equipment” means equipment used in conjunction with a radiographic exposure device that drives, guides, or comes in contact with the source.

“Certifying entity” means an independent certifying organization that complies with the requirements in Appendix A of this Article, or requirements of the NRC or another Agreement State, that are equivalent to the requirements in parts II and III of Appendix A.

“Collimator” means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size of the radiation beam when the sealed source is positioned to make a radiographic exposure.

“Control (drive) cable” means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

“Control (drive) mechanism” means a device that enables the source assembly to be moved to and from the exposure device.

“Control tube” means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

“Door” means any barrier that is designed to be movable or opened for routine operation purposes, not opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

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“Exposure head” means a device that places the gamma radiography sealed source in a selected working position.

“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Guide tube (projection sheath)” means a flexible or rigid tube (i.e., “J” tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

“Hands-on experience” means accumulation of knowledge or skill in any area relevant to radiography.

“Independent certifying organization” means an independent organization that meets all of the requirements in Appendix A.

“Lay-barge radiography” means industrial radiography performed on any water vessel used for laying pipe.

“Port” means any opening in the outside surface of the cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation whose dimensions do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, including use of all radiography equipment and knowledge of radiography procedures.

“Radiographer certification” means written approval received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing, and experience criteria.

“Radiographic exposure device” means any x-ray machine used for purposes of making an industrial radiographic exposure or a device that contains a sealed source, and the sealed source or its shielding may be moved or otherwise changed from a shielded to an unshielded position for purposes of making an industrial radiographic exposure.

“Radiographic operations” means all activities associated with the presence of radiation sources in a radiographic exposure device during use of the device or transport (except when the device is being transported by a common or contract carrier). This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

“S-tube” means a tube through which a radioactive source travels when the source is inside a radiographic exposure device.

“Source assembly” means an assembly that consists of a sealed source and a connector that attaches the source to a control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

“Underwater radiography” means industrial radiography performed when a radiographic exposure device is beneath the surface of water.

Historical Note

New Section R9-7-501 recodified from R12-1-501 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-502. License Requirements

- A. The Department shall review an application for a specific license for the use of radioactive material in industrial radiog-

raphy and approve the license if an applicant meets all of the following requirements:

1. The applicant satisfies the general requirements in R9-7-309 and any special requirements contained in this Article; and
2. The applicant submits a program for training radiographers and radiographers’ assistants that complies with R9-7-543, except that:
 - a. After the effective date of this Section, an applicant is not required to describe its initial training and examination program for radiographers;
 - b. An applicant shall affirm that an individual who is acting as an industrial radiographer is certified in radiation safety by a certifying organization, as required in R9-7-543, before permitting the individual to act as a radiographer. This affirmation substitutes for a description of the applicant’s initial training and examination program for radiographers in the subjects outlined in R9-7-543(G); and
 - c. An applicant shall submit procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.
- B. The applicant shall submit written operating and emergency procedures as prescribed in R9-7-522.
- C. The applicant shall submit a description of a program for review of job performance of each radiographer and radiographers’ assistant at intervals that do not exceed six months as prescribed in R9-7-543(E).
- D. The applicant shall submit a description of the applicant’s overall organizational structure as it applies to radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.
- E. The applicant shall submit a list of the qualifications of each individual designated as an RSO under R9-7-512 and indicate which designee is responsible for ensuring that the licensee’s radiation safety program is implemented in accordance with approved procedures.
- F. If an applicant intends to perform leak testing on any sealed source or exposure device that contains depleted uranium (DU) shielding, the applicant shall submit a description of the procedures for performing the leak testing and the qualifications of each person authorized to perform leak testing. If the applicant intends to analyze its own wipe samples, the application shall include a description of the procedures to be followed. The description shall include the:
 1. Instruments to be used,
 2. Methods of performing the analysis, and
 3. Relevant experience of the person who will analyze the wipe samples.
- G. If the applicant intends to perform “in-house” calibrations of survey instruments, the applicant shall describe each calibration method to be used and the relevant experience of each person who will perform a calibration. A licensee shall perform all calibrations according to the procedures prescribed in R9-7-504.
- H. The applicant shall identify and describe the location of all field stations and permanent radiographic installations.
- I. The applicant shall identify each location where records required by this Chapter will be maintained.

Historical Note

New Section R9-7-502 recodified from R12-1-502 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-503. Performance Requirements for Equipment

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- A. A licensee shall ensure that equipment used in industrial radiographic operations meets the following minimum criteria:
1. Each radiographic exposure device, source assembly or sealed source, and all associated equipment meet the requirements in American National Standards Institute, N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography" (published as NBS Handbook 136, issued January 1981) by the American National Standards Institute, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments. This publication may be purchased from the American National Standards Institute, Inc., 25 West 43rd Street, New York, New York 10036 Telephone (212) 642-4900. A copy of the document is also on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html; or
 2. An engineering safety analysis demonstrates the applicability of previously performed testing on similar individual radiography equipment components. Based on a review of the analysis, the Department may find that previously performed testing can be substituted for testing of the component under the standards in subsection (A)(1).
- B. In addition to the requirements in subsection (A), the following requirements apply to each radiographic exposure device, source changer, source assembly, and sealed source:
1. A licensee shall ensure that each radiographic exposure device has attached to it a durable, legible, and clearly visible label bearing:
 - a. The chemical symbol and mass number of the radionuclide in the device;
 - b. The activity of the source and the date on which this activity was last measured;
 - c. The model (or product code) and serial number of the sealed source;
 - d. The manufacturer's description of the sealed source; and
 - e. The licensee's name, address, and telephone number.
 2. A licensee shall ensure that each radiographic exposure device intended for use as a Type B transport container meets the applicable requirements of 10 CFR 71, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 3. A licensee shall not modify any radiographic exposure device, source changer, source assembly, or associated equipment, unless the design of the replacement component, including source holder, source assembly, controls, or guide tubes is consistent with and does not compromise the design safety features of the system.
- C. In addition to the requirements in subsections (A) and (B), the following requirements apply to each radiographic exposure device, source assembly, and associated equipment that allows the source to be moved out of the device for radiographic operations or to a source changer:
1. The license shall ensure that the coupling between the source assembly and the control cable is designed so that the source assembly does not become disconnected if it is positioned outside of the guide tube and is constructed so that an unintentional disconnect will not occur under normal and reasonably foreseeable abnormal conditions;
 2. The device automatically secures the source assembly if it is retracted into the fully shielded position within the device and the securing system is released from the exposure device only by means of a deliberate operation;
 3. The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device are equipped with safety plugs or covers installed for storage and transportation to protect the source assembly from water, mud, sand, or other foreign matter;
 4. Each sealed source or source assembly has attached to it or is engraved with a durable, legible, and visible label with the words: "DANGER--RADIOACTIVE." The licensee shall ensure that the label does not interfere with safe operation of the equipment;
 5. The guide tube is able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use;
 6. A guide tube is used if a person moves the source out of the device;
 7. An exposure head or similar device, designed to prevent the source assembly from passing out of the end of the guide tube, is attached to the outermost end of the guide tube during industrial radiography operations;
 8. The guide tube exposure head connection is able to withstand the tensile test for control units specified in ANSI N432-1980, incorporated by reference in subsection (A); and
 9. Source changers provide a system for ensuring that the source is not accidentally withdrawn from the changer when a person is connecting or disconnecting the drive cable to or from the source assembly.
- D. A licensee shall ensure that radiographic exposure devices and associated equipment in use after January 10, 1996 comply with the requirements of this Section.
- E. Notwithstanding subsection (A), a licensee with equipment used in industrial radiographic operations need not comply with Sec. 8.92(C) of the Endurance Test in American National Standards Institute N432-1980 if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

Historical Note

New Section R9-7-503 recodified from R12-1-503 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-504. Radiation Survey Instruments

- A. A licensee shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.
- B. A licensee shall ensure that each radiation survey instrument required under subsection (A) is calibrated:
1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;
 2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and

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3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C. A licensee shall maintain calibration records for each radiation survey instrument, and maintain each record for three years after it is made.

Historical Note

New Section R9-7-504 recodified from R12-1-504 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-505. Leak Testing and Replacement of Sealed Sources

- A. A licensee shall ensure that replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing of any sealed source is performed by a person authorized to do so by the Department, the NRC, or another Agreement State.
- B. A licensee shall ensure that opening, repairing, or modifying any sealed source is performed by a person specifically authorized to do so by the Department, the NRC, or another Agreement State.
- C. A licensee that uses a sealed source shall have the source tested for leakage by a qualified person at intervals that do not exceed six months. The person who performs leak testing of the source shall use a method approved by the Department, the NRC, or by another Agreement State. A wipe sample shall be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample shall be analyzed for radioactive contamination. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcurie) of radioactive material on the test sample and a person specifically authorized by the Department, the NRC, or another Agreement State performs the analysis. The licensee shall maintain records of the leak tests in accordance with this Section.
- D. Unless a sealed source is accompanied by a certificate from the transferor that shows that the sealed source has been leak tested within six months before the transfer, a licensee shall not use the sealed source until it is tested for leakage. A licensee is not required to test a sealed source that is in storage, but shall test each sealed source before use or transfer to another person if the interval of storage exceeds six months.
- E. A licensee shall immediately withdraw equipment containing a leaking source from use and have it decontaminated and repaired or dispose of the source in accordance with this Chapter. The licensee shall file a report with the Director of the Department within five days of any test with results that exceed the threshold in this subsection, and describe the equipment involved, the test results, and corrective action taken. If a leak test conducted under this Section reveals the presence of 185 Bq (0.005 microcurie) or more of removable radioactive material the Department classifies the sealed source as leaking.
- F. A licensee shall test for DU contamination at intervals that do not to exceed 12 months a radiographic exposure device that uses depleted uranium (DU) shielding and an "S" tube configuration. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample and a person specifically authorized by the Department, the NRC, or another Agreement State performs the analysis. If the testing reveals the presence of 185 Bq (0.005 microcuries) or more of removable DU contamination, the licensee shall remove the exposure device from use until an evaluation of the wear on the S-tube is completed. If the evaluation reveals that the S-tube is worn through, the licensee shall ensure that the device is not used again. The licensee is not required to test for DU contamination

if the radiographic exposure device is in storage. Before using or transferring the radiographic exposure device, the licensee shall test the device for DU contamination if the interval of storage exceeds 12 months. The licensee shall maintain records of the DU leak test in accordance with subsection (G).

- G. A licensee shall maintain records of leak test results for each sealed source and for each device that contains DU. The licensee shall ensure results are in Becquerels (microcuries), and retain each record for three years after it is made or until the source is removed from storage and tested, whichever is longer.

Historical Note

New Section R9-7-505 recodified from R12-1-505 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-506. Quarterly Inventory

- A. A licensee shall conduct a quarterly physical inventory to account for all sealed sources and devices that contain depleted uranium.
- B. A licensee shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required in subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, radionuclide, number of becquerels (curies) or mass (for DU) in each device, location of sealed source and associated devices, and manufacturer, model, and serial number of each sealed source and device as applicable.

Historical Note

New Section R9-7-506 recodified from R12-1-506 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-507. Utilization Logs

- A. A licensee shall maintain for each sealed source a utilization log that provides all of the following information:
1. A description, including the make, model, and serial number of each radiographic exposure device, and each sealed source transport and storage container that contains a sealed source;
 2. The identity and signature of the radiographer using the source; and
 3. The plant or site where the source is used and dates of use, including the date each source is removed from and returned to storage.
- B. A licensee shall retain the log required by subsection (A) for three years after the log is made.

Historical Note

New Section R9-7-507 recodified from R12-1-507 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-508. Inspection and Maintenance of Radiographic Exposure Devices, Transport and Storage Containers, Source Changers, Survey Instruments, and Associated Equipment

- A. A licensee shall perform visual and operability checks on each survey instrument, radiographic exposure device, transport and storage container, source changer, and associated equipment before use on each day the equipment is to be used to ensure that the equipment is in good working condition, the source is adequately shielded, and required labeling is present. A survey instrument operability check shall be performed using a check source or other authorized means. If an equipment problem is found, the licensee shall remove the equipment from service until it is repaired.
- B. A licensee shall have written inspection and maintenance procedures to ensure that:

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1. Radiographic exposure devices, source changers, transport and storage containers, survey instruments, and associated equipment that require inspection and maintenance at intervals that do not exceed three months or before first use of the equipment are functioning properly and safely. Replacement components shall meet design specifications. If an equipment problem is discovered, the licensee shall remove the equipment from service until it is repaired; and
 2. Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.
- C. A licensee shall maintain records of daily checks and quarterly inspections of radiographic exposure devices, transport and storage containers, source changers, survey instruments, and associated equipment, and retain each record for three years after it is made. The record shall include the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

Historical Note

New Section R9-7-508 recodified from R12-1-508 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-509. Surveillance

During each radiographic operation, a radiographer or the radiographer's assistant, as permitted by R9-7-510, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the licensee is in compliance with R9-7-539.

Historical Note

New Section R9-7-509 recodified from R12-1-509 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-510. Radiographic Operations

- A. If industrial radiography is performed at a location other than a permanent radiographic installation, a licensee shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R9-7-543. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Industrial radiography is prohibited if only one qualified individual is present.
- B. A licensee shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the license in a permanent radiographic installation, unless another permanent location is specifically authorized by the Department.

Historical Note

New Section R9-7-510 recodified from R12-1-510 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-511. Reserved**Historical Note**

R9-7-511 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-512. Radiation Safety Officer (RSO)

- A. A licensee shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B. Except as provided in subsection (C), the licensee shall ensure that the RSO satisfies the following minimum requirements:
1. The training and testing requirements in R9-7-543,

2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation, and
 3. Formal training in the establishment and maintenance of a radiation safety program.
- C. If the licensee uses an individual in the position of RSO who does not have the training and experience required in subsection (B), the licensee shall provide the Department with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program so the Department can determine whether the individual is qualified to perform under subsection (D).
- D. The specific duties and authorities of the RSO include, but are not limited to:
1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter and reviewing them every year to ensure that the procedures in use conform to current Department rules and license conditions;
 2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
 3. Overseeing radiation surveys, leak tests, and associated documentation to ensure that the surveys and tests are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
 4. Overseeing the personnel monitoring program to ensure that devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R9-7-444; and
 5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

Historical Note

New Section R9-7-512 recodified from R12-1-512 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-513. Form of Records

A licensee shall maintain records in accordance with R9-7-405.

Historical Note

New Section R9-7-513 recodified from R12-1-513 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-514. Limits on External Radiation Levels from Storage Containers and Source Changers

The maximum rate limits for storage containers and source changers are 2 millisieverts (200 mRem/hr) at any exterior surface and 0.1 millisieverts (10 mRem/hr) at 1 meter from any exterior surface with the sealed source in the shielded position.

Historical Note

New Section R9-7-514 recodified from R12-1-514 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-515. Locking Radiographic Exposure Devices, Storage Containers, and Source Changers

- A. Except at permanent radiographic installations governed by R9-7-539, a licensee shall ensure that each radiographic exposure device has a lock or an outer container with a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that the exposure device or its container, if applicable, is locked (and if a keyed lock, with the key removed) if the device or container is not under the direct surveillance of a

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radiographer or a radiographer's assistant. During radiographic operations, the radiographer or radiographer's assistant shall secure the sealed source assembly in the shielded position each time the source is returned to the shielded position.

- B.** A licensee shall ensure that each sealed source storage container and source changer has a lock or an outer container with a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that each storage container and source changer is locked (and if a keyed lock, with the key removed) if the storage container or source changer contains a sealed source and is not under the direct surveillance of a radiographer or a radiographer's assistant.

Historical Note

New Section R9-7-515 recodified from R12-1-515 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-516. Records of Receipt and Transfer of Sealed Sources

- A.** A licensee shall maintain records that show each receipt and transfer of a sealed source or device that uses DU for shielding and retain each record for three years after it is made.
- B.** The records shall contain separate entries for each transaction, including the date, name of the individual making the record, radionuclide, number of Becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each sealed source or device, as applicable.

Historical Note

New Section R9-7-516 recodified from R12-1-516 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-517. Posting

A licensee shall post any area in which industrial radiography is performed as required by R9-7-429. Exceptions listed in R9-7-430 do not apply to industrial radiographic operations.

Historical Note

New Section R9-7-517 recodified from R12-1-517 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-518. Labeling, Storage, and Transportation

- A.** A licensee shall not use a source changer or a storage container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label that bears the standard trefoil radiation caution symbol and the standard colors for the symbol specifically: magenta, purple, or black on a yellow background, and the label has a minimum diameter of 25 mm and the wording "CAUTION (or DANGER), RADIOACTIVE MATERIAL NOTIFY CIVIL AUTHORITIES (or "NAME OF COMPANY")"
- B.** A licensee shall not transport licensed material unless the material is packaged and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with 10 CFR 71, January 1, 2004, published by the Office of the Federal Register, National Archives and Records Administration, incorporated by reference, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- C.** A licensee shall physically secure locked radiographic exposure devices and storage containers behind a locked door to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner that will minimize danger from explosion or fire.
- D.** A licensee shall lock each transport package that contains licensed material and physically secure the package behind the

locked doors of the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

Historical Note

New Section R9-7-518 recodified from R12-1-518 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-519. Reserved**Historical Note**

R9-7-519 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-520. Reserved**Historical Note**

R9-7-520 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-521. Reserved**Historical Note**

R9-7-521 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-522. Operating and Emergency Procedures

- A.** A licensee shall ensure that the operating and emergency procedures include, at a minimum, instructions in the following, as applicable:
1. Handling and use of sealed sources or radiographic exposure devices, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
 2. Methods and occasions for conducting radiation surveys;
 3. Methods for controlling access to radiographic areas;
 4. Methods and occasions for locking and securing radiographic exposure devices, transport and storage containers, and sealed sources;
 5. Personnel monitoring and associated equipment;
 6. Transportation of sealed sources to field locations, including packing radiographic exposure devices and storage containers in vehicles, placarding vehicles, and maintaining control of the sealed sources during transportation, as required in 49 CFR 171-173, 2002 edition, published October 1, 2002, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Department. This incorporation contains no future editions or amendments;
 7. Inspection, maintenance, and operability checks of radiographic exposure devices, survey instruments, transport containers, and storage containers;
 8. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
 9. Procedures for identifying and reporting defects and non-compliance, as required by R9-7-448 and R9-7-535;
 10. Procedures for notifying the RSO and the Department in the event of an accident;
 11. Methods for minimizing exposure of persons in the event of an accident;
 12. Procedures for recovering a source if the licensee is responsible for source recovery; and
 13. Maintenance of records.
- B.** The licensee shall maintain copies of current operating and emergency procedures until the Department terminates the license. Superseded procedures shall be maintained for three years after being superseded. Additionally, a copy of the procedures shall be maintained at field stations in accordance with R9-7-540.

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Historical Note

New Section R9-7-522 recodified from R12-1-522 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-523. Personnel Monitoring

A. A licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarm rate meter is not required. A licensee shall:

1. Use a pocket dosimeter with a range from zero to 2 millisieverts (200 millirems). The licensee shall ensure that each dosimeter is recharged at the start of each shift. Electronic personal dosimeters are permitted in place of ion-chamber pocket dosimeters.
2. Assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
3. Replace film badges at least monthly and ensure that other personnel dosimeters are processed and evaluated by an accredited NVLAP processor and replaced at periods that do not exceed three months.
4. After replacement, ensure that each personnel dosimeter is processed as soon as possible.

B. A licensee shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personal dosimeters, at the beginning and end of each shift. The licensee shall maintain the records for three years after the Department terminates the license.

C. A licensee shall check pocket dosimeters and electronic personal dosimeters for correct response to radiation at periods that do not exceed 12 months. The licensee shall record the results of each check and maintain the records for three years after the dosimeter check is performed. The licensee shall discontinue use of a dosimeter if it is not accurate within plus or minus 20 percent of the true radiation exposure.

D. If an individual's pocket dosimeter has an off-scale reading, or the individual's electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a licensee shall process the individual's dosimeter within 24 hours of the suspect exposure. The licensee shall not allow the individual to resume work associated with sources of radiation until the individual's radiation exposure has been determined. Using information from the dosimeter, the licensee's RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure as prescribed in Article 4 of this Chapter and include the results of this determination in the personnel monitoring records maintained in accordance with subsection (B).

E. If the personnel dosimeter that is required by subsection (A) is lost or damaged, the licensee shall ensure that the worker ceases work immediately until the licensee provides a replacement personnel dosimeter that meets the requirements in subsection (A) and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of the lost or damaged personnel dosimeter. The licensee shall maintain a record of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged in accordance with subsection (B).

F. The licensee shall maintain dosimetry reports received from the accredited NVLAP personnel dosimeter processor in accordance with subsection (B).

G. For each alarm rate meter a licensee shall ensure that:

1. At the start of each shift, the alarm functions (sounds) properly before an individual uses the device;
2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20 percent of the true radiation dose rate;
3. A special means is necessary to change the preset alarm function on the device; and
4. Each device is calibrated at periods that do not exceed 12 months for correct response to radiation. The licensee shall maintain records of alarm rate meter calibrations in accordance with subsection (B).

Historical Note

New Section R9-7-523 recodified from R12-1-523 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-524. Supervision of a Radiographer's Assistant

If a radiographer's assistant uses a radiographic exposure device, associated equipment, or a sealed source or conducts a radiation survey required by R9-7-533(B) to determine that the sealed source has returned to the shielded position after an exposure, the licensee shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:

1. The radiographer is physically present at the site where the sealed source is being used,
2. The radiographer is available to give immediate assistance if required, and
3. The radiographer is able to observe the assistant's performance directly.

Historical Note

New Section R9-7-524 recodified from R12-1-524 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-525. Notification of Field Work

Each day radioactive material is used for industrial radiography, a licensee shall notify the Department of any planned field radiography. The notice shall be in writing and specify the location of the field work, the name of the supervising individual at the job site, and the expected duration of the work at the job site listed in the notice. A facsimile that provides the required information is sufficient notice.

Historical Note

New Section R9-7-525 recodified from R12-1-525 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-526. Reserved**Historical Note**

R9-7-526 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-527. Reserved**Historical Note**

R9-7-527 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-528. Reserved**Historical Note**

R9-7-528 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-529. Reserved**Historical Note**

R9-7-529 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-530. Reserved

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Historical Note

R9-7-530 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-531. Security

During each radiographic operation, the radiographer or radiographer's assistant shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, as defined in Article 1, unless:

1. The high radiation area is equipped with a control device or an alarm system as prescribed in R9-7-420(A), or
2. The high radiation area is locked to protect against unauthorized or accidental entry.

Historical Note

New Section R9-7-531 recodified from R12-1-531 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-532. Posting

Notwithstanding any provisions in R9-7-430, areas in which radiography is being performed shall be conspicuously posted as required by R9-7-429(A) and (B).

Historical Note

New Section R9-7-532 recodified from R12-1-532 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-533. Radiation Surveys

- A. A licensee shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R9-7-504.
- B. Using a survey instrument that complies with subsection (A), the licensee shall conduct a survey of the radiographic exposure device and the guide tube after each exposure before approaching the device or the guide tube. The survey shall be performed to determine that the sealed source is in the shielded position before the radiographer or radiographer's assistant exchanges films, repositions the exposure head, or dismantles the equipment.
- C. The licensee shall conduct a survey of the radiographic exposure device with a calibrated radiation survey instrument any time the source is exchanged or the device is placed in a storage area, as defined in R9-7-102, to ensure that the sealed source is in the shielded position.
- D. The licensee shall maintain a record of each exposure device survey conducted before the device is placed in storage under subsection (C), if that survey is the last one performed during the workday. Each record shall be maintained for three years after the record is made.

Historical Note

New Section R9-7-533 recodified from R12-1-533 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-534. Reserved**Historical Note**

R9-7-534 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-535. Notifications

- A. In addition to the reporting requirements specified in Article 4, each licensee shall provide a written report to the Department if any of the following incidents involving radiography equipment occur:
 1. Unintentional disconnection of the source assembly from the control cable;
 2. Inability to retract the source assembly to the fully shielded position or secure it in this position; or

3. Failure of any component (critical to safe operation of the device) to properly perform its intended function;

- B. A licensee shall include the following information in any report submitted under this Section, regarding radiography equipment, or Article 4, regarding an overexposure, if the report concerns the failure of safety components of radiography equipment:
 1. A description of the equipment problem;
 2. Cause of the incident, if known;
 3. Name of manufacturer and model number of the equipment involved in the incident;
 4. Place, date, and time of the incident;
 5. Actions taken to establish normal operations;
 6. Corrective actions taken or planned to prevent recurrence; and
 7. Qualifications of personnel involved in the incident.
- C. Any licensee that conducts radiographic operations, or stores radioactive material at a location not listed on the license or for a period longer than 180 days during a calendar year, shall notify the Department of these activities before the 180 days has elapsed.

Historical Note

New Section R9-7-535 recodified from R12-1-535 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-536. Reserved**Historical Note**

R9-7-536 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-537. Reserved**Historical Note**

R9-7-537 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-538. Reserved**Historical Note**

R9-7-538 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-539. Permanent Radiographic Installations

- A. If a licensee maintains a permanent radiographic installation that does not fall within the definition of "enclosed radiography" in R9-7-102, the licensee shall ensure that each entrance, used for personnel access to the high radiation area, has either:
 1. An entrance control device of the type described in R9-7-420(A)(1) that reduces the radiation level upon entry into the area, or
 2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The licensee shall ensure that the visible signal is actuated by radiation if a source is exposed and the audible signal is actuated if someone attempts to enter the installation while a source is exposed.
- B. A licensee with an alarm signal shall test the alarm signal for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. A licensee with an entrance control device shall test the device monthly. If an entrance control device or alarm signal is operating improperly, the licensee shall immediately label the device or signal as "defective" and repair the device or signal within seven calendar days. The licensee may continue to use the facility during this seven-day period, if the licensee implements continuous surveillance requirements of R9-7-509 and uses an alarming rate meter.

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- C. A licensee shall maintain each record an alarm system or entrance control device test for three years after the record is made.

Historical Note

New Section R9-7-539 recodified from R12-1-539 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-540. Location of Documents and Records

- A. A licensee shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at a location specified under R9-7-502(I).
- B. A licensee shall maintain a copy of each record listed below at each field station and temporary job site:
1. The license that authorizes use of radioactive material;
 2. A copy of Articles 4, 5, and 10 of this Chapter;
 3. Utilization logs for each radiographic exposure device dispatched from that location, as required by R9-7-507;
 4. Records of equipment problems identified in daily checks of equipment, as required by R9-7-508(A);
 5. Records of alarm system and entrance control checks as required by R9-7-539;
 6. Records of direct-reading dosimeters, such as pocket dosimeters and electronic personnel dosimeters as required by R9-7-523;
 7. Operating and emergency procedures as required by R9-7-522;
 8. A report on the most recent calibration of the radiation survey instruments in use at the site as required by R9-7-504;
 9. A report on the most recent calibration of each alarm rate meter, and operability check of each pocket dosimeter and electronic personnel dosimeter as required in R9-7-523;
 10. Most recent survey record as required by R9-7-533;
 11. The shipping papers for the transportation of radioactive material required by 10 CFR 71.5, 2003 edition, published January 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Department (this incorporation contains no future editions or amendments); and
 12. If operating under reciprocity in accordance with R9-7-320, a copy of the NRC or Agreement State license authorizing the use of radioactive materials.

Historical Note

New Section R9-7-540 recodified from R12-1-540 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-541. Reserved**Historical Note**

R9-7-541 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-542. Reserved**Historical Note**

R9-7-542 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-543. Training

- A. A licensee shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a independent certifying organization in accordance with the criteria specified in Appendix A.

1. A licensee shall provide the Department with proof of an individual's certification and a written request that the individual be added to a license as a certified radiographer.
 2. A licensee shall maintain proof of certification at the job site where a radiographer is performing field radiography.
 3. A licensee that employs certified radiographers in Arizona shall ensure that:
 - a. Each radiographer has obtained initial certification within the last five years, and
 - b. An uncertified radiographer works only as a radiographer's assistant until certified.
 4. A radiographer shall recertify every five years by:
 - a. Taking an approved radiography certification examination in accordance with this subsection; or
 - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
 5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
 6. A radiographer shall provide the licensee with proof of certification in the form of a card issued by the certifying organization that contains:
 - a. A picture of the certified radiographer,
 - b. The radiographer's certification number,
 - c. The date the certification expires, and
 - d. The radiographer's signature.
- B. A licensee shall not allow an individual to act as a radiographer until the individual:
1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R9-7-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference, contains no future editions or amendments, and is on file with Department; the Department license or licenses under which the radiographer will perform industrial radiography; and the licensee's operating and emergency procedures;
 2. Has demonstrated an understanding of the licensee's license and operating and emergency procedures by successfully completing a written or oral examination that covers the relevant material;
 3. Has received training in:
 - a. Use of the licensee's radiographic exposure devices and sealed sources,
 - b. Daily inspection of devices and associated equipment, and
 - c. Use of radiation survey instruments; and
 4. Has demonstrated an understanding of the use of radiographic exposure devices, sources, survey instruments, and associated equipment described in subsection (B)(3) by successfully completing a practical examination covering this material.
- C. A licensee shall not allow an individual to act as a radiographer's assistant until the individual:
1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R9-7-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference, contains no future editions or amendments,

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- and is on file with the Department; the Department license or licenses under which the radiographer's assistant will perform industrial radiography; and the licensee's operating and emergency procedures;
2. Has developed competence to use, under the personal supervision of the radiographer, the licensee's radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments; and
 3. Has demonstrated understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and has demonstrated competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D.** A licensee shall provide refresher safety training for each radiographer and radiographer's assistant at intervals not to exceed 12 months.
- E.** Unless an individual serves as both a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and to ensure that the Department's rules and license requirements, and the licensee's operating and emergency procedures are followed. The inspection program shall:
1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
 2. If a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months, the radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and the radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before participating in a radiographic operation.
- F.** A licensee shall maintain records of the training required in this Section including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).
- G.** A licensee shall include the following subjects in the training required under subsection (A):
1. Fundamentals of radiation safety, including:
 - a. Characteristics of gamma radiation,
 - b. Units of radiation dose and quantity of radioactivity,
 - c. Hazards of exposure to radiation,
 - d. Levels of radiation from licensed material, and
 - e. Methods of controlling radiation dose (time, distance, and shielding);
 2. Radiation detection instruments, including:
 - a. Use, operation, calibration, and limitations of radiation survey instruments;
 - b. Survey techniques; and
 - c. Use of personnel monitoring equipment;
 3. Equipment topics, including:
 - a. Operation and control of radiographic exposure equipment, use of remote handling equipment, and use of storage containers, using pictures or models of source assemblies (pigtailed);
 - b. Storage, control, and disposal of licensed material; and
 - c. Inspection and maintenance of equipment;
 4. The requirements of pertinent Department rules; and
 5. Case histories of accidents in radiography.
- H.** A licensee shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).
- I.** A licensee shall maintain the following records for three years after each record is made:
1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
 2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of the items checked during the inspection and any non-compliance observed by the RSO.

Historical Note

New Section R9-7-543 recodified from R12-1-543 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Standards for Organizations that Provide Radiography Certification

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

I. Requirements for an Organization that Provides Radiographer Certification

To qualify to provide radiographer certification an organization shall:

- A.** Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;
- B.** Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C.** Have a certification program that is open to nonmembers, as well as members;
- D.** Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- E.** Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F.** Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G.** Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;
- H.** Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals and determine sanctions;
- I.** Have written procedures describing all aspects of the organization's certification program;
- J.** Maintain records of the current status of each individual's certification and administration of the certification program;
- K.** Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;
- L.** Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall

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ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;

- M. Exchange information about certified individuals with the Department, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Department of its procedures for choosing examination sites and providing a favorable examination environment.

II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
 1. Obtain training in the subjects listed in R9-7-543(G) or equivalent NRC or Agreement State regulations, and
 2. Satisfactorily complete a written examination that covers these subjects;
- B. Requires an applicant for certification to provide documentation demonstrating that the applicant has:
 1. Received training in the subjects listed in R9-7-543(G) or equivalent NRC or Agreement State regulations;
 2. Satisfactorily completed the on-the-job training required in R9-7-543(A); and
 3. Received verification by an Agreement State or a NRC licensee that the applicant has demonstrated the capability of independently working as a radiographer;
- C. Provides procedures that protect examination questions from disclosure;
- D. Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E. Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a system for assessing evidence of recent full-time employment and annual refresher training; and
- F. Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A. Is designed to test an individual's knowledge and understanding of the subjects listed in R9-7-543(G);
- B. Is written in a multiple-choice format; and
- C. Has psychometrically valid questions drawn from a question bank and based on the material in R9-7-543(G).

Historical Note

New Article 5, Appendix A recodified from 12 A.A.C. 1, Article 5, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS

R9-7-601. Reserved

Historical Note

R9-7-601 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-602. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

“Accessible surface” means the external surface of the enclosure or housing provided by the manufacturer.

“Added filter” means the filter added to the inherent filtration.

“Aluminum equivalent” means the thickness of aluminum (type 1100 alloy) that affords equivalent attenuation, under specified conditions, as the material in question. (The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper).

“Annual” means annually within two months of the anniversary due date as determined by the original installation date, inspection date, survey date, or a reset date created by conducting a full survey before the anniversary date has arrived.

“Assembler” means any person engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem.

“Attenuation block” means a block or stack, having dimensions 20 cm by 20 cm by 3.8 cm (7.9 inches by 7.9 inches by 1.5 inches) of type 1100 aluminum alloy or other materials that afford equivalent attenuation.

“Automatic exposure control” means a device that automatically controls one or more technique factors in order to obtain, at a preselected location or locations, a required quantity of radiation.

“Barrier” (See “Protective barrier”)

“Beam axis” means a line from the source through the center of the x-ray field.

“Beam-limiting device” means a device that provides a means to restrict the dimensions of the x-ray field.

“C-arm x-ray system” means an x-ray system that has the image receptor and x-ray tube housing assembly connected by a common mechanical support system to maintain a desired spatial relationship. This system is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient.

“Changeable filter” means any filter, exclusive of inherent filtration, which can be removed from the useful beam by an electronic, mechanical, or physical process.

“Cinefluorography” means fluorography that uses a movie camera to record fluorograph images on film for later playback.

“Coefficient of variation” means the ratio of the standard deviation to the mean value of a population of observations.

“Collimator” means an adjustable device, generally made of lead, that is fixed to an x-ray tube housing to intercept or collimate the useful beam and, if not made of lead, has a lead equivalency of not less than that of the tube housing assembly.

“Compression device” means a device used to bring object structures closer to the image plane of a radiograph and make a part of the human body a more uniform thickness so the optical density of the radiograph will be more uniform.

“Computed tomography” means the production of a tomogram by the acquisition and computer processing of x-ray transmission data. For purposes of these rules this term has the same meaning as “CT.”

“Contact therapy system” means that the x-ray tube port is put in contact with or within 5 centimeters (2 inches) of the surface being treated.

“Control panel” means that part of the x-ray machine where switches, knobs, push-buttons, or other hardware necessary for manually setting the technique factors are located.

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“Cooling curve” means the graphical relationship between heat units stored and cooling time.

“CT gantry” means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structure, frame, and cover which hold or enclose these components.

“Dead-man switch” means a switch constructed so that a circuit-closing contact can be maintained only by continuous pressure on the switch by the operator.

“Diagnostic source assembly” means the tube housing assembly with a beam-limiting device attached.

“Diagnostic x-ray system” means an x-ray system designed for irradiation of any part of a human or animal body for the purpose of diagnosis or visualization.

“Direct scattered radiation” means scattered radiation that has been deviated in direction only by materials irradiated by the useful beam (see “Scattered radiation”).

“Electronic brachytherapy” means a method of radiation therapy where an electrically generated source of ionizing radiation is placed in or near the tumor or target tissue to deliver therapeutic radiation dosage.

“Entrance exposure rate” means the roentgens per unit time at the point where the center of the useful beam enters the patient.

“Equipment” (See “X-ray equipment”)

“Filter” means material placed in the useful beam to absorb undesirable radiation.

“Fluoroscopic imaging assembly” means a subsystem in which x-ray photons produce a fluoroscopic image. It includes the image receptor or receptors such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material that provides a linkage between the image receptor and diagnostic source assembly.

“Fluoroscopic system” means a radiographic x-ray system used to directly visualize internal structure, the motion of internal structures, and fluids in real time, or near real-time, to aid in the treatment or diagnosis of disease, or the performance of other medical procedures.

“Focal spot” means the region of the anode target in an x-ray tube where electrons from the cathode interact to produce x-rays.

“General purpose radiographic x-ray system” means any radiographic x-ray system that, by design, is not limited to radiographic examination of a specific anatomical region.

“Gonadal shield” means a protective barrier for the testes or ovaries.

“Grid” means a device used to improve the image detail in a radiograph by reducing the intensity of x-ray scatter radiation exiting the film side of the patient.

“Half-value layer” or “HVL” means the thickness of a specified material that attenuates the beam of radiation to an exposure rate that is one-half of its original value. In this definition, the contribution of any scattered radiation, other than that which is present initially in the beam, is excluded.

“Healing arts radiography” means the application of x-radiation to human patients for diagnostic or therapeutic purposes by a licensed practitioner or a person certified in accordance with R9-7-603(B)(1), at the direction of a licensed practitioner. Healing arts radiography includes:

Positioning the x-ray beam with respect to the patient,

Anatomical positioning of the patient,

Selecting exposure factors, or

Initiating the exposure.

“Healing arts screening” means the application of radiation from an x-ray machine to a human for the detection or evaluation of health indications when the tests are not specifically and individually ordered by a licensed practitioner.

“Image intensifier” means an electronic device, installed in an x-ray system housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher intensity.

“Image receptor” means any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformation.

“Inherent filtration” means the filtration of the useful beam by permanently installed components of the tube housing assembly.

“Kilovolts peak” or “kVp” (See “Peak tube potential”)

“Lateral fluoroscope” means the x-ray tube and image receptor combination in a biplane system dedicated to the lateral projection. It consists of the lateral x-ray tube housing assembly and the lateral image receptor that are fixed in position relative to the table with the x-ray beam axis parallel to the plane of the table.

“Lead equivalent” means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

“Leakage radiation” means all radiation emanating from the tube housing except the useful beam and radiation produced when the exposure switch or timer is not activated.

“Leakage technique factors” means the technique factors associated with the diagnostic source assembly that are used in measuring leakage radiation. Included are:

For capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger;

For field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential; and

For all other source assemblies, the maximum-rated peak tube potential and maximum-rated continuous tube current for the maximum-rated peak tube potential.

“mA” means milliamperere.

“Mammographic x-ray system” means an x-ray system that is specifically engineered to image human breasts.

“mAs” means milliamperere second.

“Mobile equipment” (See “X-ray equipment”)

“Peak tube potential” means the maximum value of the potential difference across the x-ray tube during an exposure.

“Phantom” means a volume of material that behaves in a manner similar to tissue with respect to the attenuation and scatter-

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ing of radiation. (i.e. "Breast phantom" means an artificial test object that simulates the average composition of, and various structures in the breast.)

"Phototimer" (See "Automatic exposure control")

"Portable equipment" (See "X-ray equipment")

"Primary protective barrier" (See "Protective barrier")

"Protective apron" means an apron made of radiation, absorbing material used to reduce radiation exposure.

"Protective barrier" means a barrier of radiation-absorbing material used to reduce radiation exposure.

"Primary protective barrier" means the material, excluding filters, placed in the useful beam.

"Secondary protective barrier" means the material which attenuates stray radiation.

"Protective glove" means a glove made of radiation- absorbing material used to reduce radiation exposure.

"Radiologic physicist" means an individual who:

Is certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;

Possesses documentation of state approval;

Holds a master's degree or higher in a physical science; and

Meets the training and certification requirements in R9-7-615(A)(1)(c).

"Scattered radiation" means radiation that, during passage through matter, has been deviated in direction. (See "Direct scattered radiation")

"Screen" or "intensifying screen" means a device that converts the energy of the x-ray beam into visible light that interacts with the radiographic film, forming a latent image, or contains photostimulable phosphor plates that upon exposure, emit visible or nonvisible light to create an image.

"Secondary protective barrier" (See "Protective barrier")

"Shutter" (See "Collimator")

"Source" means the focal spot of the x-ray tube.

"Source-to-image receptor distance" or "SID" means the distance from the source to the center of the input surface of the image receptor.

"Spot check" means an abbreviated calibration procedure which is performed to assure that a previous calibration continues to be valid. Also, a spot film may be taken to improve visualization by arresting motion and to document medical observations. Note that in some cases, a film may not be created.

"Stationary equipment" (See "X-ray equipment")

"Stray radiation" means the sum of leakage and scattered radiation.

"System" (See "X-ray system")

"Technique chart" means a tabulation of technique factors.

"Technique factors" means the following conditions of operation:

For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

For field emission equipment rated for pulsed operation, peak tube potential in kV, and number of x-ray pulses;

For CT x-ray systems designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in mA, x-ray pulse width in seconds, and number of x-ray pulses per scan, or the product of tube current, x-ray pulse width, and number of x-ray pulses in mAs;

For CT x-ray systems not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds, or the product of tube current, exposure time in mAs, when the scan time and exposure time are equivalent; and

For all other equipment, peak tube potential in kV, and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

"Treatment simulator" means a diagnostic x-ray system that duplicates a medical particle accelerator or other teletherapy in terms of its geometrical, mechanical, and optical qualities; the main function of which, is to display radiation treatment fields so that the target volume may be accurately included in the area of irradiation without delivering excess radiation to surrounding normal tissue.

"Tube" means x-ray tube unless otherwise specified.

"Tube housing assembly" means the tube housing with the tube installed. It includes high-voltage or filament transformers and other elements contained within the tube housing.

"Tube rating chart" means the set of curves that specify the rated limits of operation of the tube in terms of the technique factors.

"Useful beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam-limiting device when the exposure controls are in a mode that causes the system to produce radiation.

"Visible area" means that portion of the input surface on the image receptor over which incident x-ray photons are producing a visible image.

"X-ray equipment" means an x-ray system, subsystem, or component described further by the following terms:

"Hand-held" means x-ray equipment designed to be held by an operator while being used.

"Mobile" means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

"Portable" means x-ray equipment designed to be hand-carried, but used with a cord or delayed timer system that allows the operator to be six feet or more away from the useful beam.

"Stationary" means x-ray equipment installed in a fixed location.

"Transportable mobile" means x-ray equipment installed in a vehicle or trailer.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes, at minimum, an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary support-

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ing structures. Additional components that function with the system are considered integral parts of the system.

“X-ray tube” means any electron tube that is designed for the conversion of electrical energy into x-ray energy. For purposes of the rules contained in 9 A.A.C. 7, this term is synonymous with “tube.”

Historical Note

New Section R9-7-602 recodified from R12-1-602 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-603. Operational Standards, Shielding, and Darkroom Requirements

- A.** A person shall not make, sell, lease, transfer, lend, or install x-ray equipment or the supplies used in connection with the equipment unless the supplies and equipment, when properly placed in operation and properly used, meets the requirements of 9 A.A.C. 7.
- B.** A registrant shall direct the operation of x-ray machines under the registrant’s control and assure that all of the following provisions are met in the operation of x-ray machines:
1. The registrant shall not permit any individual to engage in the practice of “Healing Arts Radiography” using equipment under the registrant’s control, unless the individual possesses, and displays in the primary employer’s facility, an official certificate issued by, or is exempt from, the Medical Radiologic Technology Board of Examiners that contains an original signature of its Director or designee. A copy of the certificate shall be posted at any secondary employment location with documentation that verifies that the employer has physically seen the official certificate and has annotated on the copy the location where the official certificate may be viewed by Department staff.
 2. The registrant shall maintain records documenting compliance with subsection (B)(1) for each individual practicing “Healing Arts Radiography” using equipment under the registrant’s control,
 3. The registrant shall provide safety rules to each individual operating x-ray equipment under the registrant’s control, including any restrictions in operating procedures necessary for the safe use of the equipment and require that the operator demonstrate familiarity with 9 A.A.C. 7.
- C. Shielding**
1. Each registrant shall provide each installation with primary and secondary protective barriers that are necessary to assure compliance with 9 A.A.C. 7, Article 4.
 2. A registrant shall ensure that attenuation provided by a protective barrier meets or exceeds the level of protection established in Report No. 147 Structural Shielding Design for Medical X-ray Imaging Facilities, November 19, 2004, by the National Council on Radiation Protection and Measurements, (NCRP), NCRP Publications, 7910 Woodmount Ave., Suite 400, Bethesda, MD 20814-3095. This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. Copies of the report are available from NCRP Publications: online at <http://www.ncrppublications.org>; toll free at (800) 229-2652 (Ext. 25); or e-mail at NCRPpubs@NCRPonline.org. Each registrant shall use this incorporated material to provide sufficient shielding to prevent a public exposure that exceeds the limits in R9-7-416.
 3. A registrant shall:
 - a. Mount each lead barrier so that the barrier will not sag or cold flow because of its own weight and protect the barrier from damage;

- b. Use barriers designed so that joints between different ends of protective material do not impair the overall protection of the barriers;
- c. Use barriers designed so that joints at the floor and ceiling do not impair the overall protection of the barriers;
- d. Use windows, window frames, doors, and door frames that have the same lead equivalence required in the adjacent walls; and
- e. Cover holes in protective barriers so that overall attenuation is not impaired.

4. A registrant shall also meet the structural shielding requirements in R9-7-607(C), if the x-ray system in question is not a mobile fluoroscopic unit, dental panoramic, cephalometric, dental CT, or intraoral radiographic system.

D. Film Processing and Darkroom Requirements. A registrant shall:

1. Ensure that the darkroom is light-tight and use proper safe-lighting such that any film type in use exposed in a cassette to x-ray radiation sufficient to produce an optical density from 1 to 2 when processed shall not suffer an increase in density greater than 0.1 (0.05 for mammography) when exposed in the darkroom for two minutes with all safe-lights illuminated. (A processor with a daylight loader satisfies this requirement.);
2. Ensure that film is stored in a cool, dry place and is protected from radiation exposure; and that film located in open packages is stored in a light-tight container;
3. Ensure that film cassettes and intensifying screens are inspected annually, cleaned, and replaced as necessary;
4. Ensure that film cassettes contain film and intensifying screens that have the same sensitivity;
5. Ensure that automatic film processors develop film in accordance with time-temperature relationships recommended by the film manufacturer;
6. Ensure that manually developed film is developed in accordance with the time-temperature relationships recommended by the manufacturer, and that a timer, thermometer, and a time-temperature chart are available and used in the darkroom;
7. Ensure that film processing solutions are prepared and maintained in accordance with the directions of the manufacturer;
8. Ensure that outdated film is not used for diagnostic radiographs;
9. Follow manufacturer’s recommendations for cleaning or inspection of computed radiography (CR) cassettes, but not less than annually;
10. Follow manufacturer’s recommendations for preventive maintenance on digital radiography panels or cassettes, but not less than annually; and
11. Maintain documentation that demonstrates that requirements of this subsection are being met for three years for Department review from the date of inspection.

Historical Note

New Section R9-7-603 recodified from R12-1-603 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-604. General Procedures

- A.** Each registrant shall ensure the following procedural requirements are met in the operation of x-ray equipment:
1. An x-ray machine which does not meet the provisions of this Chapter shall not be operated for diagnostic or therapeutic purposes, unless specifically exempted by the Department.

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2. Except for patients who cannot be moved out of the room, only the individuals required for the radiological procedure or in training may be present in the room during radiographic exposure, and all the following requirements apply:
 - a. All individuals shall be positioned such that no part of the body, including the extremities not protected by 0.5 mm lead equivalent, will be struck by the useful beam.
 - b. Staff and ancillary personnel shall be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than 0.25 mm lead equivalent.
 - c. Individuals, other than the patient to be examined, who cannot be removed from the room during mobile or portable radiography shall be protected from the direct scatter radiation by whole body protective barriers of 0.25 millimeters lead equivalent or shall be so positioned that the nearest portion of the body is at least 2 meters (6.5 feet) from both the tube head and the nearest edge of the image receptor.
 - d. If a portion of the body of any staff or ancillary personnel is potentially subjected to stray radiation that could result in that individual receiving 10 percent of the maximum permissible dose as defined in Article 4 of this Chapter, the registrant shall provide additional protective devices as specified by the Department.
 3. An individual shall not be exposed to the useful beam except for a healing arts purpose authorized by a licensed practitioner of the healing arts. The following acts are prohibited:
 - a. Exposure of an individual without meeting the required healing art requirements and without a valid directive from a licensed practitioner;
 - b. Exposure of an individual for training, demonstration, or other non-healing arts purpose;
 - c. Exposure of an individual for the purpose of healing arts screening, except as authorized by the Department after submitting to the Department the information listed in Appendix A of this Article. (If any information submitted to the Department changes, the registrant shall immediately notify the Department of the changes.);
 - d. Routinely holding film or a patient during an exposure to x-ray radiation; or
 - e. Exposure of an individual to fluoroscopy as a positioning method for general purpose radiological procedures.
 4. All persons who are associated with the operation of an x-ray system are subject to the occupational exposure limits specified in Article 4. Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.
 5. The registrant shall check radiation protective equipment for reliability and integrity defects on an annual basis, as follows:
 - a. Aprons, gloves, and shields shall be checked for holes, tears, and breaks.
 - b. If defects are found in the equipment, the registrant shall replace or remove it from service. Equipment removed from service shall not be put back into service until it is repaired.
 - c. A record of the annual reliability and integrity check and any equipment replacement shall be maintained for three years.
- B.** The registrant shall maintain the following records for each x-ray machine:
1. Survey, calibration, maintenance, and modification records regarding the x-ray machine or room, which include the name of the person who performed the service; and
 2. Correspondence with the Department regarding the x-ray machine facility.

Historical Note

New Section R9-7-604 recodified from R12-1-604 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-605. X-ray Machine Standards

- A.** A registrant shall prevent leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source assembly from exceeding 25.8 $\mu\text{C}/\text{kg}$ (100 milliroentgens) in one hour when the x-ray tube is operated at its leakage technique factors. The Department shall determine compliance by obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).
- B.** The registrant shall prevent radiation emitted by a component other than the diagnostic source assembly from exceeding 516 nC/kg (2 milliroentgens) in one hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. The Department shall determine compliance by obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).
- C.** Beam quality.
1. The registrant shall prevent the useful beam half-value layer (HVL) for diagnostic x-ray given x-ray tube potential from falling below the values shown in Table I. If it is necessary to determine the HVL at an x-ray tube potential that is not listed in Table I, the registrant shall use linear interpolation or extrapolation to make the determination.

Design operating range (kilovolts peak)	Measured potential (kilovolts peak)	HVL (millimeters of aluminum) Dental Intraoral Units manufactured after December 1, 1980	Medical X-ray Units manufactured before June 10, 2006 and Dental Intraoral Units manufactured on or before December 1, 1980	Medical X-ray Units manufactured on or after June 10, 2006
Below 51	30	1.5	0.3	0.3
	40	1.5	0.4	0.4
	50	1.5	0.5	0.5
51 to 70	51	1.5	1.2	1.3

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	60	1.5	1.3	1.5
	70	1.5	1.5	1.8
Above 70	71	2.1	2.1	2.5
	80	2.3	2.3	2.9
	90	2.5	2.5	3.2
	100	2.7	2.7	3.6
	110	3.0	3.0	3.9
	120	3.2	3.2	4.3
	130	3.5	3.5	4.7
	140	3.8	3.8	5.0
	150	4.1	4.1	5.4

- 2. If the registrant demonstrates that the aluminum equivalent of the total filtration in the primary beam is not less than that shown in Table II, the registrant is considered to have met the criteria in subsection (C)(1).

Table II - Filtration Required vs. Operating Voltage

Operating Voltage (kVp)	Total Filtration (inherent plus added) (millimeters aluminum equivalent)
Below 51	0.5 millimeters
51 - 70	1.5 millimeters
Above 70	2.5 millimeters

- 3. The registrant shall use beryllium window tubes that have a minimum of 0.5 millimeters aluminum equivalent filtration permanently mounted in the useful beam.
- 4. For capacitor energy storage equipment, the Department shall determine compliance with the maximum quantity of charge per exposure.
- 5. When determining the minimum aluminum equivalent filtration, the registrant shall include the filtration contributed by all materials that are always present between the focal spot of the tube and the patient (for example, a tabletop when the tube is mounted "under the table" and inherent filtration of the tube).
- D.** Multiple tubes. If two or more radiographic tubes are controlled by one exposure switch, the operator shall clearly indicate which tube or tubes have been selected before initiation of the exposure, activating one light on the x-ray control panel and a second light at or near the tube housing assembly, each indicating the tube or tubes that have been selected.
- E.** Mechanical support of tube head. The registrant shall adjust the tube housing assembly supports so that the tube housing assembly will remain stable during an exposure, unless the tube housing movement is a designed function of the x-ray system.
- F.** Exposure reproducibility. The coefficient of variation shall not exceed 0.10 when all technique factors are held constant. This requirement is satisfied if the value of the average exposure (E) is greater than or equal to five times the difference between the maximum exposure (E_{max}) and minimum exposure (E_{min}) when four exposures are made at identical technique factors, $[E \geq 5(E_{max} - E_{min})]$.
- G.** Accuracy deviation. A registrant shall not use an x-ray machine if the measured technique factors for kVp and time duration are not within the limits specified by the manufacturer. In the absence of the manufacturer's specifications, a registrant shall not use an x-ray machine if the measured kVp is not within 10 percent of the indicated kVp value and the

measured time duration is not within 20 percent of the indicated time.

Historical Note

New Section R9-7-605, including Tables I and II, recodified from R12-1-605, Tables I and II, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-606. Fluoroscopic and Fluoroscopic Treatment Simulator Systems

- A.** Useful beam limitation. A registrant shall:
 1. Provide beam-limiting devices that restrict the entire cross section of the useful beam to less than the area of the primary barrier at any Source-to-Image Receptor Distance (SID);
 2. Ensure that the x-ray field size produced by fluoroscopic systems without image intensification does not extend beyond the visible area of the image receptor at any SID;
 3. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and automatic shutter control does not exceed the diameter of the image receptor at any SID;
 4. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control does not exceed the diameter of the image receptor with the fluoroscopic imaging assembly positioned at the maximum usable distance above the table top; and
 5. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control, where the fluoroscopic tube is above the table top, does not exceed the diameter of the image receptor with the shutters open to the fullest extent, and at the maximum SID which the fluoroscopic tube is capable of producing radiation.
- B.** Fluoroscopic primary protective barrier. A registrant shall:
 1. Provide the fluoroscopic imaging assembly with a primary protective barrier that always intercepts the entire cross section of the useful beam at any SID.
 2. Ensure that the fluoroscopic tube is not capable of producing radiation unless the primary protective barrier is in a position to intercept the entire cross section of the useful beam.
 3. Ensure that fluoroscopic radiation production automatically terminates if the primary protective barrier is removed from the useful beam.
 4. Ensure that the fluoroscopic primary protective barrier meets the following requirements for attenuation of the useful beam:
 - a. For equipment installed before November 15, 1967, the required lead equivalent of the barrier is not less than 1.5 millimeters for fluoroscopes that produce

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less than 100 kVp, 1.8 millimeters for fluoroscopes that produce at least 100 kVp but less than 125 kVp, and 2.0 millimeters for fluoroscopes that produce 125 or more kVp. (For conventional fluoroscopes, these requirements may be assumed to have been met if the exposure rate measured at the viewing surface of the fluorescent screen does not exceed 12.9 microcoulombs per kilogram (50 milliroentgens) per hour with the screen in the primary beam of the fluoroscope without a patient, under normal operating conditions.) For equipment installed or reinstalled, the required lead equivalent of the barrier is 2.0 millimeters for fluoroscopes that produce less than 125 kVp or 2.7 millimeters for fluoroscopes that produce 125 or more kVp.

- b. For fluoroscopic systems that use image intensification, the exposure rate, due to transmission through the primary protective barrier, does not exceed 516 nC/kg (2 milliroentgens) per hour at 10 centimeters (4 inches) from any accessible surface of the fluoroscopic imaging assembly, beyond the plane of the image receptor for each 258 μ C/kg (1 roentgen) per minute of entrance exposure rate.
 - c. Compliance with subsections (B)(4)(a) and (b) is determined with the image receptor positioned 35.5 centimeters (14 inches) from the panel or table top, at normal operating technical factors and with the attenuation block in the useful beam for systems with image intensification.
- C. Entrance exposure rate limits. A registrant shall ensure that:
1. The exposure rate, measured at the point where the center of the useful beam enters the patient does not exceed 2.6 mC/kg (10 roentgens) per minute at any combination of tube potential and current, except during recording of fluoroscopic images or if provided with optional high-level control.
 2. If provided with optional high-level control, the equipment is not operable at any combination of tube potential and current that will result in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute at the point where the center of the useful beam enters the patient, unless the high-level control is activated, in which case an exposure rate in excess of 5.2 mC/kg (20 roentgens) per minute is prohibited.
 - a. Special means of activation of high-level controls, such as additional pressure applied continuously by the operator, are required to avoid accidental use.
 - b. A continuous signal audible to the fluoroscopist is required to indicate that the high-level control is being employed.
 3. The Department shall determine compliance with subsections (C)(1) and (2) as follows:
 - a. Remove grids and compression devices from the useful beam during the measurement;
 - b. If the source is below the table, measure the exposure rate 1 centimeter above the table top or cradle; and
 - c. If the source is above the table, measure the exposure rate 30 centimeters (11.8 inches) above the table top with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;
 - d. For fluoroscopy involving a mobile C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscopic imaging assembly;
 - e. For fluoroscopy involving a C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscope imaging assembly, with the x-ray source positioned at any available SID, provided that the end of the beam-limiting device or spacer is not closer than 30 centimeters (11.8 inches) from the input surface of the fluoroscopic image assembly; and
 - f. For a lateral fluoroscope, measure the exposure rate 15 centimeters (5.9 inches) from the centerline of the x-ray table and in the direction of the x-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral x-ray source, with the end of the beam-limiting device or spacer no closer than 15 centimeters (5.9 inches) to the centerline of the x-ray table.
- D. The registrant shall ensure that the source-to-skin distance is not less than:
1. 38 centimeters (15 inches) on stationary fluoroscopes installed after January 2, 1996;
 2. 35.5 centimeters (14 inches) on stationary fluoroscopes which are in operation before January 2, 1996;
 3. 30 centimeters (11.8 inches) on all mobile fluoroscopes; and
 4. 20 centimeters (8 inches) for image-intensified fluoroscopes used for a specific surgical application. The registrant shall follow any precautionary measures in the users operating manual.
- E. Each fluoroscopic system installation is subject to all of the following requirements for the control of stray radiation. A registrant shall:
1. Provide a shielding device of at least 0.25 millimeter lead equivalent for covering the Bucky-slot during fluoroscopy;
 2. Except for fluoroscopy performed using portable or mobile C-arm x-ray systems or during surgical procedures or cardiac catheterization, provide protective drapes, or hinged or sliding panels of at least 0.25 millimeters lead equivalent, between the patient and fluoroscopist to intercept scattered radiation that would otherwise reach the fluoroscopist and others near the machine, but not substitute drapes and panels for a protective apron; and
 3. Ensure that protective aprons of at least 0.25 millimeter lead equivalent are worn in the fluoroscopy room by each person, except the patient, whose body is likely to be exposed to 50 μ Sv/hr (5 mR/hr) or more.
- F. Exposure control. A registrant shall:
1. Ensure that activation of the fluoroscopic tube is controlled by a "dead-man" switch;
 2. Provide a manual reset cumulative timing device, which is activated only during production of radiation in the fluoroscopic mode, to indicate elapsed time by an audible signal or terminate production of radiation;
 3. Provide a device for exposure control in the "spot film" mode that terminates exposure either automatically, or after a preset time interval, preset number of pulses, preset product of current and time, or preset exposure; and
 4. Ensure that the x-ray tube potential and current are continuously indicated.
- G. A registrant shall provide systems used for mobile fluoroscopy with image intensification.
- H. Fluoroscopic treatment simulators. Simulators are exempt from subsections (A) through (G). A registrant shall:

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1. Use a beam limiting device that restricts the beam to the area of clinical interest.
2. Include and label devices for settings or physical factors, such as kVp, mA, or exposure time on the control panel;
3. Ensure that the fluoroscopic exposure switch or switches are of the "deadman" type;
4. Ensure that each person whose presence is necessary is in the simulator room during exposure and protected with a lead apron of at least 0.5 millimeter lead equivalent or a portable shield. Any person who places their hands in the useful x-ray beam shall wear leaded gloves; and
5. Ensure that the operator stands behind a barrier and is able to observe the patient during simulator exposures.

Historical Note

New Section R9-7-606 recodified from R12-1-606 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-607. Additional X-ray Machine Standards, Shielding Requirements, and Procedures, Except Mobile Fluoroscopic, Dental Panoramic, Cephalometric, Dental CT, or Dental Intra-oral Radiographic Systems

- A.** Useful beam limitation. A registrant shall:
1. Provide a means to restrict the useful beam to the area of clinical interest for any combination of SID and image receptor size employed.
 2. Ensure that beam-limiting devices meet the following requirements:
 - a. Devices that project a circular radiation field restrict the diameter of the useful beam, not to exceed the diagonal dimension of the image receptor by greater than 2 percent of the SID;
 - b. Devices that project a rectangular or square radiation field restrict the useful beam to the longitudinal and transverse dimensions of the image receptor to within 2 percent of the SID;
 - c. Beam limiting devices that do not incorporate light beams to define the projected radiation field are clearly labeled, indicating the SID and image receptor size at which each device complies with the applicable requirements of subsection (A)(2)(a) or (b);
 - d. Adjustable beam-limiting devices installed after July 31, 1971, incorporate light beams to define the projected dimensions of the useful beam and provide an average illumination of not less than 100 lux (9 foot-candles) at 1 meter (3.3 feet) or at the maximum SID, whichever is less. The average illumination shall be based upon measurements made in the approximate center of each quadrant of the light field; and
 - e. All beam-limiting devices installed, on general purpose fixed and mobile radiographic systems, provide stepless means of continuous adjustment of the projected radiation field size.
 3. Provide a means to align the center of the radiation field to the center of the image receptor to within 2 percent of the SID.
- B.** Radiation exposure control. A registrant shall:
1. Provide a means to terminate the exposure at a preset time interval, preset product of current and time, preset number of pulses, or a preset exposure to the image receptor. The registrant shall ensure that it is not possible to make an exposure when the exposure control device is set to a "zero" or "off" position if either position is provided.
 2. Ensure that the exposure switch is a "dead-man" switch, and except for those used with "spot-film" devices in fluoroscopy, is arranged so that it cannot be conveniently operated outside a shielded area.
 3. Provide x-ray systems with automatic exposure control, which indicates at the control panel when this mode is selected, and a visual and audible signal, which indicates termination of the exposure.
 4. Use a control panel that includes:
 - a. A device (usually a milliamp meter) that will give a positive indication during radiation production; and
 - b. Control setting indicators or meters that indicate the appropriate technical factors: kVp, mAs, mA, or exposure time, and any special mode selected for the exposure.
- C.** Structural shielding. A registrant shall:
1. Ensure that all wall, floor and ceiling areas struck by the useful beam have primary protective barriers. Primary protective barriers in walls shall extend from the finished floor to a minimum height of 2.13 meters (7 feet);
 2. Ensure that secondary protective barriers are provided in all wall, floor, and ceiling areas that do not have primary protective barriers or where the primary protective barrier requirements are lower than the secondary barrier requirements;
 3. Ensure that the operator's station is behind a protective barrier sufficient to ensure compliance with R9-7-408, R9-7-414, and R9-7-416, and the operator is able to communicate with the patient from the operator's station.
 4. Provide a window of transparent material equal in attenuation to that required by the adjacent barrier, or a mirror system, that is large enough and placed so that the operator can see the patient during exposure without having to leave the protected area.
- D.** Operating procedures. A registrant shall:
1. Use mechanical supporting or restraining devices, if a patient must be held in position for radiography. If the patient must be held by an individual, the registrant shall ensure that the individual is protected with appropriate shielding devices, such as protective gloves and apron, and is positioned so that no part of the body of the individual holding the patient is struck by the useful beam;
 2. Ensure that only individuals required for the radiographic procedure are in the radiographic room during exposure, and, except for the patient, all these individuals are equipped with protective devices;
 3. Restrict the useful beam to the clinical area of interest;
 4. Provide a chart in the vicinity of the diagnostic x-ray system's control panel that specifies, for all routine examinations performed with the system, the following information:
 - a. Patient's anatomical size and technique factors;
 - b. Type and size of the film or film screen combination;
 - c. Type and focal distance of the grid, if any;
 - d. X-ray source-to-image receptor distance; and
 - e. Type and location of gonad shielding.
 5. Provide documentation of the following items:
 - a. The patient's identity;
 - b. The x-ray examination, as recorded in a radiographic log;
 - c. The date the examination is performed;
 - d. The number of projections (if applicable), or on-time, or dose factors depending upon the unit; and
 - e. A method of identifying the individual who performed the examination.

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6. The registrant shall maintain in chronological order, the documentation required in subsection (D)(5) in written or readily available electronic form. The documentation shall be maintained for three years from the date the examination is performed.

Historical Note

New Section R9-7-607 recodified from R12-1-607 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-608. Mobile Diagnostic Radiographic and Mobile Fluoroscopic Systems, Except Dental Panoramic, Cephalometric, Dental CT, or Dental Intraoral Radiographic Systems**A. Equipment**

1. All requirements of R9-7-607(A) and (B) apply.
2. For mobile radiographic units the registrant shall provide a "dead-man" switch, together with an electrical cord of sufficient length so that the operator can stand out of the useful beam and at least 1.82 meters (6 feet) from the patient during all x-ray exposures.
3. A registrant shall ensure that a cone, spacer frame, or inherent provision is made so that the equipment is not operated at source-skin distances of less than 20.3 centimeters (8 inches).

B. Structural shielding. If a mobile unit is used routinely in one location, it is considered a fixed installation subject to the shielding requirements in R9-7-603(C), and R9-7-607(C).

C. Operating procedures

1. All provisions of R9-7-607(D) apply.
2. An individual who operates a mobile x-ray system shall comply with R9-7-419(B).

Historical Note

New Section R9-7-608 recodified from R12-1-608 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-609. Chest Photofluorographic Systems

Use of chest photofluorographic systems for diagnosis of human disease is prohibited.

Historical Note

New Section R9-7-609 recodified from R12-1-609 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-610. Dental Intraoral Radiographic Systems**A. Equipment. A registrant shall:**

1. Use a protective tube housing of diagnostic type;
2. Use diaphragms or cones for restricting the useful beam and to provide the same degree of protection as the housing. The diameter of the useful beam at the end of the cone or spacer frame shall not be more than 7.6 centimeters (3 inches) for intraoral radiography;
3. Ensure that a cone or spacer frame provides a source-to-skin distance of not less than 17.8 centimeters (7 inches) with apparatus operating above 50 kVp or 10 centimeters (4 inches) with apparatus operating at 50 kVp or below for intraoral radiography;
4. Provide a timer to terminate the exposure at a preset time interval, a preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor;
5. Ensure that it is not possible to make an exposure if the timer is set to the "zero" or "off" position;
6. Ensure that the tube head remains stationary if placed in the exposure position;
7. Ensure that the exposure initiating device is a "dead-man" switch;
8. Use a control panel that includes:

- a. A means to provide visual or audible indication, detectable at or from the operator's position, during x-ray production or exposure termination; and
- b. Indication of technique factors for kVp, mA, exposure time, and any special mode that may be selected for the exposure;

9. Use technique factors, where deviation of measured values from indicated values for kVp and exposure time do not exceed the limits specified by the manufacturer. In the absence of the manufacturer's specifications, the deviation shall not exceed plus or minus 10 percent of the indicated value for kVp and plus or minus 20 percent for exposure time duration;

10. For a digital system that uses an electronic sensor, use digital radiography techniques that permit reducing x-ray beam on-time to 25 percent of the exposure time required for "D" speed film or lower, reducing radiation to the patient by the same rate; and

11. For a computed radiography (imaging plate (IP) made of photostimulable phosphor) system that uses an imaging plate, use radiography techniques that permit reducing x-ray beam on-time to 50 percent of the exposure time required for "D" speed film or lower, reducing radiation to the patient by the same rate.

B. Structural shielding. The registrant shall:

1. Provide dental installations with primary and secondary barriers to ensure compliance with the personnel exposure requirements in Article 4 of this Chapter; (Note: In many cases, structural materials of ordinary walls suffice as a protective barrier without addition of special shielding material.)
2. Install primary protective barriers between rooms or areas if dental x-ray units are used in adjacent rooms or areas;
3. Provide each installation with a protective barrier for the operator or arrange the installation so that the operator can stand at least 1.82 meters (6 feet) from the patient and well away from the useful beam;
4. Arrange the operator's position to allow visual contact with the patient during exposure; and
5. Comply with fixed installation requirements, if a mobile unit is used routinely in one location.

C. Operating procedures

1. A dentist or other persons shall not hold patients or films during exposure. Only persons required for the radiographic procedure are allowed in the radiographic room during exposures.
2. An operator shall stand at least 1.82 meters (6 feet) from the patient or behind a protective barrier during each exposure.
3. An operator shall ensure that only the patient is in the useful beam.
4. The licensed practitioner or other person shall not hold the tube housing or the cone during the exposure.
5. A registrant shall not perform dental fluoroscopy without an image intensifier.

Historical Note

New Section R9-7-610 recodified from R12-1-610 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-610.01. Hand-held Intraoral Dental Radiographic Unit Requirements For Use

- A.** Registrants are subject to the following requirements for Intraoral dental radiographic units designed to be operated as a hand-held unit:
1. For all uses:

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- a. Operators of hand-held intraoral dental radiographic units shall be specifically trained to operate such equipment.
 - b. A hand-held intraoral dental radiographic unit shall be held without any motion during a patient examination. A tube stand may be utilized to immobilize a hand-held intraoral dental radiographic unit during patient examination.
 - c. The operator shall ensure there are no bystanders within a radius of at least six feet from the patient being examined with a hand-held intraoral radiographic unit.
2. Additional requirements for operatories in permanent facilities:
 - a. Hand-held intraoral dental radiographic units shall be used for patient examinations in dental operatories that meet the structural shielding requirements specified by the Department or by a qualified health or medical physicist.
 - b. Hand-held intraoral dental radiographic units shall not be used for patient examinations in hallways and waiting rooms.
- B.** Hand-held units may only be used in a manner as specified on the registration issued by the Department.

Historical Note

New Section R9-7-610.01 recodified from R12-1-610.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-611. Therapeutic X-ray Systems of Less Than 1 MeV**A.** Equipment requirements.

1. Leakage radiation. When the x-ray tube is operated at its maximum rated tube current for the maximum kVp, the leakage air kerma rate shall not exceed the value specified at the distance specified for that classification of therapeutic radiation machine. For each therapeutic radiation machine, the registrant shall determine, or obtain from the manufacturer, the leakage radiation existing at the positions specified:
 - a. 5-50 kVp Systems. The leakage air kerma rate measured at any position 5 centimeters from the tube housing assembly shall not exceed 1 mGy (100 mrad) in any one hour.
 - b. Greater than 50 kVp and less than 1MeV Systems. The leakage air kerma rate measured at a distance of 1 meter from the target in any direction shall not exceed 1 centigray (1 rad) in any 1 hour. This air kerma rate measurement may be averaged over areas no larger than 100 square centimeters (100 cm²). In addition, the air kerma rate at a distance of 5 centimeters from the surface of the tube housing assembly shall not exceed 30 centigray (30 rad) per hour.
2. Permanent beam limiting devices. A registrant shall ensure that fixed diaphragms or cones used for limiting the useful beam provide the same or higher degree of attenuation as required for the tube housing assembly.
3. Removable and adjustable beam-limiting devices. A registrant shall ensure that:
 - a. Removable and adjustable beam-limiting devices, for the portion of the useful beam to be blocked by these devices, transmit not more than 1 percent of the original x-ray beam at the maximum kilovoltage and maximum treatment filter; and
 - b. When adjustable beam limiting devices are used, the position and shape of the radiation field shall be indicated by a light beam.
4. Filter system. A registrant shall ensure that the filter system is designed so that:
 - a. Filters cannot be accidentally displaced from the useful beam at any possible tube orientation;
 - b. For equipment installed after January 1, 2011, an interlock system prevents irradiation if the proper filter is not in place;
 - c. The air kerma rate escaping from the filter slot shall not exceed 1 centigray (1 rad) per hour at one (1) meter under any operating conditions; and
 - d. Each filter is marked regarding its material of construction and its thickness or wedge angle for wedge filters.
5. X-ray tube immobilization. A registrant shall ensure that the tube housing assembly is capable of being immobilized during stationary treatments and the x-ray tube shall be so mounted that it cannot accidentally turn or slide with respect to the housing aperture.
6. Focal spot marking. A registrant shall ensure that the tube housing assembly is marked so that it is possible to determine the location of the focal spot to within 5 millimeters, and the marking is readily accessible for use during calibration procedures.
7. Therapy treatment timers. A registrant shall:
 - a. Provide a timer that has a display at the treatment control panel. The timer shall have a preset time selector and an elapsed time indicator;
 - b. Ensure that the timer is a cumulative timer that activates with the radiation, retains its reading after irradiation is interrupted or terminated, and requires the operator to reset the preset time selector after irradiation is terminated and before irradiation can be reinitiated;
 - c. Ensure that the timer terminates irradiation when a preselected time has elapsed;
 - d. Ensure that the timer permits accurate presetting and determination of exposure times as short as one second;
 - e. Ensure that the timer does not permit an exposure if set at zero; and
 - f. Ensure that the timer does not activate until the shutter is opened if irradiation is controlled by a shutter mechanism.
8. Control panel functions. In addition to the displays required in other provisions of this Section, a registrant shall ensure that a control panel has:
 - a. An indication of whether electrical power is available at the control panel and if activation of the x-ray tube is possible;
 - b. An indication of whether x-rays are being produced;
 - c. A means for indicating kVp and x-ray tube current;
 - d. A means for terminating an exposure at any time;
 - e. A locking device that will prevent unauthorized use of the x-ray system; and
 - f. For x-ray equipment installed after January 2, 1996, a positive display of specific filters in the beam.
9. Multiple tubes. If one control panel is used to energize more than one x-ray tube a registrant shall ensure that:
 - a. It is possible to activate only one x-ray tube during any time interval,
 - b. There is an indication at the control panel that identifies which x-ray tube is energized, and
 - c. There is an indication at the tube housing assembly when that tube is energized.

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10. Source-to-patient distance. A registrant shall ensure that there is a means of determining the source-to-patient distance to within 1 centimeter.
 11. Shutters. Unless it is possible to bring the x-ray output to the prescribed exposure parameters within five seconds, a registrant shall ensure that the entire useful beam is automatically attenuated by a shutter with a lead equivalency not less than that of the tube housing assembly. In addition the registrant shall ensure that:
 - a. After the unit is at operating parameters, the operator controls the shutter electrically from the control panel; and
 - b. An indication of shutter position appears at the control panel.
 12. Low filtration x-ray tubes. A registrant shall ensure that each x-ray system equipped with a beryllium or other low-filtration window is clearly labeled as low-filtration equipment on the tube housing assembly and at the control panel.
- B. Facility design requirements.** In addition to shielding necessary to meet the requirements of Article 4 of this Chapter, a registrant shall ensure that:
1. Warning lights. A treatment room to which access is possible through more than one entrance has a warning light, in a readily observable position near the outside of any access doors, which will indicate when the useful beam is "on."
 2. Voice communication. Two-way oral communication is possible between the patient and the operator at the control panel; or where excessive noise levels make oral communication impractical, another effective method of communication.
 3. Viewing systems. Windows, mirrors, closed-circuit television, or an equivalent system, permits continuous observation of the patient during irradiation and is located so that the operator can observe the patient from the control panel. If the primary viewing system is by electronic means (for example, television), the registrant shall have an alternate viewing system for use in the event of electronic failure.
 4. Systems above 150 kVp. For treatment rooms that contain an x-ray system capable of operating above 150 kVp a registrant shall ensure that:
 - a. All necessary shielding, except for any beam interceptor, is provided by fixed barriers;
 - b. The control panel is within a protective booth equipped with an interlocked door, or located outside the treatment rooms;
 - c. All doors of the treatment room are electrically connected to the control panel so that x-ray production cannot occur unless all doors are closed; and
 - d. Opening of any door to the treatment room during exposure results in automatic termination of x-ray production or reduction of radiation levels to an average of no more than 516 nC/kg (2 milliroentgens) per hour and a maximum of 2.6 μ C/kg (10 milliroentgens) per hour at a distance of 1 meter (3.3 feet) from the target in any direction, and restoration of the machine to full operation is possible only from the control panel after the termination or reduction.
- C. Surveys.** A registrant shall ensure that:
1. All facilities, both new and existing, or not previously surveyed, are surveyed before being put into service for the treatment of patients by, or under the direction of, a person trained and experienced in the principles of radiation protection, and perform additional surveys of a facility after any change in the facility or a facility's equipment that might cause a significant increase in radiation hazard, before being put into service for the treatment of patients.
 2. The person conducting the survey reports the survey findings in writing to the individual in charge of the facility and maintains a copy of the survey report for inspection by the Department.
 3. The installation is operated in compliance with any limitations indicated by the protection survey required by subsection (C)(1).
- D. Calibrations.** A registrant shall ensure that:
1. The calibration of a therapeutic x-ray system includes, but is not limited to, the following determinations:
 - a. Verification that the x-ray system is operating in compliance with the design specifications;
 - b. The dose rate equivalent for each combination of field size, technique factors, filter, and treatment distance used;
 - c. The degree of congruence between the radiation field and the field indicated by the localizing device if a localizing device is used; and
 - d. An evaluation of the uniformity of the radiation field symmetry for the field sizes used and any dependence upon source housing assembly orientation;
 2. The calibration of an x-ray system is performed at intervals not to exceed annually and after any change or replacement of components that could cause a change in the radiation output;
 3. The calibration of the radiation output of the x-ray system is performed by, or under the direction of, a person trained and experienced in performing calibrations, who is physically present at the facility during calibration;
 4. Calibration of the radiation output of an x-ray system is performed with a calibrated instrument. The registrant shall ensure that calibration of the instrument is directly traceable to the National Institute of Standards and Technology (NIST) and that the instrument has been calibrated within the preceding 24 months;
 5. Records of calibration performed under subsection (D)(3) are maintained for at least three years after completion of the calibration and are made available for inspection by the Department; and
 6. A copy of the most recent calibration is available for use by the operator at the control panel.
- E. Spot checks.** A registrant shall ensure that spot checks are performed on therapeutic x-ray systems capable of operation at greater than 150 kVp. The registrant shall ensure that spot checks meet the following requirements:
1. The spot-check procedures are in writing and have been developed by a qualified expert;
 2. The measurements taken during the spot checks demonstrate the degree of consistency of the operating characteristics that can affect the radiation output of the x-ray system;
 3. The written spot-check procedure specifies the frequency of the tests or measurements, made at intervals not to exceed monthly;
 4. The spot-check procedure identifies conditions that require recalibration of the system in accordance with subsection (D)(1); and
 5. Records of spot-check measurements performed as required by subsection (E)(3) are maintained, available for inspection by the Department, for three years following the measurements.

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- F.** Operating procedures. A registrant shall ensure that:
1. Therapeutic x-ray systems are not left unattended unless the system is secured according to subsection (A)(8)(e);
 2. If a patient must be held in position for radiation therapy, mechanical supporting or restraining devices are used;
 3. The tube housing assembly is not held by an individual during exposures; and
 4. At 150 kVp or more the patient is the only person in the treatment room during production of radiation. At less than 150 kVp an individual may be in the room with patient, provided the individual is protected by a barrier sufficient to meet the requirements of Article 4 of this Chapter.
- G.** Electronic Brachytherapy units are exempt from the requirements of this Section.
- Historical Note**
- New Section R9-7-611 recodified from R12-1-611 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-611.01. Electronic Brachytherapy to Deliver Interstitial and Intracavitary Therapeutic Radiation Dosage**
- A.** Electronic brachytherapy devices used to deliver interstitial and intracavitary therapeutic radiation dosage shall be subject to the requirements of this Section, and unless otherwise specified in this Section shall be exempt from the requirements of R9-7-611.
1. An electronic brachytherapy device that does not meet the requirements of this Section shall not be used for irradiation of patients; and
 2. An electronic brachytherapy device shall only be utilized for human use applications specifically approved by the U.S. Food and Drug Administration (FDA), unless participating in a research study approved by the registrant's Institutional Review Board (IRB).
- B.** Each facility location authorized to use an electronic brachytherapy device in accordance with this Section shall possess appropriately calibrated portable monitoring equipment. At a minimum, such equipment shall include a portable survey instrument capable of measuring dose rates over the range 10 μ Sv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instrument shall be capable of measuring as low as 10 μ Sv (1 mrem) per hour in the energy range of the electronic brachytherapy unit for which the survey instrument is to be used. Published correction factors utilized in conjunction with the instrument's readings may be used to achieve sensitivity. The survey instrument or instruments shall be operable and calibrated before first use, at intervals not to exceed 12 months, and after survey instrument repairs.
- C.** Facility Design Requirements for Electronic Brachytherapy Devices. In addition to shielding adequate to meet requirements of R9-7-603(C), the treatment room shall meet the following design requirements:
1. If applicable, provision shall be made to prevent simultaneous operation of more than one therapeutic radiation machine in a treatment room.
 2. Access to the treatment room shall be controlled by a door at each entrance.
 3. Each treatment room shall have provisions to permit continuous oral communication and visual observation of the patient from the treatment control panel during irradiation. The electronic brachytherapy device shall not be used for patient irradiation unless the patient can be observed.
 4. For electronic brachytherapy devices capable of operating below 150 kVp, radiation shielding for the staff in the treatment room may be available, either as a portable shield or as localized shielded material around the treatment site or both, in lieu of the requirements for room shielding. The shielding shall meet the requirements of R9-7-603(C).
- D.** Control Panel Functions. The control panel, in addition to the displays required by other provisions in this Section, shall:
1. Provide an indication of whether electrical power is available at the control panel and if activation of the electronic brachytherapy source is possible;
 2. Provide an indication of whether x-rays are being produced;
 3. Provide a means for indicating electronic brachytherapy source potential and current;
 4. Provide the means for terminating an exposure at any time; and
 5. Include an access control (locking) device that will prevent unauthorized use of the electronic brachytherapy device.
- E.** Timer. A suitable irradiation control device (timer) shall be provided to terminate the irradiation after a pre-set time interval or integrated charge on a dosimeter-based monitor.
1. A timer shall be provided at the treatment control panel. The timer shall indicate the planned setting and the time elapsed or remaining;
 2. The timer shall not permit an exposure if set at zero;
 3. The timer shall be a cumulative device that activates with an indication of "BEAM-ON" that retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it shall be necessary to reset the elapsed time indicator;
 4. The timer shall terminate irradiation when a pre-selected time has elapsed, if any dose monitoring system has not previously terminated irradiation.
 5. The timer shall permit setting of exposure times as short as 0.1 second; and
 6. The timer shall be accurate to within one percent of the selected value or 0.1 second, whichever is greater.
- F.** Qualified Medical Physicist Support.
1. The services of a Qualified Medical Physicist shall be required in facilities having electronic brachytherapy devices. The Qualified Medical Physicist shall be responsible for:
 - a. Evaluation of the output from the electronic brachytherapy source;
 - b. Generation of the necessary dosimetric information;
 - c. Supervision and review of treatment calculations prior to initial treatment of any treatment site;
 - d. Establishing the periodic and day-of-use quality assurance checks and reviewing the data from those checks as required in subsection (J);
 - e. Consultation with the authorized user in treatment planning, as needed; and
 - f. Performing calculations/assessments regarding patient treatments that may constitute a medical event.
 2. If the Qualified Medical Physicist is not a full-time employee of the registrant, then the operating procedures required by subsection (G) shall also specifically address how the Qualified Medical Physicist is to be contacted for problems or emergencies, as well as the specific actions, if any, to be taken until the Qualified Medical Physicist can be contacted.

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G. Operating Procedures.

1. Only individuals approved by the authorized user, Radiation Safety Officer, or Qualified Medical Physicist shall be present in the treatment room during treatment;
2. Electronic brachytherapy devices shall not be made available for medical use unless the requirements of subsections (A), (H), and (I) have been met;
3. The electronic brachytherapy device shall be inoperable, either by hardware or password, when unattended by qualified staff or service personnel;
4. During operation, the electronic brachytherapy device operator shall monitor the position of all persons in the treatment room, and all persons entering the treatment room, to prevent entering persons from unshielded exposure from the treatment beam;
5. If a patient must be held in position during treatment, mechanical supporting or restraining devices shall be used;
6. Written procedures shall be developed, implemented, and maintained for responding to an abnormal situation. These procedures shall include:
 - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions; and
 - b. The names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally.
7. A copy of the current operating and emergency procedures shall be physically located at the electronic brachytherapy device control console;
8. Instructions shall be maintained with the electronic brachytherapy device control console to inform the operator of the names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally; and
9. The Radiation Safety Officer, or the Radiation Safety Officer's designee, and an authorized user shall be notified immediately if the patient has a medical emergency, suffers injury or dies. The Radiation Safety Officer or the Qualified Medical Physicist shall inform the manufacturer of the event.

H. Safety Precautions for Electronic Brachytherapy Devices.

1. Any person in the treatment room, other than the person being treated, shall wear personnel monitoring devices;
2. An authorized user and a Qualified Medical Physicist shall be physically present during the initiation of all new patient treatments involving the electronic brachytherapy device;
3. After the first treatment one of the following individuals shall be physically present during continuation of all patient treatments involving the electronic brachytherapy device:
 - a. A Qualified Medical Physicist, or
 - b. An authorized user, or
 - c. A certified therapy technologist (CTT) certified by the Arizona Medical Radiologic Technology Board of Examiners, under the direct supervision of an authorized user, who has been trained in the operation and emergency response for the electronic brachytherapy device;
4. When shielding is required by subsection (C)(4), surveys shall be conducted to ensure that the requirements of R9-7-408, R9-7-414, and R9-7-416 are met. Alternatively, a Qualified Medical Physicist shall designate shield loca-

tions sufficient to meet the requirements of R9-7-603(C) and R9-7-607(C) for any individual, other than the patient, in the treatment room; and

5. All personnel in the treatment room are required to remain behind shielding during treatment. A Qualified Medical Physicist shall approve any deviation from this requirement and shall designate alternative radiation safety protocols, compatible with patient safety, to provide an equivalent degree of protection.

I. Electronic Brachytherapy Source Calibration Measurements.

1. Calibration of the electronic brachytherapy source output shall be performed by, or under the direct supervision of, a Qualified Medical Physicist. If the control console is integral to the electronic brachytherapy device, the required procedures shall be kept where the operator is located during electronic brachytherapy device operation;
2. Calibration of the electronic brachytherapy source output shall be made for each electronic brachytherapy source, or after any repair affecting the x-ray beam generation, or when indicated by the electronic brachytherapy source quality assurance checks;
3. Calibration of the electronic brachytherapy source output shall utilize a dosimetry system appropriate for the energy output of the unit and calibrated by the National Institute for Standards and Technology (NIST) or by an American Association of Physicists in Medicine (AAPM) Accredited Dosimetry Calibration Laboratory (ADCL). The calibration shall have been performed within the previous 24 months and after any servicing that may have affected system calibration;
4. Calibration of the electronic brachytherapy source output shall include, as applicable, determination of:
 - a. The output within two percent of the expected value, if applicable, or determination of the output if there is no expected value;
 - b. Timer accuracy and linearity over the typical range of use;
 - c. Proper operation of back-up exposure control devices;
 - d. Evaluation that the relative dose distribution about the source is within five percent of that expected; and
 - e. Source positioning accuracy to within one millimeter within the applicator;
5. Calibration of the x-ray source output required shall be in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of a calibration protocol published by a national professional association, the manufacturer's calibration protocol shall be followed.
6. The registrant shall maintain a record of each calibration in an auditable form for the duration of the registration. The record shall include: the date of the calibration; the manufacturer's name, model number and serial number for the electronic brachytherapy device and a unique identifier for its electronic instrument or instruments brachytherapy source; the model numbers and serial numbers of the instrument or instruments used to calibrate the electronic brachytherapy device; and the name and signature of the Qualified Medical Physicist responsible for performing the calibration.

J. Periodic and Day-of-Use Quality Assurance Checks for Electronic Brachytherapy Devices.

1. Quality assurance checks shall be performed on each electronic brachytherapy device:

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- a. At the beginning of each day of use;
 - b. Each time the device is moved to a new room or site; and
 - c. After each x-ray tube installation.
2. The registrant shall perform periodic quality assurance checks required in accordance with procedures established by the Qualified Medical Physicist;
 3. To satisfy the requirements of this subsection, radiation output quality assurance checks shall include at a minimum:
 - a. Verification that output of the electronic brachytherapy source falls within three percent of expected values, as appropriate for the device, as determined by:
 - i. Output as a function of time, or
 - ii. Output as a function of setting on a monitor chamber.
 - b. Verification of the consistency of the dose distribution to within three percent (or the manufacturer's or Qualified Medical Physicist's documented recommendation not to exceed five percent), observed at the source calibration required by subsection (I); and
 - c. Validation of the operation of positioning methods to ensure that the treatment dose exposes the intended location within one millimeter; and
 4. The registrant shall use a dosimetry system that has been intercompared within the previous 12 months with the dosimetry system described in this Section to make the quality assurance checks required in subsection (J)(3);
 5. The registrant shall review the results of each radiation output quality assurance check to ensure that:
 - a. An authorized user and Qualified Medical Physicist is immediately notified if any parameter is not within its acceptable tolerance, and the electronic brachytherapy device is not used until the Qualified Medical Physicist has determined that all parameters are within their acceptable tolerances;
 - b. If all radiation output quality assurance check parameters appear to be within their acceptable range, the acceptable quality assurance checklist shall be reviewed and signed by either the authorized user or Qualified Medical Physicist prior to the next patient use of the unit. In addition, the Qualified Medical Physicist shall review and sign the results of each radiation output quality assurance check at intervals not to exceed 30 days.
 6. To satisfy the requirements of subsection (J)(1), safety device quality assurance checks shall, at a minimum, assure:
 - a. Proper operation of radiation exposure indicator lights on the electronic brachytherapy device and on the control console;
 - b. Proper operation of viewing and intercom systems in each electronic brachytherapy facility, if applicable;
 - c. Proper operation of radiation monitors, if applicable;
 - d. The integrity of all cables, catheters or parts of the device that carry high voltages; and
 - e. Connecting guide tubes, transfer tubes, transfer-tube-applier interfaces, and treatment spacers are free from any defects that interfere with proper operation.
 7. If the results of the safety device quality assurance checks required in subsection (J)(6) indicate the malfunction of any system, a registrant shall secure the control console in the OFF position and not use the electronic brachytherapy device except as may be necessary to repair, replace, or check the malfunctioning system.
 8. The registrant shall maintain a record of each quality assurance check required by this Section in a legible form for three years.
 - a. The record shall include the date of the quality assurance check; the manufacturer's name, model number and serial number for the electronic brachytherapy device; the name and signature of the individual who performed the periodic quality assurance check and the name and signature of the Qualified Medical Physicist who reviewed the quality assurance check;
 - b. For radiation output quality assurance checks required by subsection (J)(3), the record shall also include the unique identifier for the electronic brachytherapy source and the manufacturer's name; model number and serial number for the instrument or instruments used to measure the radiation output of the electronic brachytherapy device.
- K. Therapy-related Computer Systems.** The registrant shall perform acceptance testing on the treatment planning system of electronic brachytherapy-related computer systems in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of an acceptance testing protocol published by a national professional association, the manufacturer's acceptance testing protocol shall be followed.
1. Acceptance testing shall be performed by, or under the direct supervision of a Qualified Medical Physicist. At a minimum, the acceptance testing shall include, as applicable, verification of:
 - a. The source-specific input parameters required by the dose calculation algorithm;
 - b. The accuracy of dose, dwell time, and treatment time calculations at representative points;
 - c. The accuracy of isodose plots and graphic displays;
 - d. The accuracy of the software used to determine radiation source positions from radiographic images; and
 - e. If the treatment planning system is different from the treatment delivery system, the accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.
 2. The position indicators in the applicator shall be compared to the actual position of the source or planned dwell positions, as appropriate, at the time of commissioning.
 3. Prior to each patient treatment regimen, the parameters for the treatment shall be evaluated for correctness and approved by the authorized user and the Qualified Medical Physicist through means independent of that used for the determination of the parameters.
- L. Training for e-brachytherapy Authorized Users.**
1. The registrant for any therapeutic radiation machine subject to this Section shall require the authorized user to be a physician who is:
 - a. Certified in:
 - i. Radiation oncology or therapeutic radiology by the American Board of Radiology or radiology (combined diagnostic and therapeutic radiology program) by the American Board of Radiology prior to 1976; or
 - ii. Radiation oncology by the American Osteopathic Board of Radiology; or
 - iii. Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiol-

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- ogy” or “Fellow of the Royal College of Radiology”; or
- iv. Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
- b. In the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic radiation techniques applicable to the use of an external beam radiation therapy unit, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
2. To satisfy the requirement in subsection (L)(1)(b) for:
 - a. Instruction, the classroom and laboratory training shall include:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of ionization radiation; and
 - iv. Radiation biology;
 - b. Supervised work experience, training shall be under the supervision of an authorized user and shall include:
 - i. Review of the full calibration measurements and periodic quality assurance checks;
 - ii. Evaluation of prepared treatment plans and calculation of treatment times or patient treatment settings or both;
 - iii. Using administrative controls to prevent medical events as described in R9-7-444;
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of an external beam radiation therapy unit or console; and
 - v. Checking and using radiation survey meters; and
 - c. A period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user. The supervised clinical experience shall include:
 - i. Examining individuals and reviewing their case histories to determine their suitability for external beam radiation therapy treatment, and any limitations or contraindications or both;
 - ii. Selecting proper dose and how it is to be administered;
 - iii. Calculating the therapeutic radiation machine doses and collaborating with the authorized user in the review of patients’ progress and consideration of the need to modify originally prescribed doses or treatment plans as warranted by patients’ reaction to radiation or both; and
 - iv. Post-administration follow-up and review of case histories.
 3. A physician shall not act as an authorized user until such time as the physician’s training has been reviewed and approved by the Department.
 4. Notwithstanding the requirements of subsections (L)(1) through (L)(3), the registrant for any therapeutic radiation machine subject to this Section may also submit the training of the prospective authorized user physician for Department review on a case-by-case basis if the training includes substantially equivalent training as that listed in subsections (L)(1)(b) and (L)(2) and the training includes dosimetry calculation training and experience.
- M. Training for Qualified Medical Physicist. The registrant for any therapeutic radiation machine subject to this Section shall require the Qualified Medical Physicist to:
 1. Be certified with the Department, as a provider of radiation services in the area of calibration and compliance surveys of external beam radiation therapy units; and
 2. Be certified by the American Board of Radiology in:
 - a. Therapeutic radiological physics; or
 - b. Roentgen-ray and gamma-ray physics; or
 - c. X-ray and radium physics; or
 - d. Radiological physics; or
 3. Be certified by the American Board of Medical Physics in Radiation Oncology Physics; or
 4. Be certified by the Canadian College of Physicists in Medicine; or
 5. Hold a master’s or doctor’s degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university, and have completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a Qualified Medical Physicist at a medical institution. This training and work experience shall be conducted in clinical radiation facilities that provide high-energy external beam radiation therapy (photons and electrons with energies greater than or equal to one MV/one MeV). To meet this requirement, the individual shall have performed the tasks listed in this subsection under the supervision of a Qualified Medical Physicist during the year of work experience.
 - N. Qualifications of Operators. Individuals who will be operating a therapeutic radiation machine for medical use shall be certified by the Department as a CTT by the Arizona Medical Radiologic Technology Board of Examiners.
 - O. Additional training requirements.
 1. A registrant shall provide instruction, initially and at least annually, to all individuals who operate the electronic brachytherapy device, as appropriate to the individual’s assigned duties, in the operating procedures identified in subsection (G). If the interval between patients exceeds one year, retraining of the individuals shall be provided.
 2. In addition to the requirements of subsection (L) for therapeutic radiation machine authorized users and subsection (M) for Qualified Medical Physicists, these individuals shall also receive device-specific instruction initially from the manufacturer, and annually from either the manufacturer or other qualified trainer. The training shall be of a duration recommended by a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of any training protocol recommended by a national professional association, the manufacturer’s training protocol shall be followed. The training shall include, but not be limited to:
 - a. Device-specific radiation safety requirements;
 - b. Device operation;
 - c. Clinical use for the types of use approved by the FDA;
 - d. Emergency procedures, including an emergency drill; and
 - e. The registrant’s quality assurance program.
 3. A registrant shall retain a record of individuals receiving manufacturer’s instruction for three years. The record

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shall include a list of the topics covered, the date of the instruction, the name or names of the attendee or attendees, and the name or names of the individual or individuals who provided the instruction.

P. Mobile Electronic Brachytherapy Service. A registrant providing mobile electronic brachytherapy service shall, at a minimum:

1. Check all survey instruments before medical use at each address of use or on each day of use, whichever is more restrictive;
2. Account for the electronic brachytherapy x-ray tube in the electronic brachytherapy device before departure from the client's address; and
3. Perform, at each location on each day of use, all of the required quality assurance checks specified in this Section to assure proper operation of the device.

Q. Medical events shall be reported to the Department. For purposes of this Section "medical event" means a therapeutic radiation dose from a machine:

1. Delivered to the wrong patient;
2. Delivered using the wrong mode of treatment;
3. Delivered to the wrong treatment site; or
4. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but greater than 130 percent of the prescribed weekly dose; or

R. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final, prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a medical event.

S. Reports of therapy medical events:

1. Within 24 hours after discovery of a medical event, a registrant shall notify the Department by telephone by speaking to a Department staff member. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient, or that in his or her medical judgment, telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. If the Department staff member, referring physician, or the patient's responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.
2. Within 15 days following the verbal notification to the Department, the registrant shall report, in writing, to the Department and individuals notified under subsection (S)(1). The written report shall include the registrant's name, the referring physician's name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient's responsible relative or guardian, and if not, why not. The report shall not include the patient's name or other information that could lead to identification of the patient.
3. Each registrant shall maintain records of all medical events for Department inspection. The records shall:
 - a. Contain the names of all individuals involved in the event, including:
 - i. The physician,
 - ii. The allied health personnel,
 - iii. The patient,
 - iv. The patient's referring physician,

- v. The patient's identification number if one has been assigned,
 - vi. A brief description of the event,
 - vii. The effect on the patient, and
 - viii. The action taken to prevent recurrence.
- b. Be maintained for three years beyond the termination date of the affected registration.

Historical Note

New Section R9-7-611.01 recodified from R12-1-611.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-611.02. Other Use of Electronically-Produced Radiation to Deliver Superficial Therapeutic Radiation Dosage

A person shall not utilize any device which is designed to electrically generate a source of ionizing radiation to deliver superficial therapeutic radiation dosage, and which is not appropriately regulated under any existing category of therapeutic radiation machine, until:

1. The applicant or registrant has, at a minimum, provided the Department with:
 - a. A detailed description of the device and its intended application or applications;
 - b. Facility design requirements, including shielding and access control;
 - c. Documentation of appropriate training for authorized user physician or physicians and qualified medical physicist or physicists;
 - d. Methodology for measurement of dosages to be administered to patients or human research subjects;
 - e. Documentation regarding calibration, maintenance, and repair of the device, as well as instruments and equipment necessary for radiation safety;
 - f. Radiation safety precautions and instructions; and
 - g. Other information requested by the Department in its review of the application; and
2. The applicant or registrant has received written approval from the Department to utilize the device in accordance with the regulations and specific conditions the Department considers necessary for the medical use of the device; and
3. The applicant or registrant has submitted the application information and forms required by Article 2.
4. In addition to the requirements of this Section, a registrant using a device for x-ray radiation therapy shall meet the requirements of R9-7-611.01(Q), (R), and (S).

Historical Note

New Section R9-7-611.02 recodified from R12-1-611.02 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-612. Computed Tomography Systems

A. Definitions:

1. "CT" means computed tomography.
2. "CT conditions of operation" means all selectable parameters governing the operation of a CT including nominal tomographic section thickness, and technique factors.
3. "CTDI" means computed tomography dose index, the integral of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic thickness and the number of tomogram produced in a single scan.
4. "CTDI vol" means a value of a volume-weighted tomography dose index. The unit of the CTDI vol is Gray or subunits of the Gray. The value of the CTDI vol for

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- patient scan is used to trigger a notification when the value exceeds or will exceed a threshold value.
5. "CTN" means CT number, the number used to represent the x-ray attenuation associated with each elemental area of the CT image.
 6. "Dose profile" means the dose as a function of position along a line.
 7. "DLP" means the dose-length product. The DLP is the mathematical product of the CTDI vol and the length of the scan. The unit DLP is the Gray-cm of subunits of the Gray-cm. The DLP is used to trigger a notification when the value exceeds or will exceed a threshold value.
 8. "Elemental area" means the smallest area within a tomogram for which the x-ray attenuation properties of a body are depicted.
 9. "Multiple tomogram system" means a CT system that obtains x-ray transmissions data simultaneously during a single scan to produce more than one tomogram.
 10. "Nominal tomographic section thickness" means the full width at half-maximum of the sensitivity profile taken at the center of the cross section volume over which x-ray transmission data are collected.
 11. "Reference plane" means a plane that is displaced from and parallel to the tomographic plane.
 12. "Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.
- B. Facility:** A registrant shall ensure that a CT facility has:
1. An operable two-way communication system between the patient and the operator in each CT room.
 2. A viewing system that will allow the operator to continuously view the patient from the control panel during each examination. If the viewing system malfunctions the CT shall not be used until the viewing system is repaired.
- C. Equipment:** A registrant shall ensure that:
1. There is a means to terminate x-ray exposure automatically in the event of equipment failure by:
 - a. De-energizing the x-ray source, or
 - b. Shuttering the x-ray beam.
 2. The equipment shall provide the operator the ability to terminate the x-ray exposure at any time during the examination, provided the scan or series of scans is greater than one-half second duration.
 - a. If an operator terminates an x-ray exposure, the operator shall reset the CT conditions of operation before the initiation of another scan.
 - b. A visible signal shall indicate when an x-ray exposure has been terminated because of equipment failure.
 3. A means is provided to permit visual determination of the tomographic plane for a single tomogram system, or the location of a reference plane offset from a single tomograph or multiple tomogram system.
 - a. If a light source is used to satisfy this requirement, it shall provide illumination of the tomographic plane or reference plane under ambient light conditions.
 - b. The difference between the actual plane location and the indicated location of a tomographic plane or reference plane shall not exceed 5 millimeters.
 - c. The deviation of indicated scan increment versus actual increment shall not exceed plus or minus 1 millimeter with any mass from 0 to 100 kilograms resting on the patient support device.
 4. The control panel and gantry provides a visual indication, if x-rays are produced.
 5. Emergency buttons and switches are marked by function.
 6. Parameters of CT operation used during a patient examination are visible to the operator upon initiation of the scan. If an operational parameter is not adjustable by the operator, this subsection may be met by indicating on the control panel the parameter is not adjustable by the operator.
 7. Radiation exposure does not exceed 100 mR in one hour at one meter in any direction from the tube port of an operating CT.
 8. The angular position or positions where the maximum surface CTDI occurs is identified to allow for reproducible positioning of a CT dosimetry phantom, except in those cases where the x-ray tubes are designed to move, in which case, the maximum dose and associated tube position shall be evaluated according to manufacturer recommendations.
- D. Operating Procedures:** A registrant shall ensure that:
1. Operating procedures are available at the control panel, or by electronic means, regarding the operation of a CT and evaluation of a CT's operation.
 2. The operating procedures contain the following information:
 - a. A copy of the latest evaluation of the CT's operation, to include output for each CT procedure, performed by a qualified expert;
 - b. Instructions on the use of the CT performance phantom by the qualified expert, a schedule of quality control tests with the results of the most recent quality control test, and the allowable variations for the indicated parameters;
 - c. The distance in millimeters between the tomographic plane and the reference plane if a reference plane is used; and
 - d. A current technique chart that contains the information required in R9-7-607(D)(4)(a) for both adult and pediatric patients, as applicable, is available at the CT operating console, and a procedure for determining whether a CT has been performed according to instructions of a physician.
 - e. A written or electronic log that contains the information required in R9-7-607(D)(5) as well as an entry in the record of any displayed values for the exam from either a CTDI vol or DLP measurement for each patient exam completed on equipment manufactured on or after January 1, 2011.
 3. If the evaluation of the CT's operation or quality control test identifies a parameter exceeding the tolerance established by a qualified expert, the use of a CT for patient examination is limited to those uses established in written instructions from the qualified expert.
- E. Quality control tests:** A registrant shall have a written quality control test procedure, developed by a qualified expert, and ensure that the quality control test procedure:
1. Incorporates the use of a CT performance phantom that is compatible with an approved accreditation program approved by the Medicare Improvements for Patients and Providers Act (MIPPA) or supplied by or approved for use by the manufacturer of the unit.
 2. Is followed in the evaluation of the CT's operation, that the interval between tests does not exceed those set forth in the application for accreditation or quarterly if not accredited by an organization approved by (MIPPA), and that system conditions are specified by the registrant's qualified expert.

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3. Includes obtaining quality control test images with the CT performance phantom using the same processing mode and CT conditions of operation that are used to perform the evaluation of the CT's operation.
 4. Requires that images obtained under subsection (E)(3) be retained until a new evaluation of the CT's operation is performed.
 5. Requires that any Alerts and Notification settings using CTDI vol or DLP are reviewed against preloaded techniques in the system and any missing fields are reviewed with the staff radiologist and noted in the annual report.
 6. Requires the quality control test procedure and records of quality control tests performed be maintained for three years for Department inspection.
- F.** Evaluation of a CT's operation. A registrant shall ensure that:
1. The evaluation of a CT's operation is performed by, or under the direct supervision of, a qualified expert who is physically present at the facility during the evaluation of the CT's operation.
 2. The evaluation of a CT's operation:
 - a. Is performed before initial patient use and annually (within two months of the annual due date) and after any change or replacement of components that could, in the opinion of the qualified expert, cause a change in radiation output; and
 - b. Shall measure the CTDI in a dosimetry phantom along the two axes specified in subsection (F)(4)(b).
 - c. A complete evaluation of a CT unit, performed before the annual due date shall clearly list if the new survey changes the annual due date for the unit. It shall be clearly noted on all documentation for the next three years that the survey has established a new annual due date based upon the date of the new survey.
 3. The evaluation of a CT's x-ray system is performed with a calibrated dosimetry system that:
 - a. Has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), and
 - b. Has been calibrated within the preceding two years.
 4. CT dosimetry phantoms used in determining radiation output are compatible with an approved accreditation program approved by (MIPPA) or supplied by or approved for use by the manufacturer of the unit; and
 - a. Are constructed in a way that the parameters used to image the most commonly imaged parts of the human body are evaluated; and
 - b. At a minimum, provide means for placement of a dosimeter along the axis of rotation and along a line parallel to the axis of rotation 1.0 centimeter from the outer surface and within the phantom.
 5. Any effects on the measured dose due to the removal of phantom material to accommodate the dosimeter are accounted for in the reported data or included in the statement of maximum deviation for the measured values.
- G.** CT units designated for simulator use, veterinary use, dental use, podiatry use, and non-diagnostic use on humans are exempt from the annual requirements in subsections (E) and (F) provided an initial evaluation is conducted by a qualified expert and the output does not exceed the manufacturers specified limits. The initial evaluation shall be maintained for Department review.

Historical Note

New Section R9-7-612 recodified from R12-1-612 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-613. Veterinary Medicine Radiographic Systems

- A.** Equipment. A registrant shall ensure that:
1. The total filtration permanently in the useful beam is not less than 1.5 millimeters aluminum-equivalent for equipment operating at up to 70 kVp and 2.0 millimeters aluminum-equivalent for equipment operating in excess of 70 kVp;
 2. A device is provided to terminate the exposure after a preset time or exposure;
 3. Each radiographic system has a "dead-man" exposure switch with an electrical cord of sufficient length to allow the operator to stand at least 1.82 meters (six feet) away from the useful beam during x-ray exposures.
- B.** Procedures: A registrant shall ensure that:
1. Unless required to restrain an animal, the operator stands at least 1.82 meters (6 feet) away from the useful beam and the animal during a radiographic exposure;
 2. An individual other than the operator is not in the x-ray room or area while an exposure is being made, unless the individual's assistance is required;
 3. If possible, an animal is held in position during an x-ray exposure using mechanical supporting or restraining devices;
 4. An individual holding an animal during an x-ray exposure is:
 - a. Wearing protective gloves and an apron of not less than 0.5 millimeter lead equivalent or positioned behind a whole-body protective barrier;
 - b. Wearing required personnel monitoring devices; and
 - c. Positioned so that no part of the person's body, except hands and arms, will be struck by the useful beam;
 5. If an individual holds or supports an animal or a film during an x-ray exposure, the name of the individual is recorded in an x-ray log that contains the animal's name, the type of x-ray procedure, the number of exposures, and the date of the procedure; and
 6. As a condition of employment an individual is not required to routinely hold or support animals, or hold film during radiation exposures.

Historical Note

New Section R9-7-613 recodified from R12-1-613 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-614. Mammography Systems

- A.** Equipment. A registrant shall ensure that:
1. Only radiation machines specifically designed for mammographic examinations are used;
 2. The film processor used in the registrant's facility is maintained in accordance with the film processor's and film manufacturer's recommendations;
 3. Each facility has an image development system onsite unless the Department has approved an alternate system;
 4. If used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam has a half-value layer between the values of: "measured kVp/100 and measured kVp/100 + L millimeters" of aluminum equivalent, where L = 0.12 for Mo/Mo, L = 0.19 for Mo/Rh, L = 0.22 for Rh/Rh, L = 0.30 for W/Rh target filtration combinations and L =

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- 0.33 for other target filtration combinations not otherwise specified.
5. The combination of focal spot size, source-to-image distance and magnification produces a radiograph with a resolution of at least 12 line pairs per millimeter at an object-to-image receptor distance of 4.5 centimeters; or the standards in Table 3-3 of the American Association of Physicists in Medicine (AAPM), Report No. 29, Equipment Requirements and Quality Control for Mammography, August 1990, published by the American Institute of Physics, Suite 1NO1, 2 Huntington Quadrangle, Melville, NY 11747 (This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The report is available online at: <http://www.aapm.org/pubs/reports>; print copies may be purchased from Medical Physics Publishing, 4513 Vernon Blvd., Madison, WI 53705; toll free at (800) 442-5778.);
 6. The compression device used with the mammographic unit, unless specifically manufactured otherwise, is parallel to the imaging plane, not varying at any spot by more than 1 centimeter;
 7. The mammographic x-ray system with initial power drive:
 - a. Has compression paddles compatible with each size of image receptor;
 - b. Is capable of compressing the breast with a force of at least 25 pounds, but not more than 45 pounds, and maintaining the compression for at least three seconds; and
 - c. Is used in a manner so that the chest wall edge of the compression device is aligned just beyond the chest wall edge of the image receptor so that the chest wall edge of the compression device does not appear on the image receptor;
 8. A mammographic x-ray system using screen-film image receptors has:
 - a. At least two different sizes of moving anti-scatter grids, including one for each size of image receptor utilized; and
 - b. Automatic exposure control;
 9. All mammographic x-ray systems indicate or provide a means of determining, the mAs resulting from each exposure made with automatic exposure control;
 10. The collimation provided limits the useful beam to the image receptor so that the beam does not extend beyond any edge of the image receptor at any designated source to image receptor distance by more than 2 percent of the source to image receptor distance;
 11. The accuracy of the indicated kVp is within plus or minus 2kVp;
 12. Mammographic x-ray systems operating with automatic exposure control are capable of maintaining a film density within plus or minus 0.15 optical density units over the clinical range of kVp used, for a breast having an equivalent phantom thickness from 2 to 6 centimeters. If a technique chart is used, the operator shall maintain the film density within plus or minus 0.15 optical density units of the mean optical density;
 13. At a kVp of 28, the mammographic x-ray system is capable of generating at least 2.0 $\mu\text{C}/\text{kg}/\text{mAs}$ (8mR/mAs) and at least 200 $\mu\text{C}/\text{kg}/\text{second}$ (800 mR/second), measured at a point 4.5 centimeters above the surface of the patient support device when the Source-image receptor distance is at its maximum;
 14. Screens are not used for mammography if one or more areas of greater than 1 centimeter squared of poor screen-film contact are seen when tested, using a 40 mesh screen test;
 15. Mammographic image quality meets the minimum mammography film standards for phantom performance in Mammography Quality Control Manual, 1999 edition, published by the American College of Radiology (ACR). (This manual is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The manual is available from ACR Publication Sales, P.O. Box 533, Annapolis Junction, MD 20701: toll free at (800) 227-7762; e-mail at: acr@brightkey.net).
 16. The mean glandular dose for one cranio-caudal view of a 4.2 centimeter (1.8 inch) compressed breast, composed of 50 percent adipose and 50 percent glandular tissue, does not exceed 300 millirads (3 milligray); and
 17. A radiologic physicist who meets the requirements in R9-7-615(A)(1)(c) evaluates the operation of a mammographic x-ray system:
 - a. When first installed and annually thereafter,
 - b. Following any major change in equipment or replacement of parts, and
 - c. When quality assurance tests indicate calibration is necessary.
- B. Operating Procedures.** A registrant shall ensure that:
1. Each mammographic facility has a quality assurance program, and that the quality assurance program includes performance and documentation of the quality control tests in subsection (B)(2), conducted at the required time intervals. Test results shall fall within the specified limits in subsection (B)(2) or the registrant shall take corrective action and maintain documentation that the results are within specified limits before performing or processing any further examinations using the system that failed. A radiologic physicist, as defined in R9-7-615(A)(1)(c), shall review the program and make any recommendations necessary for the facility to comply with this Section;
 2. The quality assurance program meets federal requirements (Contained in 21 CFR 900.12(d)(1), and (e)(1) through (e)(10), revised April 1, 2013, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.); or the following requirements:
 - a. Daily sensitometric and densitometric evaluation of the image processing system demonstrates that Base + Fog < +0.03 optical density of operating level, Mid Density \pm 0.15 optical density of operating level, and Density Difference \pm 0.15 optical density of operating level;
 - b. Weekly phantom image quality evaluations demonstrate the visualization of at least four fibers, three speck groups, and three masses with a background of greater than 1.40 optical density, not varying by 0.20 optical density of operating level;
 - c. Monthly technique chart evaluations demonstrate updates for all equipment changes and that all examinations are being performed according to a physicist's density control recommendation;
 - d. Quarterly fixer retention evaluations demonstrate an acceptable limit of less than or equal to 5.0 micrograms per square centimeter;
 - e. Quarterly repeat analysis demonstrates an acceptable limit of less than 2 percent increase in repeats;

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- f. Semiannual darkroom fog evaluations meet the limit of less than or equal to 0.05 optical density of fog, using the two minute exposed film method;
- g. Semiannual screen film contact evaluations meet the limit of less than one area of poor contact of 1 centimeter squared, using a 40 mesh screen on all clinically-used screens;
- h. Semiannual automatic compression force evaluations meet the limit of greater than or equal to 25 pounds (111 Newtons) and less than 45 pounds (200 Newtons);
- i. A survey shall be conducted annually and whenever indicated for installation, major repairs, parts replacement, or as deemed necessary by a qualified expert when quality control test results indicate a survey is necessary; the survey shall include all of the following tests:
 - i. Automatic exposure control performance and thickness response;
 - ii. Accuracy and reproducibility of kVp;
 - iii. System resolution;
 - iv. Breast entrance air kerma and automatic exposure control reproducibility;
 - v. Average glandular dose;
 - vi. X-ray field, light field, and image receptor alignment;
 - vii. Compression paddle alignment;
 - viii. Uniformity of screen speed;
 - ix. System artifacts;
 - x. Radiation output;
 - xi. Decompression;
 - xii. Beam quality and half value layer;
- j. For systems with image receptor modalities other than screen film:
 - i. The quality assurance and quality control program for the acquisition system meets or exceeds the recommendations by the manufacturer;
 - ii. The quality assurance and quality control program for the printer meets or exceeds the recommendations by the image receptor manufacturer. In the absence of recommendations by the image receptor manufacturer for the specified printer, the quality control and assurance program meets or exceeds the recommendations of the printer manufacturer; and
 - iii. The quality assurance and quality control program for the interpretation monitors meets or exceeds the recommendations by the image receptor manufacturer. In the absence of recommendations by the image receptor manufacturer for the specified monitor or monitors, the quality control and assurance program meets or exceeds the recommendations of the interpretation monitor or monitors manufacturer; and
- k. The registrant maintains records documenting compliance with the provisions in this subsection for three years from the date each requirement is met. The records shall be made available for Department inspection.

C. Mammographic films and reports.

- 1. A registrant shall maintain films and reports for a minimum of five years. In those cases where no subsequent mammographic procedures are performed, the registrant shall maintain films and associated reports for 10 years. If the mammographic facility is closed, the registrant shall

- make arrangements for storage of the films and associated reports for five years after the closure; and
- 2. A registrant shall make films and reports available for comparison upon request for temporary or permanent transfer to other mammographic facilities.

Historical Note

New Section R9-7-614 recodified from R12-1-614 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-615. Mammography Personnel**A. Personnel.**

- 1. Each registrant shall require personnel who perform mammography, which includes the production, processing, and interpretation of mammograms and related quality assurance activities, to meet the following requirements:
 - a. An interpreting physician shall meet federal requirements (Contained in 21 CFR 900.12(a)(1), revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
 - i. Be licensed under A.R.S. Title 32, Chapters 13 or 17;
 - ii. Have initially completed 40 hours of medical education credits in mammography;
 - iii. Be certified by the American Board of Radiology or the American Osteopathic Board of Radiology or meet the requirements of the mammography quality standards act regulations for quality standards of interpreting physicians;
 - iv. Have interpreted or reviewed an average of 300 mammograms per year during the preceding two years or have completed a radiology residency that included mammogram image interpretation in the preceding two years;
 - v. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
 - vi. Have received at least eight hours of training specific to each mammographic modality before engaging in independent interpretation.
 - b. A mammographic technologist shall meet federal requirements (Contained in 21 CFR 900.12(a)(2), revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
 - i. Possess a valid mammographic technologist certificate issued by the Medical Radiologic Technology Board of Examiners, as required in A.R.S. § 32-2841, or be pursuing mammography certification by training under the direct supervision of a technologist who possesses a valid mammographic technologist certificate;
 - ii. Have performed at least 200 mammographic examinations in the preceding two years;
 - iii. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
 - iv. Have received at least eight hours of training specific to each mammographic modality to be used by the technologist in performing mammographic examinations.
 - c. A radiologic physicist shall meet federal requirements (Contained in 21 CFR 900.12(a)(3), revised

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April 1, 2013, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.); or

- i. Be certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;
- ii. Possess documentation of state approval;
- iii. Hold a master's degree or higher in a physical science;
- iv. Have, upon initial employment as a radiologic physicist, experience conducting, at least one mammographic facility survey and evaluating at least 10 mammographic units;
- v. Have, after completing the experience requirements in subsection (A)(1)(c)(iv), continuing experience surveying two mammographic facilities and evaluating six mammographic units during the preceding two years;
- vi. Have completed 15 hours of continuing medical education credits in mammography during the three preceding years; or
- vii. Have received at least eight hours of training specific to any modality surveyed; and

2. Each registrant shall maintain records documenting the requirements in subsection (A)(1) for three years from the date the requirement is met and make the records available for Department inspection.

- B. Radiologic physicists shall apply for and renew their certification on Department-approved forms. In addition to the Department-approved forms, applicants must also submit documentation showing education, mammography specific training, education, and board certification. Upon renewal, an applicant must submit documentation showing current continuing education requirements are met.

Historical Note

New Section R9-7-615 recodified from R12-1-615 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Information Submitted to the Department According to R9-7-604(A)(3)(c)

- A. Name and address of the applicant and, if applicable, the name and address of any person within this state that is authorized to act on behalf of the applicant;
- B. Disease or conditions to be diagnosed using the proposed x-ray examination;
- C. A detailed description of each x-ray examination that will be used in the diagnosis;
- D. A description of the population to be examined in the screening program, using characteristics such as age, sex, physical condition, and other descriptive information;
- E. An evaluation of any known alternative diagnostic modalities not involving ionizing radiation that could achieve the same diagnosis as a screening program and why these modalities have not been chosen;
- F. An evaluation by a qualified expert of the x-ray equipment used in the screening program, which demonstrates that the x-ray equipment satisfies the requirements of this Article;
- G. A description of the quality control program;
- H. A copy of the technique chart for the planned x-ray examination;
- I. The qualifications of each individual who will be operating the x-ray equipment;
- J. The qualifications of the individual who will be supervising each operator of the x-ray equipment;
- K. The name and address of the individual who will interpret each radiographic image;

- L. A description of the planned procedures for advising a screened individual and the screened individual's physician of the screening procedure results, and the need for further medical care, and
- M. A description of the procedures for retention or disposition of the radiographic images and other records pertaining to the x-ray examination.

Historical Note

New Appendix A, recodified from 12 A.A.C. 1, Article 6, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL**R9-7-701. License Required**

- A. A person may manufacture, produce, acquire, receive, possess, prepare, use, or transfer radioactive material for medical use only in accordance with a specific license issued by the Department, the NRC, or another Agreement State, or as allowed in subsection (B)(1) or (B)(2).
- B. A specific license is not needed for an individual who:
 1. Receives, possesses, uses, or transfers radioactive material in accordance with the rules in this Chapter under the supervision of an authorized user as provided in R9-7-706, unless prohibited by license condition; or
 2. Prepares unsealed radioactive material for medical use in accordance with the rules in this Chapter under the supervision of an authorized nuclear pharmacist or authorized user.

Historical Note

New Section R9-7-701 recodified from R12-1-701 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-702. Definitions

"Authorized medical physicist" means an individual who meets the requirements in R9-7-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a "qualified expert" as defined in Article 1.

"Authorized nuclear pharmacist" means a pharmacist who meets the requirements in R9-7-712.

"Authorized user" means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744.

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

"CT" means computerized tomography.

"High dose rate afterloading brachytherapy" means the treating of human disease using the radiation from a radioactive sealed source containing more than 1 curie of radioactive material. The radioactive material is introduced into a patient's body using a device that allows the therapist to indirectly handle the radiation source during the treatment. For purposes of the requirements in this Article "pulse dose rate afterloading brachytherapy" is included in this definition.

"Human research subject" means an individual who is or becomes a participant in research overseen by an IRB, either as a recipient of the test article or as a control. A subject may be either a healthy human, in research overseen by the RDRC, or a patient.

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“Institutional review board” (IRB) is defined in R9-7-704(B).

“Manual brachytherapy” means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

“Medical event” means an event that meets the criteria in R9-7-745.

“Medical institution” means an organization in which several medical disciplines are practiced.

“Medical use” means the intentional internal or external administration of radioactive material, or the radiation from it, to an individual under the supervision of an authorized user.

“Nuclear cardiology” means the diagnosis of cardiac disease using radiopharmaceuticals.

“PET” means positron emission tomography.

“Physically present” means that a supervising medical professional is in proximity to the patient during a radiation therapy procedure so that immediate emergency orders can be communicated to ancillary staff, should the occasion arise.

“Prescribed dosage” means the specified activity or range of activity of unsealed radioactive material as documented:

In a written directive; or

In accordance with the directions of the authorized user for procedures performed in accordance with the uses described in Exhibit A.

“Prescribed dose” means:

For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

For teletherapy, the total dose and dose per fraction as documented in the written directive;

For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

“Radiation Safety Officer” (RSO) for purposes of this Article, and in addition to the definition in Article 1 means an individual who:

Meets the requirements in R9-7-710, or

Is identified as a radiation safety officer on:

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

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

“Radioactive drug” is defined in 21 CFR 310.3(c) and includes a “radioactive biological product” as defined in 21 CFR 600.3, April 1, 2006, both of which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. These incorporated materials contain no future editions or amendments.

“Radioactive Drug Research Committee” (RDRC) means the committee established by the licensee to review all basic research involving the administration of a radioactive drug to

human research subjects, taken from 21 CFR 361.1, April 1, 2006, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. Research is considered basic research if it is done for the purpose of advancing scientific knowledge, which includes basic information regarding the metabolism (including kinetics, distributions, dosimetry, and localization) of a radioactive drug or regarding human physiology, pathophysiology, or biochemistry. Basic research is not intended for immediate therapeutic or diagnostic purposes and is not intended to determine the safety and effectiveness of a radioactive drug in humans.

“Radiopharmaceutical” means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance. For purposes of this Article radiopharmaceutical is equivalent to radioactive drug.

“Remote afterloading brachytherapy device” means a device used in radiation therapy that allows the authorized user to insert, from a remote location, a radiation source into an applicator that has been previously inserted in an individual requiring treatment.

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

“Stereotactic radiosurgery” means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose.

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

“Therapeutic dosage” means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

“Therapeutic dose” means a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

“Treatment site” means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

“Unit dosage” means a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

“Written directive” means an authorized user’s written order for the administration of radioactive material or radiation from radioactive material to a specific patient or human research subject, as specified in R9-7-707.

Historical Note

New Section R9-7-702 recodified from R12-1-702 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-703. License for Medical Use of Radioactive Material

A. In addition to the requirements set forth in R9-7-309, the Department shall issue a specific license for medical use of radioactive material if:

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1. The applicant has appointed a radiation safety committee, meeting the requirements in R9-7-705, that will oversee the use of licensed material throughout the licensee's facility and associated radiation safety program;
 2. The applicant possesses facilities for the clinical care of patients or human research subjects; and
 3. The individual designated on the application as an authorized user has met the training and experience requirements in R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744.
- B.** Specific licenses to individual authorized users for medical use of radioactive material:
1. The Department shall approve an application by a prospective individual authorized user or prospective group of authorized users for a specific license governing the medical use of radioactive material if:
 - a. The applicant satisfies the general requirements in R9-7-309;
 - b. The application is for use in the applicant's practice at an office outside of a medical institution;
 - c. The applicant meets the training and experience requirements in subsection (A)(3); and
 - d. The applicant has a radiation safety committee, if the criteria in R9-7-705 are applicable and a RDRC, if the use is basic research involving humans.
 2. The Department shall not approve an application by a prospective authorized user or group of prospective authorized users for a specific license to receive, possess, or use radioactive material on the premises of a medical institution unless:
 - a. The use of radioactive material is limited to:
 - i. The administration of radiopharmaceuticals for diagnostic or therapeutic purposes;
 - ii. The performance of diagnostic studies on patients or human research subjects to whom a radiopharmaceutical has been administered;
 - iii. The performance of in vitro diagnostic studies; or
 - iv. The calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation, or diagnostic instrumentation;
 - b. The authorized user brings the radioactive material and removes the radioactive material upon departure; and
 - c. The medical institution does not hold a radioactive materials license under subsection (A).
- C.** Specific licenses for certain groups of medical uses of radioactive material:
1. The Department shall approve an application for a specific license under subsections (A) or (B), for any medical use or uses of radioactive material specified in Groups 100 through 1,000, in Exhibit A of this Article, for all of the materials within each group requested in the application if:
 - a. The applicant satisfies the requirements of subsections (A) and (B);
 - b. Each person involved in the preparation and use of the radioactive material is an authorized user, an authorized nuclear pharmacist, or certified as a nuclear medicine technologist by the Medical Radiologic Technology Board of Examiners (MRTBE);
 - c. The applicant's radiation detection and measuring instrumentation is adequate for conducting the procedures involved in the authorized uses selected from Group 100 through Group 1,000; and
 - d. The applicant's radiation safety operating procedures are adequate for handling and disposal of the radioactive material involved in the authorized uses selected from Group 100 through Group 1,000.
2. Any licensee who is authorized to use radioactive material:
- a. In unsealed form under Groups 100, 200, 300 or 1,000 listed in Exhibit A of this Article, shall do so using radiopharmaceuticals prepared in accordance with R9-7-311(I); or
 - b. In sealed source form under Groups 400, 500, 600, or 1,000 listed in Exhibit A of this Article, shall do so using sealed sources that have been manufactured and distributed in accordance with R9-7-311(K);
 - c. In any form under group 1,000 listed in Exhibit A of this Article, shall do so using sealed and unsealed sources that have been manufactured and distributed in accordance with the specific license issued by the Department.
3. Any licensee who is licensed according to subsection (C)(1), for one or more of the medical use groups in Exhibit A also is authorized to use radioactive material under the general license in R9-7-306(E) for the specified in vitro uses without filing Form ARRA-9 as required by R9-7-306(E)(2); provided, that the licensee is subject to the other provisions of R9-7-306(E).
- D.** In addition to the other license application requirements in this Section, each applicant shall include in the radiation safety program required under subsection (A)(1) a system for ensuring that each syringe and vial that contains unsealed radioactive material is labeled in accordance with R9-7-431(D).

Historical Note

New Section R9-7-703 recodified from R12-1-703 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-704. Provisions for the Protection of Human Research Subjects

- A.** A licensee may conduct basic research involving human research subjects and research involving patients receiving investigational new drugs or devices if the licensee only uses the radioactive material specified on the license for the uses authorized on the license.
- B.** If research is conducted, funded, supported, or regulated by a federal agency that has implemented the federal Policy for Protection of Human Research Subjects (45 CFR 46, June 23, 2005, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, on file with the Department, and contains no future editions or amendments), the licensee shall:
1. Obtain review and approval of the research from an Institutional Review Board (IRB); and
 2. Obtain informed consent from the human research subject.
- C.** If research will not be conducted, funded, supported, or regulated by a federal agency that has implemented the federal policy in subsection (B), a medical licensee shall, before conducting research, apply for and receive a specific amendment to its use license. The amendment request shall include a written commitment that the licensee will, before conducting research:
1. Obtain review and approval of the research from an IRB, as defined and described in the federal policy; and

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2. Obtain informed consent from the human research subject.
- D. Before conducting the research described in subsection (A) the licensee shall apply to the Department for and receive a specific amendment to its medical use license. The amendment request shall include a written commitment that the licensee will, before conducting research:
 1. Obtain any review and approval required by this Section, and
 2. Obtain informed consent from the human research subject if applicable.
- E. Nothing in this Section relieves a licensee from complying with the other requirements in this Article.

Historical Note

New Section R9-7-704 recodified from R12-1-704 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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

- A. A licensee's management shall appoint in writing a Radiation Safety Officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. A licensee's management may appoint, in writing, one or more Associate Radiation Safety Officers to support the Radiation Safety Officer. The Radiation Safety Officer, with written agreement of the licensee's management, must assign the specific duties and tasks to each Associate Radiation Safety Officer. These duties and tasks are restricted to the types of use for which the Associate Radiation Safety Officer is listed on a license. The Radiation Safety Officer may delegate duties and tasks to the Associate Radiation Safety Officer but shall not delegate the authority or responsibilities for implementing the radiation protection program. Each time the Radiation Safety Officer is changed, the licensee shall provide to the Department within 30 days an amendment request and a copy of the correspondence between the licensee's management and the candidate, accepting the position of Radiation Safety Officer.
- B. Licensees that are authorized for two or more different types of uses of radioactive material listed in Groups 300, 400, 600, and 1,000, or two or more types of units under group 600 or 1,000, shall establish a Radiation Safety Committee (RSC) to oversee all uses of radioactive material permitted by the license. At a minimum, the RSC shall include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer.
- C. If a licensee or applicant is not a health care institution and is unable to meet the RSC membership requirements in subsection (B), the licensee or applicant may request an exemption in accordance with A.R.S. § 30-654(B)(13). The request for exemption shall be made to the Department in writing and list the reasons why the health care institution is unable to meet the requirements.
- D. A licensee shall ensure that the RSC meets, at a minimum, on an annual basis and maintain the RSC meeting minutes for Department review for three years after the date of the RSC meeting.
- E. A licensee shall notify the Department no later than 30 days after:
 1. An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer, an Associate Radiation Safety Officer, an authorized medical physicist, or ophthalmic

- physicist permanently discontinues performance of duties under the license or has a name change;
2. The licensee permits an individual qualified to be a Radiation Safety Officer under R9-7-710 to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer;
3. The licensee's mailing address changes;
4. The licensee's name changes, but the name change does not constitute a transfer of control of the license as described in R9-7-313(B);
5. The licensee has added to or changed the areas of use identified in the application or on the license where byproduct material is used in accordance with R9-7-301, if the change does not include addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area; or
6. The licensee obtains a sealed source for use in manual brachytherapy from a different manufacturer or with a different model number than authorized by its license for which it did not require a license amendment as provided in R9-7-701. The notification must include the manufacturer and model number of the sealed source, the isotope, and the quantity per sealed source.

Historical Note

New Section R9-7-705 recodified from R12-1-705 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-706. Supervision

- A. For purposes of this rule, "supervision" means the exercise of control over or direction of the use of radioactive material in the practice of medicine by an authorized user named on a radioactive material license. Supervision does not require a supervising physician's constant physical presence if the supervising physician can be easily contacted by radio, telephone, or telecommunication.
- B. A physician may use radioactive material if the person is licensed by the Arizona Medical Board or Board of Osteopathic Examiners in Medicine and Surgery and is listed as an authorized user on the Arizona radioactive material license under which the radioactive material is obtained.
- C. A licensee that permits the receipt, possession, use, or transfer of radioactive material by an individual under the supervision of an authorized user, shall:
 1. Instruct the supervised individual in the licensee's written radiation protection procedures, written directive procedures, rules, and license conditions with respect to the use of radioactive material; and
 2. Require the supervised individual to follow the instructions of the supervising authorized user for medical uses of radioactive material, written radiation protection procedures established by the licensee, written directive procedures, rules, and license conditions with respect to the medical use of radioactive material.
- D. A licensee that permits the preparation of radioactive material for medical use by an individual who is supervised by an authorized nuclear pharmacist or a physician, who is an authorized user, shall:
 1. Instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual's involvement with radioactive material; and
 2. Require the supervised individual to follow the instructions of the supervising authorized user or authorized

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nuclear pharmacist regarding the preparation of radioactive material for medical use, written radiation protection procedures established by the licensee, the rules, and license conditions.

- E. A licensee that permits supervised activities under subsections (C) and (D) is responsible for the acts and omissions of the supervised individual.
- F. A limited-service nuclear pharmacy licensee shall dispense radiopharmaceuticals only to a physician listed as an authorized user on a valid radioactive material license issued by the Department, an Agreement State, or the NRC. For purposes of this rule "limited-service nuclear pharmacy" is defined in R4-23-110.

Historical Note

New Section R9-7-706 recodified from R12-1-706 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-707. Written Directives

- A. A licensee shall ensure that a written directive is dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 MBq (30 microcuries (μCi)), any therapeutic dosage of unsealed radioactive material or any therapeutic dose of radiation from radioactive material. If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient's record. A written directive shall be prepared within 48 hours of the oral directive.
- B. A written directive shall contain the patient or human research subject's name and the following information:
 1. For any administration of quantities greater than 1.11 MBq (30 μCi) of sodium iodide I-131: the dosage;
 2. For an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131: the radiopharmaceutical, dosage, and route of administration;
 3. For gamma stereotactic radiosurgery: the total dose, treatment site, and values for the target coordinate settings per treatment for each anatomically distinct treatment site;
 4. For teletherapy: the total dose, dose per fraction, number of fractions, and treatment site;
 5. For high dose-rate remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose;
 6. For permanent implant brachytherapy:
 - a. Before implantation: the treatment site, radionuclide, and total strength; and
 - b. After implantation but before the patient leaves the post-treatment recovery area: the treatment site, number of sources implanted, total source strength implanted, and date; or
 7. For all other brachytherapy, including low, medium, and pulsed dose rate remote afterloaders:
 - a. Before implantation: the treatment site, radionuclide, and dose; and
 - b. After implantation but before completion of the procedure: the radionuclide, treatment site, number of sources, total source strength and exposure time (or the total dose), and date.
- C. The licensee shall retain a copy of the written directive for three years after creation of the record.

Historical Note

New Section R9-7-707 recodified from R12-1-707 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-708. Procedures for Administrations Requiring a Written Directive

For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

1. The patient's or human research subject's identity is verified before each administration; and
2. Each administration is in accordance with the written directive.

Historical Note

New Section R9-7-708 recodified from R12-1-708 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-709. Sealed Sources or Devices for Medical Use

A licensee may only use:

1. Sealed sources, including teletherapy sources, or devices manufactured, labeled, packaged, and distributed in accordance with a license issued under Article 3 of this Chapter, equivalent regulations of the NRC or equivalent requirements of an Agreement State; or
2. Sealed sources or devices noncommercially transferred from another medical licensee; or
3. Teletherapy sources manufactured and distributed in accordance with a license issued by the Department, the NRC, or another Agreement State.

Historical Note

New Section R9-7-709 recodified from R12-1-709 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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

- A. A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer, described in R9-7-705, to be an individual who:
 1. Is certified by a specialty board whose certification process includes all of the requirements in subsection (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Meet the following minimum requirements:
 - i. Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;
 - ii. Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience) including at least three years in applied health physics; and
 - iii. Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or
 - b. Meet the following minimum requirements:
 - i. Hold a master's or doctor's degree in physics, medical physics, other physical science, engi-

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- neering, or applied mathematics from an accredited college or university;
- ii. Have two years of full-time practical training and/or supervised experience in medical physics;
 - (1) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Department, the NRC, or another Agreement State; or
 - (2) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users qualified under subsection (B), R9-7-721, or R9-7-723; and
 - iii. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety;
2. Has:
 - a. Completed a structured educational program consisting of both:
 - i. 200 hours of didactic and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Radiation biology; and
 - (5) Radiation dosimetry; and
 - ii. One year of full-time radiation safety experience under the supervision of the individual identified as the Radiation Safety Officer on a Department, a NRC, or an Agreement State license or permit issued by a NRC master material licensee that authorizes similar type(s) of use(s) of radioactive material involving the following:
 - (1) Shipping, receiving, and performing related radiation surveys;
 - (2) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;
 - (3) Securing and controlling radioactive material;
 - (4) Using administrative controls to avoid mistakes in the administration of radioactive material;
 - (5) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;
 - (6) Using emergency procedures to control radioactive material; and
 - (7) Disposing of radioactive material; and
 - b. Obtained written certification, signed by a preceptor Radiation Safety Officer or Associate Radiation Safety Officer, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and has achieved a level of radiation safety knowledge sufficient to function independently as a Radiation Safety Officer or as an Associate Radiation Safety Officer for a medical use licensee;
 3. Is:
 - a. A medical physicist who has been certified by a specialty board whose certification process has been recognized by the Department, the NRC, or another Agreement State under R9-7-711(A) or equivalent, has experience with radiation safety aspects of similar types of use of radioactive material for which the licensee seeks the approval of the individual as Radiation Safety Officer or an Associate Radiation Safety Officer, and meets the requirements in subsection (B); or
 - b. An authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has Radiation Safety Officer responsibilities; or
 4. Has experience with the radiation safety aspects of the types of use of radioactive material for which the individual is seeking simultaneous approval both as the Radiation Safety Officer and the authorized user on the same new medical license and meets the requirements in subsection (B).
- B.** A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer to have training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which the licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, an Associate Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type(s) of use for which the licensee is seeking approval.
 - C.** Exceptions.
 1. An individual identified as a Radiation Safety Officer or as an Associate Radiation Safety Officer on a Department, a NRC, or another Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope May 5, 2007 need not comply with the training requirements in subsections (A)(1) through (4).
 2. A physician, dentist, or podiatrist identified as an authorized user for the medical use of radioactive material on a license issued by the Department, the NRC, or an Agreement State, a permit issued by a NRC master material licensee, a permit issued by the Department, the NRC, or an Agreement State broad scope licensee, or a permit issued by a NRC master material license broad scope permittee May 5, 2007 need not comply with the training requirements in this Article.
 - D.** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
 - E.** Individuals who, under subsection (C), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.
 - F.** Records Retention.
 1. The licensee shall retain both a copy of the authority, duties, and responsibilities of the Radiation Safety Officer, as required by this Section, and a signed copy of each Radiation Safety Officer's agreement to be responsible

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for implementing the radiation safety program for the duration of the license. The records must include the signature of the Radiation Safety Officer and licensee management.

2. For each Associate Radiation Safety Officer appointed under this Section, the licensee shall retain, for five years after the Associate Radiation Safety Officer is removed from the license, a copy of the written document appointing the Associate Radiation Safety Officer, signed by the licensee's management.

Historical Note

New Section R9-7-710 recodified from R12-1-710 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-711. Authorized Medical Physicist Training

A. A licensee shall require an authorized medical physicist to be an individual who:

1. Is certified by a specialty board whose certification process includes all of the training and experience requirements in subsections (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
 - b. Have two years of full-time practical training and/or supervised experience in medical physics:
 - i. Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the NRC or an Agreement State; or
 - ii. In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in R9-7-710, R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; and
 - c. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or
2. Meets the following alternative training requirements:
 - a. Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type(s) of use for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1

million electron volts) and brachytherapy services and must include:

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

- B.** A licensee shall require an authorized medical physicist to be an individual who has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.
- C.** Exceptions. An individual identified as a teletherapy or medical physicist on a Department, a NRC, or another Agreement State license or a permit issued by the NRC or another Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope before May 5, 2007 need not comply with the training requirements in subsection (A).
- D.** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- E.** Individuals who, under subsection (C), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

Historical Note

New Section R9-7-711 recodified from R12-1-711 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-712. Authorized Nuclear Pharmacist Training

A. A licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

1. Is certified as a nuclear pharmacist by a specialty board whose certification process has been recognized by the

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Department, the NRC, or an Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:

- a. Have graduated from a pharmacy program accredited by the American Council on Pharmaceutical Education (ACPE) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;
 - b. Hold a current, active license to practice pharmacy in Arizona;
 - c. Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and
 - d. Pass an examination in nuclear pharmacy administered by diplomates of the specialty board, that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or
2. Has completed 700 hours in a structured educational program consisting of both:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Chemistry of radioactive material for medical use; and
 - v. Radiation biology; and
 - b. Supervised practical experience in a nuclear pharmacy involving:
 - i. Shipping, receiving, and performing related radiation surveys;
 - ii. Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;
 - iii. Calculating, assaying, and safely preparing dosages for patients or human research subjects;
 - iv. Using administrative controls to avoid medical events in the administration of radioactive material; and
 - v. Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and
 3. Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in subsection (A)(2) and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.
- B. Exceptions. An individual identified as a nuclear pharmacist on a Department, a NRC, or an Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope before the effective date of these rules need not comply with the training requirements in subsections (A)(1) through (A)(3).
 - C. The training and experience required in this Section shall be obtained within the seven years preceding the date of applica-

tion or the individual shall have had related continuing education and experience since the required training and experience was completed.

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

Historical Note

New Section R9-7-712 recodified from R12-1-712 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-713. Determination of Prescribed Dosages, and Possession, Use, and Calibration of Instruments

- A. A licensee shall determine and record the activity of each dosage before medical use.
- B. For a unit dosage, this determination shall be made by:
 1. Direct measurement of radioactivity; or
 2. Decay correction, based on the activity or activity concentration determined by:
 - a. A manufacturer or preparer licensed under R9-7-311 or equivalent NRC or Agreement State requirements; or
 - b. A Department, a NRC, or an Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA or;
 - c. A PET radioactive drug producer licensed under 1 R9-7-311 or equivalent NRC or Agreement State requirements.
- C. For other than unit dosages, this determination shall be made by:
 1. Direct measurement of radioactivity;
 2. Combination of measurement of radioactivity and mathematical calculations; or
 3. Combination of volumetric measurements and mathematical calculations based on the measurement made by a manufacturer or preparer licensed under R9-7-311, or equivalent NRC or Agreement State requirements.
- D. Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than 20 percent.
- E. A licensee shall retain a record of the dosage determination required by this Section for Department inspection for three years.
- F. For direct measurements performed in accordance with subsection (B)(1), a licensee shall possess and use instrumentation to measure the activity of the dosage before it is administered to each patient or human research subject.
- G. A licensee shall calibrate the instrumentation required in subsection (F) in accordance with nationally recognized standards, the manufacturer's instructions, or the following procedures.
 1. The procedures that may be followed are:
 - a. Check each dose calibrator for constancy with a dedicated check source at the beginning of each day of use;
 - b. Test each dose calibrator for accuracy upon installation and at least annually thereafter by assaying at least two sealed sources containing different radionuclides whose activity the manufacturer has determined within 5 percent of its stated activity, whose activity is at least 10 microcuries for radium-226 and 50 microcuries for any other photon-emitting radio-

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- nuclide, and at least one of which has a principal photon energy between 100 keV and 500 keV;
- c. Test each dose calibrator for linearity upon installation and at least quarterly thereafter over a range from the highest dosage that will be administered to a patient or human research subject to 1.1 megabecquerels (30 microcuries);
 - d. Test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator;
 - e. Perform appropriate checks and tests required by this Section following adjustment or repair of the dose calibrator; and
 - f. Mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 10 microcuries and shall repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.
2. A licensee shall maintain the dose calibrator in accordance with this subsection, even though the dose calibrator is only used to “verify” a dosage prepared by a supplier authorized in subsection (B)(2).
 3. A licensee shall maintain on file for Department review nationally recognized standards or manufacturer’s instructions used to maintain a dose calibrator and meet the requirements of subsection (G).
- H.** A licensee shall calibrate the survey instruments before first use, annually, and following a repair that affects the calibration. A licensee shall:
1. Calibrate all scales with readings up to 10 mSv (1000 mrem) per hour with a radiation source;
 2. Calibrate two separated readings on each scale or decade that will be used to show compliance; and
 3. Conspicuously note on the instrument the date of calibration.
- I.** A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than 20 percent.
- J.** A licensee shall retain records of instrument calibration for three years following the calibration.

Historical Note

New Section R9-7-713 recodified from R12-1-713 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-714. Authorization for Calibration, Transmission, and Reference Sources

Any person authorized by R9-7-703 for medical use of radioactive material may receive, possess, and use any of the following radioactive material for check, calibration, transmission, and reference use.

1. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, manufactured and distributed by a person licensed under Article 3 of this Chapter or equivalent NRC or Agreement State regulations.
2. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under Article 3 of this Chapter, providing the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer’s approved instructions.
3. Any radioactive material with a half-life not longer than 120 days in individual amounts not to exceed 0.56 GBq (15 mCi).
4. Any radioactive material with a half-life longer than 120 days in individual amounts not to exceed the smaller of 7.4 MBq (200 µCi) or 1000 times the quantities in Article 4, Appendix B of this Chapter.
5. Technetium-99m in amounts as needed.
6. A licensee is limited to five sources of radiation authorized under subsections (1) through (3), unless otherwise specified in the licensee’s radioactive material license.

Historical Note

New Section R9-7-714 recodified from R12-1-714 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-715. Requirements for Possession of Sealed Sources and Brachytherapy Sources

- A.** A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer.
- B.** A licensee in possession of a sealed source shall test the source for leakage in accordance with R9-7-417.
- C.** A licensee in possession of sealed sources or brachytherapy sources, except for gamma stereotactic radiosurgery sources, shall conduct a physical inventory every six months of all sources in its possession. During the period of time between the inventories, the licensee shall add each acquired sealed source to the inventory record and remove from the inventory record each source that leaves the licensee’s control.
- D.** A licensee shall document the inventories conducted under subsection (C) and maintain inventory records in accordance with R9-7-450.

Historical Note

New Section R9-7-715 recodified from R12-1-715 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-716. Surveys of Ambient Radiation Exposure Rate, Surveys for Contamination, and PET Radiation Exposure Concerns

- A.** In addition to the surveys required in Article 4 of this Chapter, a licensee shall survey with a radiation detection survey instrument at the end of each day of use all areas where unsealed radioactive material, requiring a written directive, is prepared for use or administered. In areas of routine use, that are to be released for unrestricted use, a licensee shall perform a survey of the area using an instrument appropriate for detecting contamination before releasing the area for unrestricted use.
- B.** A licensee shall obtain the services of a person, experienced in the principles of radiation protection and installation design, to design a PET facility and perform a radiation survey when the facility is ready for patient imaging. The licensee shall provide a copy of the installation radiation survey to the Department within 30 days of imaging the first patient.
- C.** The licensee shall use engineering controls or shield each PET use area with protective barriers necessary to comply with the radiation exposure limits in R9-7-408 and R9-7-416.
 1. At the time of application for a new license or amendment to an existing license, and before imaging of the first patient, the licensee shall provide to the Department a copy of the installation report signed by the contractor who installed the shielding material recommended by a person meeting the requirements in subsection (B) and a copy of the installation radiation survey required in subsection (B).
 2. The licensee shall perform shielding calculations in accordance with *AAPM Task Group 108: PET and PET/CT Shielding Requirements*, in *Medical Physics*, Vol. 33, No. 1, January 2006, which is incorporated by reference, published by the American Association of Physicists in

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Medicine, One Physics Ellipse, College Park, MD 20740, and on file with the Department. This incorporation by reference contains no future editions or amendments. In lieu of these procedures, the licensee may use equivalent calculations approved by the Department.

- D. As part of the annual ALARA review required in R9-7-407, the licensee shall document a review of the PET patient workload and associated change, if any, in public exposure resulting from the installed facility shielding and other public radiation exposure controls in use at the time of the review.

Historical Note

New Section R9-7-716 recodified from R12-1-716 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-717. Release of Individuals Containing Radioactive Material or Implants Containing Radioactive Material

- A. A licensee may authorize the release from its control of any individual who has been administered unsealed radioactive material or implants containing radioactive material, if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).
- B. A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the total effective dose equivalent to a nursing infant or child could exceed 1 millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:
1. Guidance on the interruption or discontinuation of breast-feeding; and
 2. Information on the potential consequences, if any, of failure to follow the guidance.
- C. A licensee shall maintain a record of the basis for authorizing the release of an individual and instructions provided to a breast-feeding female for three years from the date of the administration performed under subsection (A). Nothing in this rule relieves the licensee from the personnel exposure requirements in Article 4.

Historical Note

New Section R9-7-717 recodified from R12-1-717 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-718. Mobile Medical Service

- A. A licensee providing mobile medical service shall:
1. Obtain a letter signed by the management of each client for which services are rendered that permits the use of radioactive material at the client's address and clearly delineates the authority and responsibility of the licensee and the client;
 2. Check instruments used to measure the activity of unsealed radioactive material for proper function before medical use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function required by this subsection shall include a constancy check;
 3. Check survey instruments for proper operation with a dedicated check source before use at each client's address; and
 4. Before leaving a client's address, survey all areas of use to ensure compliance with the requirements in Article 4 of this Chapter.
- B. A mobile medical service may not have radioactive material delivered from the manufacturer or the distributor to the client

unless the client has a license allowing its possession. If applicable, radioactive material delivered to the client shall be received and handled in conformance with the client's license.

- C. A licensee providing mobile medical services shall retain the letter required in subsection (A)(1) and the record of each survey required in subsection (A)(4) for three years from the date of the survey.

Historical Note

New Section R9-7-718 recodified from R12-1-718 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 100 in Exhibit A, Medical Use Groups of this Article to be a physician who:
1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(3). To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Complete 60 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies as described in subsection (A)(3); and
 - b. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control;
 2. Is an authorized user under R9-7-721, R9-7-723, the NRC, or equivalent Agreement State requirements; or
 3. Has:
 - a. Completed 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies. The training and experience must include:
 - i. Classroom and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and
 - (5) Radiation biology; and
 - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Article, NRC, or equivalent Agreement State requirements, involving:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
 - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;

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- (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
- (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and
- (6) Administering dosages of radioactive drugs to patients or human research subjects; and
- b. Obtained written attestation that the individual has satisfactorily completed the requirements in subsection (A)(1) or subsection (A)(3)(a) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
- A preceptor authorized user who meets the requirements in this Section, R9-7-721, or R9-7-723, the NRC, or equivalent Agreement State requirements; or
 - A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-721, or R9-7-723, the NRC, or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(3)(a).
- B.** The training and experience in subsections (A)(1)(a) or (3)(a) shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- C.** Individuals who, under R9-7-710(B), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.
- Historical Note**
- New Section R9-7-719 recodified from R12-1-719 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
- R9-7-720. Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations**
- A.** A licensee may not administer to humans a radiopharmaceutical that contains more than 0.15 kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m) or, more than 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or more than 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82 chloride).
- B.** A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with subsection (A).
- C.** A licensee that uses a strontium-82/rubidium-82 generator for preparing a rubidium-82 radiopharmaceutical shall, before the first patient use of the day, measure the concentration of radionuclides strontium-82 and strontium-85 to demonstrate compliance with subsection (A).
- D.** A licensee shall maintain a record of each molybdenum-99 concentration measurement or strontium-82 and strontium-85 concentrations measurements for three years following completion of the measurement.
- E.** A licensee shall notify by telephone the NRC Operations Center and the distributor of the generator within seven calendar days after discovery that an eluate exceeded the permissible concentration listed in subsection (A) at the time of generator elution. The telephone report to the NRC must include the manufacturer, model number, and serial number (or lot number) of the generator; the results of the measurement; the date of the measurement; whether dosages were administered to patients or human research subjects; when the distributor was notified; and the action taken.
- Historical Note**
- New Section R9-7-720 recodified from R12-1-720 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
- R9-7-721. Training for Imaging and Localization Studies Not Requiring a Written Directive**
- Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 200 in Exhibit A, Medical Use Groups of this Article to be a physician who:
- Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (3). To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for imaging and localization studies as described in subsection (3); and
 - Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control;
 - Is an authorized user under R9-7-723, the NRC, or equivalent Agreement State requirements; or
 - Has:
 - Completed 700 hours of training and experience, including a minimum of 80 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for imaging and localization studies. The training and experience must include:
 - Classroom and laboratory training in the following areas:
 - Radiation physics and instrumentation;

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- (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and
 - (5) Radiation biology; and
 - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723 and in subsection (3)(b)(vii); the requirements of the NRC; or equivalent Agreement State requirements. An authorized nuclear pharmacist who meets the requirements in R9-7-712 may provide the supervised work experience for subsection (3)(a)(ii)(7). Work experience must involve:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
 - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
 - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
 - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
 - (6) Administering dosages of radioactive drugs to patients or human research subjects; and
 - (7) Eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the elate for radionuclide purity, and processing the elate with reagent kits to prepare labeled radioactive drugs; and
 - b. Obtained written attestation that the individual has satisfactorily completed the requirements in subsection (3)(a) and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Group 200 in Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723; NRC requirements; or equivalent Agreement State requirements; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-710, or R9-7-723; NRC requirements; or equivalent Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (3)(a).
- Historical Note**
- New Section R9-7-721 recodified from R12-1-721 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
- R9-7-722. Safety Instruction and Precautions for Use of Unsealed Radioactive Material Requiring a Written Directive**
- A. A licensee shall provide radiation safety instruction, initially and at least annually, for all personnel caring for the patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with R9-7-717. To satisfy this requirement, the instruction shall describe the licensee's procedures for:
 - 1. Patient or human research subject control,
 - 2. Visitor control,
 - 3. Contamination control, and
 - 4. Waste control.
 - B. For each patient or human research subject who cannot be released under R9-7-717, a licensee shall:
 - 1. Quarter the patient or the human research subject in a private room with a private sanitary facility;
 - 2. Visibly post the patient's or the human research subject's room with a "Radioactive Materials" sign;
 - 3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or the human research subject's room; and
 - 4. Monitor material and items removed from the patient's or the human research subject's room to determine that their radioactivity cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle the material and items as radioactive waste.
 - C. A licensee shall notify the Radiation Safety Officer, or his or her designee, and the authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
 - D. A licensee may use any unsealed byproduct material identified in R9-7-723(A)(2)(b)(vi) prepared for medical use and for which a written directive is required that is:
 - 1. Obtained from:
 - a. A manufacturer or preparer licensed under R9-7-311 or equivalent Agreement State requirements, or
 - b. A PET radioactive drug producer licensed under R9-7-311 or equivalent Agreement State requirements;
 - 2. Excluding production of PET radionuclides, prepared by:
 - a. An authorized nuclear pharmacist;
 - b. A physician who is an authorized user and who meets the requirements specified R-7-723; or
 - c. An individual under the supervision, as specified in R9-7-712, of the authorized nuclear pharmacist in subsection (D)(2)(a) or the physician who is an authorized user in subsection (D)(2)(b);
 - 3. Obtained from and prepared by an NRC or Agreement State licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or

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4. Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.
- E. A licensee shall retain records of instruction and safety procedures performed under this rule for three years from the date of the activity.

Historical Note

New Section R9-7-722 recodified from R12-1-722 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

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

- A. Except as provided in R9-7-710, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article to be a physician who:
1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, as specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(2). To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Successfully complete residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty. These residency training programs must include 700 hours of training and experience as described in (A)(2) subsection (A)(2)(a). Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Graduate Training of the American Osteopathic Association; and
 - b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, and quality assurance, and clinical use of unsealed radioactive material for which a written directive is required; or
 2. Has:
 - a. Completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material requiring a written directive. The training and experience must include:
 - i. Classroom and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and
 - (5) Radiation biology; and
 - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Article, NRC, or equivalent Agreement State requirements, involving:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - b. Obtained written attestation, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article for which the individual is requesting authorized user status. The attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements and has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation

- (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
- (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
- (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
- (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
- (6) Administering dosages of radioactive drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:
 - (a) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131, for which a written directive is required (Experience with at least three cases in the Category specified in subsection (A)(2)(a)(ii)(6)(b) also satisfies this requirement;
 - (b) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131;
 - (c) Parenteral administration of any beta emitter, or a photon-emitting radionuclide with a photon energy less than 150 keV, for which a written directive is required; and/or
 - (d) Parenteral administration of any other radionuclide, for which a written directive is required; and

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Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a).

- B. Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.392, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. Except as provided in R9-7-710, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.394, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- D. Except as provided in R9-7-710, a licensee shall require an authorized user for the parenteral administration of unsealed radioactive material requiring a written directive to be a physician who has completed the training requirements in 10 CFR 35.396, January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- E. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-723 recodified from R12-1-723 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

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

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

- 2. In research to deliver therapeutic doses for medical use in accordance with an active Investigational Device Exemption (IDE) application accepted by the U.S. Food and Drug Administration, provided the requirements of R9-7-450(A) are met.

Historical Note

New Section R9-7-724 recodified from R12-1-724 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-725. Safety Instructions and Precautions for Brachytherapy Patients that Cannot be Released Under R9-7-717

- A. In addition to the training requirements in Article 10, a licensee shall provide radiation safety instruction, initially and at least annually, to personnel caring for patients or human research subjects who are receiving brachytherapy and cannot be released under R9-7-717. To satisfy this requirement, the instruction shall be commensurate with the duties of the personnel and include the:
 - 1. Size and appearance of the brachytherapy sources;
 - 2. Safe handling and shielding instructions;
 - 3. Patient or human research subject control;
 - 4. Visitor control, including both:
 - a. Routine visitation of hospitalized individuals in accordance with Article 4 of this Chapter,
 - b. Visitation authorized in accordance with Article 4 of this Chapter, and
 - 5. Notification of the radiation safety officer, or his or her designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.
- B. For each patient or human research subject who is receiving brachytherapy and cannot be released under R9-7-717, a licensee shall:
 - 1. Not quarter the patient or the human research subject in the same room as an individual who is not receiving brachytherapy;
 - 2. Visibly post the patient's or human research subject's room with a "Radioactive Materials" sign; and
 - 3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room.
- C. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
 - 1. Dislodged from the patient; and
 - 2. Lodged within the patient following removal of the source applicators.
- D. A licensee shall notify the radiation safety officer, or the RSO's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- E. A licensee shall record the instructions given under subsection (A) and retain the records for three years after recording the instructions.

Historical Note

New Section R9-7-725 recodified from R12-1-725 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-726. Calibration Measurements of Brachytherapy Sources, Decay of Sources Used for Ophthalmic Treatments, and Computerized Treatment Planning Systems

- A. Before the first medical use of a brachytherapy source after the effective date of this rule, a licensee shall have:

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1. Determined the source output or activity using a dosimetry system that meets the requirements of R9-7-733(A);
 2. Determined source positioning accuracy within applicators; and
 3. Used published protocols currently accepted by nationally recognized bodies to meet the requirements of subsections (A)(1) and (A)(2).
- B.** A licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with subsection (A).
- C.** A licensee shall mathematically correct the outputs or activities determined in subsection (A) for physical decay at intervals consistent with one percent physical decay.
- D.** Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay shall be based on the activity determined under subsection (A).
- E.** A licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:
1. The source-specific input parameters required by the dose calculation algorithm;
 2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
 3. The accuracy of isodose plots and graphic displays; and
 4. The accuracy of the software used to determine sealed source positions from radiographic images.
- F.** A licensee shall retain records of each source activity determination and ophthalmic source decay correction, and documentation of the acceptance testing protocol required under subsection (E) for three years after the date of the procedure required in subsections (A) and (D), and for the records created in conjunction with subsection (E), the record shall be maintained for three years from the last date of the protocol's use.

Historical Note

New Section R9-7-726 recodified from R12-1-726 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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

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

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Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) and (b).

- B.** A licensee who uses strontium-90 for ophthalmic treatments must ensure that certain activities as specified in subsection (C) are performed by either:
1. An authorized medical physicist; or
 2. An individual who:
 - a. Is identified as an ophthalmic physicist on a:
 - i. Specific medical use license issued by the Department, the NRC, or another Agreement State,
 - ii. Permit issued by an NRC or other Agreement State broad scope medical use licensee,
 - iii. Medical use permit issued by an NRC master material licensee, or
 - iv. Permit issued by an NRC master material licensee broad scope medical use permittee;
 - b. Holds a master's or doctor's degree in physics, medical physics, other physical sciences, engineering, or applied mathematics from an accredited college or university;
 - c. Has successfully completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a medical physicist; and
 - d. Has documented training in:
 - i. The creation, modification, and completion of written directives;
 - ii. Procedures for administrations requiring a written directive; and
 - iii. Performing the calibration measurements of brachytherapy sources as detailed in R9-7-726.
- C.** The individuals who are identified in subsection (B)(1) or (2) shall:
1. Calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under R9-7-726; and
 2. Assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the administration is in accordance with the written directive. These procedures must include the frequencies that the individual meeting the requirements in paragraph (a) of this Section will observe treatments, review the treatment methodology, calculate treatment time for the prescribed dose, and review records to verify that the administrations were in accordance with the written directives.
- D.** Licensees shall retain a record of the activity of each strontium-90 source in accordance with R9-7-313.
- E.** The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-727 recodified from R12-1-727 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

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

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

Historical Note

New Section R9-7-728 recodified from R12-1-728 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-729. Surveys of Patients and Human Research Subjects Treated with a Remote Afterloader Unit

- A.** Before releasing a patient or a human research subject from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that each source has been removed from the patient or human research subject and returned to the safe shielded position.
- B.** A licensee shall make records of these surveys conducted under subsection (A) and retain them for three years from the date of each survey.

Historical Note

New Section R9-7-729 recodified from R12-1-729 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-730. Installation, Maintenance, Adjustment, and Repair of an Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

- A.** Only a person specifically licensed by the Department, the NRC, or an Agreement State shall install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on any source shielding, the source's driving unit, or other electronic or

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mechanical component that could expose a source, reduce the shielding around a source, or compromise the radiation safety of a unit or a source.

- B. Except for low dose-rate remote afterloader units, only a person specifically licensed by the Department, the NRC, or an Agreement State shall install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.
- C. For a low dose-rate remote afterloader unit, only a person specifically licensed by the Department, the NRC, or an Agreement State or an authorized medical physicist shall install, replace, relocate, or remove a sealed source contained in the unit.
- D. A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units for three years from the completion date of the activity listed in this Section.

Historical Note

New Section R9-7-730 recodified from R12-1-730 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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

- A. A licensee shall:
 1. Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;
 2. Permit only individuals approved by the authorized user, Radiation Safety Officer, or authorized medical physicist to be present in the treatment room during treatment with a source;
 3. Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and
 4. Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place a source in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures shall include:
 - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;
 - b. The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and
 - c. The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- B. A licensee shall post instructions at the unit console to inform the operator of:
 1. The location of the procedures required by subsection (A)(4); and
 2. The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- C. A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:
 1. The procedures identified in subsection (A)(4); and
 2. The operating procedures for the unit.

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

Historical Note

New Section R9-7-731 recodified from R12-1-731 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-732. Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

- A. A licensee shall control access at each entrance to a treatment room.
- B. A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:
 1. Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;
 2. Cause each source to be shielded when an entrance door is opened; and
 3. Prevent any source from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source's on-off control is reset at the console.
- C. A licensee shall require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.
- D. Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and

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intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.

- E. For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments which allow for expeditious removal of a decoupled or jammed source.
- F. In addition to the requirements specified in subsections (A) through (E), a licensee shall:
1. For medium dose-rate and pulsed dose-rate remote afterloader units, require:
 - a. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during the initiation of all patient treatments involving the unit; and
 - b. An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove each source applicator in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.
 2. For high dose-rate remote afterloader units, require:
 - a. An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and
 - b. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.
 3. For gamma stereotactic radiosurgery units, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit. As used in this provision, physically present means to be within hearing distance of normal voice, and does not include the use of portable communication devices, intercoms, or other devices that could be used to amplify the human voice.
 4. Notify the radiation safety officer, or radiation safety officer's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- G. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
1. Remaining in the unshielded position; or
 2. Lodged within the patient following completion of the treatment.

Historical Note

New Section R9-7-732 recodified from R12-1-732 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-733. Dosimetry Equipment

- A. Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions shall be met.
1. The system shall have been calibrated using a system or source traceable to the National Institute of Science and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration labora-

tory accredited by the American Association of Physicists in Medicine (AAPM). The calibration shall have been performed within the previous two years and after any servicing that may have affected system calibration; or

2. The system shall have been calibrated within the previous four years. Eighteen to 30 months after that calibration, the system shall have been intercompared with another dosimetry system that was calibrated within the past 24 months by NIST or by a calibration laboratory accredited by the AAPM. The results of the intercomparison shall indicate that the calibration factor of the licensee's system had not changed by more than two percent. The licensee may not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.
- B. The licensee shall have a dosimetry system available for use for spot-check output measurements, if applicable. To satisfy this requirement, the system may be compared with a system that has been calibrated in accordance with subsection (A). This comparison shall have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in subsection (A).
- C. The licensee shall retain, for three years from the date of the procedure, a record of each calibration, intercomparison, and comparison.

Historical Note

New Section R9-7-733 recodified from R12-1-733 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-734. Full Calibration Measurements on Teletherapy Units

- A. A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:
1. Before the first medical use of the unit; and
 2. Before medical use under the following conditions:
 - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
 - b. Following replacement of the source or following reinstallation of the teletherapy unit in a new location;
 - c. Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
 3. At intervals not exceeding one year.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
1. The output within ± 3 percent for the range of field sizes and for the distance or range of distances used for medical use;
 2. The coincidence of the radiation field and the field indicated by the light beam localizing device;
 3. The uniformity of the radiation field and its dependence on the orientation of the useful beam;
 4. Timer accuracy and linearity over the range of use;
 5. On-off error; and
 6. The accuracy of all distance measuring and localization devices in medical use.

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- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay for intervals not exceeding one month for cobalt-60, six months for cesium-137, or at intervals consistent with 1 percent decay for all other nuclides.
- F. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G. A licensee shall retain a record of each calibration for three years from the date it was completed.
- G. A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay at intervals consistent with 1 percent physical decay.
- H. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (G) shall be performed by an authorized medical physicist.
- I. A licensee shall retain a record of each calibration for three years from the date it was completed.

Historical Note

New Section R9-7-735 recodified from R12-1-735 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-736. Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

- A. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:
 1. Before the first medical use of the unit;
 2. Before medical use under the following conditions:
 - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
 - b. Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and
 - c. Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and
 3. At intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
 1. The output within ± 3 percent;
 2. Relative helmet factors;
 3. Isocenter coincidence;
 4. Timer accuracy and linearity over the range of use;
 5. On-off error;
 6. Trunnion centricity;
 7. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
 8. Helmet microswitches;
 9. Emergency timing circuits; and
 10. Stereotactic frames and localizing devices (trunnions).
- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. A licensee shall mathematically correct the outputs determined in subsection (B)(1) at intervals not exceeding one month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.
- F. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G. A licensee shall retain a record of each calibration for three years from the date of the procedure.

Historical Note

New Section R9-7-734 recodified from R12-1-734 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-735. Full Calibration Measurements on Remote Afterloader Units

- A. A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:
 1. Before the first medical use of the unit;
 2. Before medical use under the following conditions:
 - a. Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and
 - b. Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
 3. At intervals not exceeding one quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and
 4. At intervals not exceeding one year for low dose-rate remote afterloader units.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include, as applicable, determination of:
 1. The output within ± 5 percent;
 2. Source positioning accuracy to within ± 1 millimeter;
 3. Source retraction with backup battery upon power failure;
 4. Length of the source transfer tubes;
 5. Timer accuracy and linearity over the typical range of use;
 6. Length of the applicators; and
 7. Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.
- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. In addition to the requirements for full calibrations for low dose-rate remote afterloader units in subsection (B), a licensee shall perform an autoradiograph of the sources to verify inventory and source arrangement at intervals not exceeding one quarter.
- F. For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with subsections (A) through (E).

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Historical Note

New Section R9-7-736 recodified from R12-1-736 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-737. Periodic Spot-checks for Teletherapy Units

- A.** A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit once in each calendar month that include determination of:
1. Timer accuracy, and timer linearity over the range of use;
 2. On-off error;
 3. The coincidence of the radiation field and the field indicated by the light beam localizing device;
 4. The accuracy of all distance measuring and localization devices used for medical use;
 5. The output for one typical set of operating conditions measured with the dosimetry system described in R9-7-733(B); and
 6. The difference between the measurement made in subsection (A)(5) and the anticipated output, expressed as a percentage of the anticipated output.
- B.** A licensee shall perform measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
- C.** A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D.** A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility once in each calendar month and after each source installation to assure proper operation of:
1. Electrical interlocks at each teletherapy room entrance;
 2. Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation (restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism);
 3. Source exposure indicator lights on the teletherapy unit, on the control console, and in the facility;
 4. Viewing and intercom systems;
 5. Treatment room doors from inside and outside the treatment room; and
 6. Electrically assisted treatment room doors with the teletherapy unit electrical power turned off.
- E.** If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- F.** A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the teletherapy unit.

Historical Note

New Section R9-7-737 recodified from R12-1-737 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-738. Periodic Spot-checks for Remote Afterloader Units

- A.** A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:
1. Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;

2. Before each patient treatment with a low dose-rate remote afterloader unit; and
3. After each source installation.

- B.** A licensee shall perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
- C.** A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D.** To satisfy the requirements of subsection (A), spot-checks shall, at a minimum, assure proper operation of:
1. Electrical interlocks at each remote afterloader unit room entrance;
 2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
 3. Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;
 4. Emergency response equipment;
 5. Radiation monitors used to indicate the source position;
 6. Timer accuracy;
 7. Clock (date and time) in the unit's computer; and
 8. Decayed source activity in the unit's computer.
- E.** If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- F.** A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the afterloader unit.

Historical Note

New Section R9-7-738 recodified from R12-1-738 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-739. Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units

- A.** A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:
1. Monthly;
 2. Before the first use of the unit on a given day; and
 3. After each source installation.
- B.** A licensee shall:
1. Perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
 2. Have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- C.** To satisfy the requirements of subsection (A)(1), spot-checks shall, at a minimum:
1. Assure proper operation of:
 - a. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
 - b. Helmet microswitches;
 - c. Emergency timing circuits; and
 - d. Stereotactic frames and localizing devices (trunnions).
 2. Determine:

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- a. The output for one typical set of operating conditions measured with the dosimetry system described in R9-7-733(B);
- b. The difference between the measurement made in subsection (C)(2)(a) and the anticipated output, expressed as a percentage of the anticipated output;
- c. Source output against computer calculation;
- d. Timer accuracy and linearity over the range of use;
- e. On-off error; and
- f. Trunnion centricity.
- D.** To satisfy the requirements of subsections (A)(2) and (A)(3), spot-checks shall assure proper operation of:
1. Electrical interlocks at each gamma stereotactic radiosurgery room entrance;
 2. Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;
 3. Viewing and intercom systems;
 4. Timer termination;
 5. Radiation monitors used to indicate room exposures; and
 6. Emergency off buttons.
- E.** A licensee shall arrange for the repair of any system identified in subsection (C) that is not operating properly as soon as possible.
- F.** If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- G.** A licensee shall retain a record of each check required by subsections (C) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the radiosurgery unit.
- Historical Note**
New Section R9-7-739 recodified from R12-1-739 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-740. Additional Requirements for Mobile Remote Afterloader Units**
- A.** A licensee providing mobile remote afterloader service shall:
1. Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and
 2. Account for all sources before departure from a client's address of use.
- B.** In addition to the periodic spot-checks required by R9-7-738, a licensee authorized to use mobile afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks shall be made to verify the operation of:
1. Electrical interlocks on treatment area access points;
 2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
 3. Viewing and intercom systems;
 4. Applicators, source transfer tubes, and transfer tube-applicator interfaces;
 5. Radiation monitors used to indicate room exposures;
 6. Source positioning (accuracy); and
 7. Radiation monitors used to indicate whether the source has returned to a safe shielded position.
- C.** In addition to the requirements for checks in subsection (B), a licensee shall ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.
- D.** If the results of the checks required in subsection (B) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- E.** A licensee shall retain a record of each check required by subsection (B) for three years from the date of the procedure.
- Historical Note**
New Section R9-7-740 recodified from R12-1-740 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-741. Additional Radiation Surveys of Sealed Sources used in Radiation Therapy**
- A.** In addition to the survey requirement in Article 4 of this Chapter, a person licensed to use sealed sources in the practice of radiation therapy shall make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with each source in the shielded position do not exceed the levels stated in the Sealed Source and Device Registry.
- B.** A licensee shall make the survey required by subsection (A) at installation of a new source and following repairs to any source shielding, a source's driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around a source, or compromise the radiation safety of the unit or the source.
- C.** A licensee shall retain a record of the radiation surveys required by subsection (A) for three years from the date of each survey.
- Historical Note**
New Section R9-7-741 recodified from R12-1-741 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-742. Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units**
- A.** A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.
- B.** This inspection and servicing may only be performed by persons specifically licensed to do so by the Department, the NRC, or an Agreement State.
- C.** A licensee shall keep a record of each five-year inspection for three years from the date of the inspection, if the inspection determined that service was unnecessary, and three years from the date of the completed service if the inspection determined that service was needed.
- Historical Note**
New Section R9-7-742 recodified from R12-1-742 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-743. Therapy-related Computer Systems**
- The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:
1. The source-specific input parameters required by the dose calculation algorithm;
 2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
 3. The accuracy of isodose plots and graphic displays;
 4. The accuracy of the software used to determine sealed source positions from radiographic images; and

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5. The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

Historical Note

New Section R9-7-743 recodified from R12-1-743 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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

- A. Except as provided in R9-7-710, a licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to be a physician who:
1. Is certified by a medical specialty board whose certification process has been recognized by the Department, the NRC or another Agreement State and who meets the requirements in subsection (A)(2)(e). The names of board certifications that have been recognized by the Department, the NRC or another Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates to:
 - a. Successfully complete a minimum of three years of residency training in a radiation therapy program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and
 - b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote afterloaders and external beam therapy; or
 2. Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Chemistry of radioactive material for medical use; and
 - v. Radiation biology;
 - b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements at a medical institution, involving:
 - i. Reviewing full calibration measurements and periodic spot-checks;
 - ii. Preparing treatment plans and calculating treatment doses and times;
 - iii. Using administrative controls to prevent a medical event involving the use of radioactive material;
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;
 - v. Checking and using survey meters; and
- vi. Selecting the proper dose and how it is to be administered;
- c. Completing three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in this Section, or equivalent Agreement State or NRC requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-doctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
 - d. Obtaining written attestation that the individual has satisfactorily completed the requirements in subsections (A)(2)(a) through (c) and (B), and is able to independently fulfill the radiation safety-related duties as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements, for the type(s) of therapeutic medical unit for which the individual is requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) through (c).
- B. A licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to receive training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.
- C. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-744 recodified from R12-1-744 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-745. Report and Notification of a Medical Event

- A.** A licensee shall report any "medical" event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:
1. A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and
 - a. The total dose delivered differs from the prescribed dose by 20 percent or more;
 - b. The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or
 - c. The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.
 2. A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:
 - a. An administration of a wrong radiopharmaceutical containing radioactive material;
 - b. An administration of a radiopharmaceutical containing radioactive material by the wrong route of administration;
 - c. An administration of a dose or dosage to the wrong individual or human research subject;
 - d. An administration of a dose or dosage delivered by the wrong mode of treatment; or
 - e. A leaking sealed source.
 3. A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).
- B.** A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.
- C.** The licensee shall notify by telephone the Department no later than the next calendar day after discovery of the medical event.
- D.** The licensee shall submit a written report to the Department within 15 days after discovery of the medical event.
1. The written report shall include:
 - a. The licensee's name;
 - b. The name of the prescribing physician;
 - c. A brief description of the event;
 - d. Why the event occurred;
 - e. The effect, if any, on each individual who received the administration;
 - f. What actions, if any, have been taken or are planned to prevent recurrence; and
 - g. Certification that the licensee notified each individual (or the individual's responsible relative or guardian), and if not, why not.

2. The report may not contain an individual's name or any other information that could lead to identification of the individual.
- E.** The licensee shall provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this subsection, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.
- F.** Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.
- G.** A licensee shall:
1. Annotate a copy of the report provided to the Department with the:
 - a. Name of the individual who is the subject of the event; and
 - b. Social Security number or other identification number, if one has been assigned, of the individual who is the subject of the event; and
 2. Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

Historical Note

New Section R9-7-745 recodified from R12-1-745 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-746. Report and Notification of a Dose to an Embryo, Fetus, or Nursing Child

- A.** A licensee shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radioactive material or radiation from radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.
- B.** A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breast-feeding individual that:
1. Is greater than 50 mSv (5 rem) total effective dose equivalent; or
 2. Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.
- C.** The licensee shall notify the Department by telephone no later than the next calendar day after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B).
- D.** The licensee shall submit a written report to the Department within 15 days after discovery of a dose to the embryo, fetus,

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or nursing child that requires a report in subsections (A) or (B). The written report shall include:

1. The licensee's name;
 2. The name of the prescribing physician;
 3. A brief description of the event;
 4. Why the event occurred;
 5. The effect, if any, on the embryo/fetus or the nursing child;
 6. What actions, if any, have been taken or are planned to prevent recurrence; and
 7. Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.
- E.** The report, required in subsection (D), shall not contain the individual's or child's name or any other information that could lead to identification of the individual or child.
- F.** The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both hereafter referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under subsections (A) or (B), unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee shall not delay any appropriate medical care for the embryo, fetus, or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide the written description upon request.
- G.** A licensee shall:
1. Make a copy of the report provided to the Department and include with it the:
 - a. Name of the pregnant individual or the nursing child who is the subject of the event; and
 - b. Social Security number or other identification number, if one has been assigned, of the pregnant individual or the nursing child who is the subject of the event; and
 2. Provide the copy of the information required in subsection (G)(1) to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

Historical Note

New Section R9-7-746 recodified from R12-1-746 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Exhibit A. Medical Use Groups**Group 100**

Included is the use of any unsealed radioactive material for use in uptake, dilution, or excretion studies and not requiring a written directive: The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R9-7-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
2. Obtained from a PET radioactive drug producer licensed under R9-7-703 or equivalent NRC or an Agreement

State license excluding production of PET radionuclides prepared by an authorized nuclear pharmacist who meets the requirements in R9-7-712, a physician who is an authorized user and who meets the requirements specified in R9-7-721, or R9-7-723 and R9-7-721(3)(b)(vii), or an individual under the supervision of either as specified in R9-7-706; or

3. If a research protocol:
 - a. Obtained from and prepared by an Agreement State or NRC licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or
 - b. Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

Group 200

Included is the use of any unsealed radioactive material for use in imaging and localization not requiring a written directive. PET radiopharmaceuticals may be used if the licensee meets the requirements in R9-7-716. The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R9-7-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
2. Obtained from a PET radioactive drug producer licensed under R9-7-703 or an equivalent NRC or Agreement State license excluding production of PET radionuclides prepared by an authorized nuclear pharmacist who meets the requirements in R9-7-712, a physician who is an authorized user and who meets the requirements specified in R9-7-721, or R9-7-723 and R9-7-721(3)(b)(vii), or an individual under the supervision of either as specified in R9-7-706; or
3. If a research protocol:
 - a. Obtained from and prepared by an Agreement State or NRC licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA; or
 - b. Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

Group 300

Included is the use of any unsealed radioactive material for medical use (radiopharmaceutical) for which a written directive is required. The radioactive material in this group shall be:

1. Obtained from a manufacturer or preparer licensed under R9-7-703(C)(2)(a) or equivalent NRC or Agreement State requirements; or
2. Obtained from a PET radioactive drug producer licensed under R9-7-703 or equivalent NRC or an Agreement State license excluding production of PET radionuclides prepared by an authorized nuclear pharmacist who meets the requirements in R9-7-712, a physician who is an authorized user and who meets the requirements specified in R9-7-721 or R9-7-723, or an individual under the supervision of either as specified in R9-7-706; or
3. If a research protocol:
 - a. Obtained from and prepared by an Agreement State or NRC licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or

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- b. Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.

Group 400

Included is the use of any brachytherapy source for therapeutic medical use that is manufactured in accordance with R9-7-703(C)(2)(b) and:

1. Approved for therapeutic use in the Sealed Source and Device Registry; or
2. Part of a research protocol that is approved for therapeutic use under an active Investigational Device Exemption (IDE) application accepted by the FDA, and meets the requirements of R9-7-709.

Group 500

Included is the use of any sealed source that is manufactured in accordance with R9-7-703(C)(2)(b), and is approved for diagnostic use in the Sealed Source and Device Registry.

Group 600

Included is the use of sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units that are manufactured in accordance with R9-7-703(C)(2)(b) and:

1. Approved for therapeutic use in the Sealed Source and Device Registry; or
2. Part of a research protocol that is approved for therapeutic use under an active Investigational Device Exemption (IDE) application accepted by the FDA and meets the requirements of R9-7-709.

Group 1000

A licensee may use radioactive material or a radiation source approved for medical use which is not specifically addressed in R9-7-309(4) if:

1. The applicant or licensee has submitted the information required by this Article; and
2. The applicant or licensee has received written approval from the Department in a license or license amendment and uses the material in accordance with the rules and specific conditions the Department considers necessary for the medical use of the material.

Historical Note

New Article 7, Exhibit A recodified from 12 A.A.C. 1., Article 7, Exhibit A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Exhibit A, Group 100, Group 200, and Group 1000 amended by final exempt rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

ARTICLE 8. RADIATION SAFETY REQUIREMENTS FOR ANALYTICAL X-RAY OPERATIONS**R9-7-801. Scope**

The rules in this Article establish requirements for the use of analytical x-ray equipment by persons registered under R9-7-204. The provisions of this Article supplement other applicable provisions of this Chapter.

Historical Note

New Section R9-7-801 recodified from R12-1-801 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-802. Definitions

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

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

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

“Fail-safe characteristic” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

“Local component” means part of an analytical x-ray system and includes each area that is struck by x-rays, such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors and shielding, but does not include power supplies, transformers, amplifiers, readout devices, and control panels.

“Normal operating procedures” means instructions or procedures including, but not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by the registrant, and data recording procedures which are related to radiation safety.

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

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

Historical Note

New Section R9-7-802 recodified from R12-1-802 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-803. Enclosed-beam X-ray Systems

- A. Enclosed beam x-ray systems are exempt from other equipment requirements contained in this Article provided the enclosed beam x-ray systems are designed and constructed so that radiation levels measured at 5 cm from any accessible surface of the enclosure housing the x-ray source do not exceed 5 μ Sv (0.5 mrem) in one hour.
- B. A registrant using enclosed beam x-ray systems shall comply with applicable provisions R9-7-804(A), R9-7-805(B), and 9 A.A.C. 7, Article 4.
- C. A person who maintains or services analytical x-ray systems, shall:
 1. Obtain permission in advance from the radiation safety officer before bypassing interlocks or other safety devices,
 2. Label equipment as “out of service” until maintenance or service is completed,
 3. Wear extremity personnel monitoring devices, and
 4. Ensure that interlocks or other safety devices are operating upon completion of maintenance or service.

Historical Note

New Section R9-7-803 recodified from R12-1-803 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-804. Open-beam X-ray Systems

- A. A registrant shall label open beam x-ray systems with a readily discernible sign or signs bearing the radiation symbol and the words:
 1. “CAUTION -- HIGH INTENSITY X-RAY BEAM,” or a similar warning, on the x-ray source housing; and
 2. “CAUTION RADIATION -- THIS EQUIPMENT PRODUCES RADIATION WHEN ENERGIZED” or a similar warning, near any switch that energizes an x-ray tube if the radiation source is an x-ray tube.

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- B.** A registrant shall ensure that an open beam x-ray system has all of the following warning devices:
1. X-ray tube status (On-Off) indicator in systems where the primary beam is controlled in this fashion;
 2. Shutter status (Open-Closed) indicators near each port on the radiation housing for systems which control the primary beam; and
 3. A clearly visible warning light labeled with the words "X-RAY ON," or a similar warning located near any switch that energizes an x-ray tube, illuminated only when the tube is energized; and
 4. The warning devices in subsections (B)(1) through (3) shall be labeled so that their purpose is easily identified.
- C.** A registrant shall ensure that any apparatus utilized in beam alignment procedures is designed in such a way that excessive radiation will not strike the operator. Particular attention shall be given to viewing devices, in order to ascertain that lenses and other transparent components attenuate the beam to an acceptable level.
- D.** A registrant shall provide an interlock device which prevents entry of any portion of an individual's body into the primary beam or causes the primary beam to be shut off upon entry into its path on all open-beam x-ray systems. A registrant may apply to the Department for an exemption from the requirements of a safety device. An application for exemption shall include:
1. A description of the various safety devices that have been evaluated;
 2. The reason each device cannot be used; and
 3. A description of the alternative methods that will be used to minimize accidental exposure, including procedures to assure that operators and others in the area will be informed of the absence of safety devices.
- E.** A registrant shall use only systems constructed so that:
1. Each x-ray tube housing is equipped with an interlock that automatically shuts off the tube if the tube is removed from the radiation source housing or the housing is disassembled; and
 2. With all shutters closed, radiation measured at a distance of 5 centimeters from the surface of the system is not capable of producing a dose that exceeds 25 Sv (2.5 mRem) in one hour for the specified tube rating of the x-ray tube.
- F.** A registrant shall supply each x-ray generating system with a protective cabinet that limits leakage radiation measured at a distance of 5 cm (2 in) from the cabinet surface, so that the system is not capable of producing a dose equivalent that exceeds 25 μ Sv (2.5 mrem) in one hour.
- G.** A registrant shall ensure that the local components of an analytical x-ray system are located and arranged and have sufficient shielding or access control for the specified tube rating to prevent the radiation level in any area adjacent to the local component group from exceeding the dose limits in R9-7-416.
- H.** A registrant shall perform a radiation survey of the local component group of each analytical x-ray system to demonstrate compliance with subsection (G) upon:
1. Installation,
 2. Change in configuration, or
 3. Maintenance that affects the radiation level in any area adjacent to the local component group.
- I.** A registrant shall maintain a record of each survey for three years or until the analytical x-ray system is no longer used, whichever period is shorter.

Historical Note

New Section R9-7-804 recodified from R12-1-804 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-805. Administrative Responsibilities

- A.** A registrant shall designate a radiation safety officer who shall:
1. Establish and maintain operational procedures so that the radiation exposure of each worker is kept ALARA;
 2. Instruct all personnel who work with or near radiation producing machines in safety practices;
 3. Maintain a system of personnel monitoring;
 4. Establish radiation control areas, including placement of appropriate radiation warning signs or devices;
 5. Provide a radiation safety inspection of radiation producing machines on a routine basis;
 6. Review modifications to x-ray systems, including x-ray tube housing, cameras, diffractometers, shielding, and safety interlocks;
 7. Investigate and report proper authorities any case of excessive exposure to personnel and take remedial action; and,
 8. Be familiar with all applicable rules for control of ionizing radiation.
- B.** An individual shall not be permitted to operate or maintain an open beam analytical x-ray system unless the individual has received instruction in and demonstrated competence in all of the following:
1. Identification of radiation hazards associated with the use of the equipment;
 2. Significance of all radiation warning and safety devices, interlocks incorporated into the equipment, or the reasons that devices or interlocks have not been installed on certain pieces of equipment and the extra precautions required in lieu of these precautions;
 3. Proper operating procedures for the equipment;
 4. Recognition of symptoms of acute localized radiation exposure; and
 5. Proper procedure for reporting an actual or suspected exposure.
- C.** A registrant shall maintain records of instruction and competence for Department inspection for three years from the date of course completion or demonstration.

Historical Note

New Section R9-7-805 recodified from R12-1-805 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-806. Operating Requirements

- A.** A radiation safety officer shall establish written emergency procedures and post the procedures in a conspicuous location. The procedures shall include the telephone number of the radiation safety officer.
- B.** A registrant shall ensure that written operating procedures are available for all analytical x-ray equipment workers. An individual shall not operate analytical x-ray equipment in any manner other than that specified in the procedures unless the individual obtains the radiation safety officer's written approval.
- C.** An individual shall not bypass a safety device or interlock unless the individual has obtained Radiation Safety Officer approval. The approval shall be for a specific period of time. When a safety device or interlock has been bypassed, the Radiation Safety Officer shall place a readily discernible sign on the radiation source housing, warning the reader of the unsafe condition. A registrant shall maintain the written record of the bypass approval for three years after the approval expires.

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- D.** Except as authorized in subsection (C), an individual shall not perform an operation involving removal of covers, shielding materials, or tube housings or modification of shutters, collimators, or beam stops without ascertaining that the tube is off and that it will remain off until all protective devices have been restored to the normal operating condition. An individual repairing analytical x-ray equipment shall use the main switch, rather than interlocks, for routine shutdown in preparation for repairs.
- E.** A registrant shall ensure that unused ports on radiation source housings are closed and secured against unauthorized access to the radiation source.
- F.** Finger or wrist personnel monitoring devices shall be used by:
1. Operators of open beam analytical x-ray equipment not equipped with a safety device; and
 2. Personnel performing maintenance procedures that require the presence of a primary x-ray beam when any local component is disassembled or removed.
- G.** A registrant shall ensure that each safety and warning device is tested for proper operation at intervals that do not exceed one month and maintain a record of each test for three years from the date the test is completed.

Historical Note

New Section R9-7-806 recodified from R12-1-806 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-807. Surveys

- A.** To ensure that personnel exposure does not result in a dose to an individual that exceeds the dose limits specified in Article 4, a registrant shall perform a radiation survey upon:
1. Installation of the equipment and at least once each year after installation;
 2. Change in the initial arrangement, number, or type of local components in the system;
 3. Maintenance that involves disassembly or removal of a local component in the system;
 4. Maintenance that involves alignment, if alignment requires the generation of the primary x-ray beam while any local component of the system is disassembled or removed;
 5. A visual inspection of the local components in the system that reveals an abnormal condition; or
 6. Determination that personnel are being exposed to radiation in excess of established levels recorded in monitoring records for personnel during previous monitoring periods or the occupational dose limits specified in Article 4.
- B.** The radiation surveys in subsection (A) are not required if the registrant demonstrates that the local components of an analytical x-ray system are located and arranged, and have sufficient shielding or access control, to limit personnel exposure to a level that is ALARA and below the occupational dose limits in Article 4. The Department shall determine ALARA radiation levels based on the specified x-ray tube rating.

Historical Note

New Section R9-7-807 recodified from R12-1-807 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-808. Posting

A registrant shall conspicuously post each area or room that contains analytical x-ray equipment with a sign or signs that bear the radiation symbol and the words "CAUTION – X-RAY EQUIPMENT" or words with a similar meaning.

Historical Note

New Section R9-7-808 recodified from R12-1-808 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-809. Training

A registrant shall not allow an individual to operate or maintain analytical x-ray equipment unless the individual has received training and demonstrated competence in:

1. Identifying radiation hazards associated with use of the equipment;
2. Recognizing and using radiation warning and safety devices, including interlocks that are incorporated into the equipment, and understanding why these devices are sometimes not installed;
3. Taking precautions associated with use of the equipment;
4. Recognizing symptoms of an acute localized exposure; and
5. Following proper procedure for reporting a suspected personnel exposure.

Historical Note

New Section R9-7-809 recodified from R12-1-809 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 9. PARTICLE ACCELERATORS**R9-7-901. Purpose and Scope**

- A.** This Article establishes procedures and requirements for the registration and the use of particle accelerators.
- B.** In addition to the requirements of this Article, all registrants are subject to the requirements of Articles 1, 2, 4 and 10. Registrants engaged in industrial radiographic operations are subject to the requirements of Article 11, and registrants engaged in the healing arts are subject to the requirements of Article 6 of this Chapter. Registrants using a particle accelerator for the production of radioactive material are subject to the requirements of Article 3, and if the radioactive material is used for medical purposes, Article 7.

Historical Note

New Section R9-7-901 recodified from R12-1-901 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-902. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

"Added filter" (See Article 6)

"Arc therapy" means radiation therapy that uses electrons to treat large, superficial volumes that follow curved surfaces, as in postmastectomy patients.

"Authorized medical physicist" means an individual who meets the requirements in R9-7-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a "qualified expert" as defined in Article 1.

"Beam-limiting device" (See Article 6)

"Beam-monitoring system" means a system of devices that will monitor the useful beam during irradiation and terminate irradiation when a preselected number of monitor units has been accumulated.

"Control panel" (See Article 6)

"Full beam detector" means a radiation detector of such size that the total cross section of the maximum size useful beam is intercepted.

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“Gantry” means that part of a linear accelerator that supports the radiation source so that it can rotate about a horizontal axis.

“Interlock” (See Article 1)

“Isocenter” means the point of intersection of the collimator axis and the axis of rotation of the gantry.

“Monitor unit” means a unit response from the beam monitoring system from which the absorbed dose can be calculated.

“Moving beam therapy” means radiation therapy in which there is displacement of the useful beam relative to the patient. Moving beam therapy includes arc therapy, skip therapy, and rotational beam therapy.

“Rotational beam therapy” means radiation therapy that is administered to a patient from a radiation source that rotates around the patient’s body or the patient is rotated while the beam is held fixed.

“Skip therapy” means rotational beam therapy that is administered in a way that maximizes the dose to an area of interest and minimizes the dose to surrounding healthy tissue.

“Spot check” (See Article 6)

“Stationary beam therapy” means radiation therapy that involves a beam from a radiation source that is aimed at the patient from different directions. The distance of the source from the isocenter remains constant irrespective of the beam direction.

“Virtual source” means a point from which radiation appears to originate.

Historical Note

New Section R9-7-902 recodified from R12-1-902 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-903. General Registration Requirements

- A. The requirements in this Section supplement the registration requirements in 9 A.A.C. 7, Article 2.
- B. The Department shall approve a registration application for use of a particle accelerator only if the Department determines that:
 1. The applicant is qualified by training and experience to use the accelerator for the purpose in the application submitted to the Department under Article 2;
 2. The applicant’s proposed equipment, facilities, and operating and emergency procedures are adequate to protect public health;
 3. The applicant satisfies any other applicable 1 requirements in this Section; and 4. The applicant has appointed a radiation safety officer.

Historical Note

New Section R9-7-903 recodified from R12-1-903 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-904. Registration of Particle Accelerators Used in the Practice of Medicine

- A. The requirements in this Section supplement the registration requirements in R9-7-903.
- B. An applicant that is a “medical institution,” as defined in 9 A.A.C. 7, Article 7, and performing human research shall appoint a radiation safety committee that meets the following requirements:
 1. The committee shall consist of at least four individuals and shall include:
 - a. An authorized user of each type of use permitted by the registration,

- b. The Radiation Safety Officer,
 - c. A representative of the nursing service, and
 - d. A representative of management who is neither an authorized user nor a Radiation Safety Officer, and
 - e. Any other members the registrant selects;
 2. The committee shall meet at least once in each 12-month period, unless otherwise specified by registration condition;
 3. To conduct business at least 50 percent of the membership of the committee shall be present including the Radiation Safety Officer and the management representative;
 4. The minutes of each radiation safety committee meeting shall include a reference of any discussion or documents related to the review required in R9-7-407(C);
 5. Review the radiation safety program for all sources of radiation as required in R9-7-407(C);
 6. Establish a table that contains investigational levels for occupational and public dose that, when exceeded, will initiate an investigation and consideration of actions by the Radiation Safety Officer; and
 7. Establish the safety objectives of the quality management program required by subsection (E).
- C. The applicant shall ensure that an individual designated as an authorized user is an Arizona licensed physician; approved by the radiation safety committee, if applicable; and is:
1. Certified in:
 - a. Radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; or
 - b. Radiation oncology by the American Osteopathic Board of Radiology; or
 - c. Radiology, with specialization in radiotherapy, as a British “Fellow of the Faculty of Radiology” or “Fellow of the Royal College of Radiology”; or
 - d. Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
 2. Engaged in the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic techniques applicable to the use of a particle accelerator, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
 - a. To satisfy the requirement for instruction, the classroom and laboratory training shall include all of the following subjects:
 - i. Radiation physics and instrumentation,
 - ii. Radiation protection,
 - iii. Mathematics pertaining to the use and measurement of radiotherapy, and
 - iv. Radiation biology.
 - b. To satisfy the requirement for supervised work experience, training shall occur under the supervision of an authorized user at a medical institution and shall include:
 - i. Reviewing full calibration measurements and periodic spot checks,
 - ii. Preparing treatment plans and calculating treatment times,
 - iii. Using administrative controls to prevent misadministration,
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of a particle accelerator, and
 - v. Checking and using survey meters.
 - c. To satisfy the requirement for a period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the

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Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

- i. Examining individuals and reviewing their case histories to determine their suitability for treatment, noting any limitations or contraindications;
 - ii. Selecting the proper dose and how it is to be administered;
 - iii. Calculating the therapy doses and collaborating with the authorized user in the review of patients' or human research subjects' progress and consideration of the need to modify originally prescribed doses, as warranted by patients' or human research subjects' reaction to radiation; and
 - iv. Post-administration follow up and review of case histories.
- D.** With the application the applicant shall provide the name of each authorized user to the Department so the names can be listed on the registration form, and so that the Department can determine whether the authorized user's training and experience satisfies the requirements in subsection (C).
- E.** Each registrant shall establish and maintain a written quality management program to provide high confidence that the radiation produced by the particle accelerator will be administered as directed by an authorized user. The quality management program shall include, at minimum, the tests and checks listed in Appendix A.
- F.** Each registrant shall ensure that a particle accelerator is calibrated by an authorized medical physicist who meets the training and experience qualifications in R9-7-711.
- G.** At the time of application for registration or when a therapy program is expanded to multiple sites, each applicant or registrant shall provide the Department with a description of the quality management program, a listing of the professional staff assigned to the facility, and the expected ratio of patient workload to staff member for programs involving multiple therapy sites. If the staffing ratio exceeds the recommended levels in Radiation Oncology in Integrated Cancer Management, Report of the Inter-Society Council for Radiation Oncology, December 1991, the applicant shall provide to the Department for approval the justification for the larger ratio and the safety considerations that have been addressed in establishing the program. This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The report is available from the American Association of Physicists in Medicine: online at <http://www.aapm.org/pubs/reports>; print copies may be purchased from Medical Physics Publishing, 4513 Vernon Blvd., Madison, WI 53705; toll free at (800) 442-5778.
- Historical Note**
- New Section R9-7-904 recodified from R12-1-904 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks**
- A. Equipment**
1. Leakage radiation
 - a. X-ray leakage radiation from the source housing assembly shall not exceed 0.1 percent of the maximum dose equivalent rate of the unattenuated useful beam.
 - b. Neutron leakage radiation from the source housing assembly shall not exceed 0.5 percent of the maximum dose equivalent rate of the unattenuated useful beam.
 - c. Leakage radiation measurements made at any point 1 meter from the path of the charged particle between its point of origin and the target, window or scattering foil shall meet the requirements of subsection (A)(1)(a) and (b) when computed as a percentage of the dose rate equivalent of the unattenuated useful beam measured at 1 meter from the virtual source. Leakage radiation measurements at each point shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches).
 - d. The registrant shall maintain, for inspection by the Department, records that show leakage radiation measurements for the life of the operation.
 2. Beam limiting devices (not to include blocks or wedges). Adjustable or interchangeable beam limiting devices shall be provided and shall transmit no more than 2 percent of the useful beam for the portion of the useful beam that is to be attenuated by the beam limiting device. The neutron component of the useful beam shall not be included in this requirement. Measurements shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches) at the normal treatment distance.
 3. Filters. The following requirements apply to systems that use a system of wedge filters, interchangeable field flattening filters, or interchangeable beam scattering filters:
 - a. Irradiation shall not be possible until a selection of a filter has been made at the treatment control panel;
 - b. An interlock system shall be provided to prevent irradiation if the filter selected is not in the correct position;
 - c. An indication of the wedge filter orientation with respect to the treatment field shall be provided at the control panel, by direct observation, or by electronic means, when wedge filters are used;
 - d. A display shall be provided at the treatment control panel showing the filter or filters in use;
 - e. Each filter that is removable from the system shall be clearly identified as to that filter's material of construction, thickness, and the nominal wedge angle for wedge filters, or a record tracing these factors for each filter shall be maintained at the system console; and
 - f. An interlock shall be provided to prevent irradiation if any filter selection operation carried out in the treatment room does not agree with the filter selection operation carried out at the treatment control panel.
 4. Beam monitor. Equipment installed after the effective date of this Section shall be provided with at least one radiation detector in the radiation head. This detector shall be incorporated into a primary system so that all of the following criteria are met:
 - a. Each primary system shall have a detector that is a transmission detector and a full beam detector and that is placed on the patient side of any fixed added filters other than a wedge filter;
 - b. The detectors shall be removable only with tools and shall be interlocked to prevent incorrect positioning;

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- c. Each detector shall be capable of independently monitoring and controlling the useful beam;
 - d. Each detector shall form part of a dose-monitoring system from which the absorbed dose can be calculated at a reference point in the treatment volume;
 - e. Each dose monitoring system shall have a legible display at the treatment control panel that:
 - i. Maintains a reading until intentionally reset to zero;
 - ii. Has only one scale and no scale multiplying factors in replacement equipment; and
 - iii. Utilizes a design such that increasing dose is displayed by increasing numbers and is designed so that, in the event of an overdosage of radiation, the absorbed dose may be accurately determined under all nominal conditions of use or foreseeable failures;
 - f. In the event of power failure, the dose monitoring information required in subsection (A)(4) displayed at the control panel at the time of failure shall be retrievable in at least one system; and
 - g. Selection and display of dose monitor units;
 - i. Irradiation shall not be possible until a selection of dose monitor units has been made at the treatment control panel.
 - ii. Each primary system shall terminate irradiation when the preselected number of dose monitor units has been detected by the system.
 - iii. Each secondary system shall terminate irradiation when 110 percent of the preselected number of dose monitor units has been detected by the system.
 - iv. It shall be possible to interrupt irradiation and equipment movements at any time from the operator's position at the treatment control panel. Following an interruption, it shall be possible to restart irradiation by operator action without any reselection of operating conditions. If any change is made of a preselected value during an interruption the equipment shall go to termination condition.
 - v. It shall be possible to terminate irradiation and equipment movements, or go from an interruption condition to termination conditions at any time from the operator's position at the treatment control panel.
5. Beam monitoring system. All accelerator systems shall be provided with a beam monitoring system in the radiation head capable of monitoring and terminating irradiation.
- a. Each beam monitoring system shall have a display at the treatment control panel that registers the accumulated monitor units.
 - b. The beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected by the system.
 - c. For units with a secondary beam monitoring system, the primary beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected. The secondary beam monitoring system shall terminate irradiation if the primary system fails.
 - d. In the event of a power failure, the display information required in subsection (A)(5)(a) shall be retained in at least one system following the power failure.
 - e. An interlock device shall prevent irradiation if any beam monitoring system is inoperable.
 - f. For purposes of this rule:
 - i. "Beam monitoring system" means a system of devices that will monitor the useful beam during irradiation and will terminate irradiation if a preselected number of monitor units is accumulated.
 - ii. "Monitor unit" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.
6. Treatment beam mode selection. In equipment capable of both x-ray and electron therapy:
- a. Irradiation shall not be possible until a selection of radiation type is made at the treatment control panel;
 - b. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
 - c. An interlock system shall be available and in operating condition on a therapy machine, and shall be used to prevent unwanted x-ray or electron irradiation when preparing for, or performing radiation therapy procedures. The interlock system need not be available for use, if the therapy machine is only used to make an image of an inanimate object; and
 - d. The radiation type selected shall be displayed at the treatment control panel before and during irradiation.
7. Treatment beam energy selection. Equipment capable of generating radiation beams of different energies shall meet all of the following requirements:
- a. Irradiation shall not be possible until a selection of energy is made at the treatment control panel;
 - b. An interlock system shall be provided to ensure that the equipment can emit only the energy of radiation that is selected;
 - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel; and
 - d. The energy selected shall be displayed at the treatment control panel before and during irradiation.
8. Selection of stationary or moving beam therapy. Equipment capable of both stationary and moving beam therapy modes shall meet all of the following requirements:
- a. Irradiation shall not be possible until a selection of stationary beam therapy or moving beam therapy is made at the treatment control panel;
 - b. An interlock system shall be provided to ensure that the equipment can operate only in the mode that is selected;
 - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
 - d. An interlock system shall be provided to terminate irradiation if the movement stops during moving beam therapy;
 - e. Moving beam therapy shall be so controlled that the required relationship between the number of dose monitor units and movement is obtained; and
 - f. The mode of operation shall be displayed at the treatment control panel.

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9. Focal spot location and beam orientation. The registrant shall determine, or obtain from the manufacturer, the location in reference to an accessible point on the radiation head of all of the following:
 - a. The x-ray target or the virtual source of x-rays,
 - b. The electron window or the scattering foil, and
 - c. All possible orientations of the useful beam.
 10. System checking facilities. Capabilities shall be provided for checking of all safety interlock systems.
- B. Facility and shielding requirements.**
1. In addition to protective barriers sufficient to ensure compliance with R9-7-907, all of the following design requirements apply:
 - a. Except for entrance doors or beam interceptors, all the required barriers shall be fixed barriers;
 - b. The treatment control panel shall be located outside the treatment room;
 - c. Windows, mirrors, operable closed-circuit television, or other equivalent viewing systems shall be provided to permit continuous observation of the patient during irradiation and shall be so located that the operator may observe the patient from the treatment control panel;
 - d. Provision shall be made for two-way oral communication between the patient and the operator at the treatment control panel;
 - e. Each point of entry into the treatment room shall be provided with warning lights that will indicate when the useful beam is "on" in a readily observable position outside of the room; and
 - f. Interlocks shall be provided and shall result in all entrance doors being closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it shall be possible to restore the machine to operation only by closing the door and reinitiating exposure by manual action at the control panel.
 2. An authorized medical physicist, trained and experienced in the principles of radiation protection, shall perform a radiation protection survey on all installations before human use and after any change in an installation that might produce a radiation hazard. The authorized medical physicist shall provide the survey results in writing to the individual in charge of the installation and transmit a copy of the survey results to the Department.
 3. Calibrations.
 - a. Calibration of the therapy system, including radiation output calibration, shall be performed before placing new installations into operation for the purpose of irradiation of patients. Subsequent calibrations shall be made at intervals not to exceed 12 months, and after any change that may cause the calibration of the therapy system to change.
 - b. Calibration of the radiation output of the therapy beam shall be performed with an instrument that has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), within the preceding two years.
 - c. Calibration of a particle accelerator shall be performed by, or under the supervision of an authorized medical physicist who meets the qualification requirements specified in R9-7-711, and a copy of the calibration report shall be maintained by the registrant for inspection by the Department.
 - d. Calibration of the therapy beam shall include, but not necessarily be limited to, all of the following determinations:
 - i. Verification that the equipment is operating within the design specifications concerning the light localizer, the side light and back pointer alignment with the isocenter, when applicable, variation in the axis of rotation for the table, gantry and jaw system, and beam flatness and symmetry at specific depths;
 - ii. The exposure rate or dose rate in air or at various depths of water for the range of field sizes used for each effective energy, and for each treatment distance used for radiation therapy;
 - iii. The congruence between the radiation field and the field defined by the localizing device;
 - iv. The uniformity of the radiation field and its dependency upon the direction of the useful beam; and
 - v. The calibration determinations above shall be provided in sufficient detail, to allow the absorbed dose to tissue in the useful beam to be calculated to within plus or minus 5 percent.
 - e. Records of calibrations shall be maintained for three years following the date the calibration was performed.
 - f. A copy of the current calibration report shall be available in the therapy facility for use by the operator, and the report shall contain the following information:
 - i. The action taken by the authorized medical physicist performing the calibration if it indicates a change has occurred since the last calibration,
 - ii. A listing of the persons informed of the change in calibration results, and
 - iii. A statement as to the effect the change in calibration has had on the therapy doses prior to the current calibration finding.
- C. Spot checks.**
1. The spot check procedures shall be in writing and shall have been developed by an authorized medical physicist trained and experienced in performing calibrations.
 2. The measurements taken during spot checks shall demonstrate the degree of consistency of the operating characteristics which can affect the radiation output of the system or the radiation dose delivered to a patient during a therapy procedure.
 3. The written spot check procedure shall indicate the frequency at which tests or measurements are to be performed, not to exceed monthly.
 4. The spot check procedure shall note conditions that require recalibration of the therapy system before further human irradiation.
 5. Records of spot checks shall be maintained and available for inspection by the Department for three years following the spot check measurements. Records of spot checks not performed by an authorized medical physicist shall be signed by an authorized medical physicist within 15 days of the spot check.
- D. Operating procedures.**
1. Only the patient shall be in the treatment room during irradiation.
 2. If a patient must be held in position during treatment only, mechanical supporting or restraining devices shall be used for this purpose.

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Historical Note

New Section R9-7-905 recodified from R12-1-905 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-906. Limitations

- A.** A registrant shall not permit an individual to act as:
1. A particle accelerator operator of any type unless the individual:
 - a. Has received copies of and instruction in this Article and the registrant's operating and emergency procedures,
 - b. Demonstrates an understanding of the material, and
 - c. Has demonstrated competence in the use the particle accelerator, related equipment, and survey instruments that will be employed during the operation of the particle accelerator;
 2. A medical particle accelerator operator unless the individual is certified as required in A.R.S. § 32-2811 or the operator meets the requirements in R9-7-603(B); or
 3. An industrial particle accelerator operator unless the individual has been instructed in radiation safety.
- B.** A registrant shall provide either the Radiation Safety Committee or the Radiation Safety Officer with the authority to terminate operations at a particle accelerator facility if this is necessary to protect health and safety or property.
- C.** If equipment is capable of both stationary and moving beam therapy, the registrant shall ensure that:
1. Irradiation is not possible unless either stationary or moving beam therapy has been selected at the control panel,
 2. An interlock is provided to ensure that the machine will operate only in the mode that has been selected,
 3. An interlock is provided that terminates irradiation if the gantry fails to move properly during moving beam therapy,
 4. A means is provided to prevent movement during stationary therapy, and
 5. The mode of operation is displayed at the control panel.

Historical Note

New Section R9-7-906 recodified from R12-1-906 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-907. Shielding and Safety Design

- A.** An authorized medical physicist experienced in the principles of radiation protection and installation design shall be consulted in the design of a particle accelerator installation and called upon to perform a radiation survey when the accelerator is first capable of producing radiation. The registrant shall provide a copy of the installation radiation survey to the Department before a Department inspection conducted according to R9-7-914.
- B.** The registrant shall shield each particle accelerator installation with the primary and secondary protective barriers necessary to comply with R9-7-408 and R9-7-416.
- C.** At the time of application for registration and before treatment of the first patient, the applicant shall provide to the Department a copy of an installation report, signed by the contractor who installed required shielding material recommended by the authorized medical physicist who performed the shielding calculations for the particle accelerator facility.
- D.** As part of the annual radiation protection program review required in R9-7-407(C), the registrant shall document installed facility shielding and other radiation exposure controls, review patient workload, and note associated changes, if any, in public exposure that are the result of installed facility shielding, increased workload, and other radiation exposure controls in use at the time of the review.

Historical Note

New Section R9-7-907 recodified from R12-1-907 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-908. Particle Accelerator Controls and Interlock Systems

A registrant shall ensure that:

1. Instrumentation, readouts and controls on the particle accelerator control panel are clearly identified and easily discernible;
2. All entrances into the area that contains the particle accelerator room, target room, or other high radiation area, are provided with interlocks that shut down the machine if an entrance door is opened;
3. If an interlock system connected to an entrance door that provides access to the therapy suite has been tripped, it is not possible to resume operation of the particle accelerator by resetting the interlock switch at the entrance where it had been tripped;
4. Each safety interlock is on a circuit that allows it to operate independently of all other safety interlocks;
5. If possible, the interlock system is fail-safe in design, so that any defect or component failure in the interlock system prevents operation of the particle accelerator; and
6. A scram button or other emergency power cutoff switch is located and easily identifiable in the area that contains the particle accelerator. The registrant shall ensure that the scram button prevents persons from restarting the particle accelerator at the accelerator control panel without resetting the button or switch.

Historical Note

New Section R9-7-908 recodified from R12-1-908 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-909. Warning Systems

A registrant shall ensure that:

1. High radiation areas and entrances to the high radiation areas in medical facilities are equipped with a continuously-operating warning light system that operates when, and only when, radiation is produced;
2. High radiation areas and entrances to the high radiation areas in nonmedical facilities are equipped with an easily-observable flashing or rotating warning light system that operates when, and only when, radiation is produced;
3. High radiation areas associated with nonmedical particle accelerators have an audible warning device that is activated for 15 seconds before creation of the high radiation area; and the warning device is clearly discernible in all high radiation areas and all radiation areas; and
4. High radiation areas associated with any particle accelerator are posted according to R9-7-428 and R9-7-429.

Historical Note

New Section R9-7-909 recodified from R12-1-909 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-910. Operating Procedures

- A.** A registrant shall secure from use a particle accelerator when it is not being used to prevent unauthorized use.
- B.** A particle accelerator operator shall use the switch on the control panel to turn the accelerator beam on and off during normal operations. The safety interlock system may be used to turn off the accelerator beam in emergencies.
- C.** A registrant shall ensure that all safety and warning systems, including interlocks, are tested for proper operation at intervals not to exceed three months, and maintain a record of each

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test for Department inspection for at least three years from the date of the test.

- D. A registrant shall keep current electrical circuit diagrams of a particle accelerator and the associated interlock systems, and maintain the diagrams for inspection by the Department.
- E. A registrant shall not bypass an interlock unless the by-pass is:
 1. Authorized in writing by the Radiation Safety Committee or Radiation Safety Office,
 2. Recorded in a permanent log with a notice of the by-pass posted at any affected interlock and at the control panel, and
 3. Terminated as soon as possible.
- F. A registrant shall maintain a copy of the current operating and emergency procedures at the particle accelerator control panel.

Historical Note

New Section R9-7-910 recodified from R12-1-910 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-911. Radiation Surveys

- A. The registrant shall ensure that a portable survey instrument is available at all times in a particle accelerator facility.
- B. An authorized medical physicist shall:
 1. Check the operation of the portable survey instrument required in subsection (A), using a known radiation source, before each use;
 2. Perform and document a radiation protection survey when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas;
 3. For particle accelerator facilities greater than 30 Mev, establish a program of radiation protection surveys that will evaluate the airborne radiation hazards, and ensure that the particulate radioactivity present in the accelerator facility will not result in personnel exposure that exceeds the limits in Article 4; and
 4. Perform radiation protection surveys, including smear surveys of the particle accelerator facility, as prescribed in the written procedures established by the Radiation Safety Officer of the particle accelerator facility and approved by the Department at the time of application for registration.
- C. The registrant shall maintain the following records:
 1. Radiation protection surveys required in subsection (B)(2), and the associated facility description, required in R9-7-202, until the registration is terminated; and
 2. Records of the surveys required in subsections (B)(3) and (4) for three years following the measurement.

Historical Note

New Section R9-7-911 recodified from R12-1-911 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-912. Reserved**Historical Note**

Section R9-7-912 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-913. Misadministration

- A. For purposes of this rule "misadministration" means:
 1. A therapeutic radiation dose from a machine:
 - a. Delivered to the wrong patient;
 - b. Delivered using the wrong mode of treatment;
 - c. Delivered to the wrong treatment site; or
 - d. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but greater than 130 percent of the prescribed weekly dose; or

2. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final, prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a misadministration.

B. Reports of therapy misadministration

1. Within 24 hours after discovery of a misadministration, a registrant shall notify the Department by telephone. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. If the referring physician or the patient's responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.
2. Within 15 days following the verbal notification to the Department, the registrant shall report, in writing, to the Department and individuals notified under subsection (B)(1). The written report shall include the registrant's name, the referring physician's name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient's responsible relative or guardian, and if not, why not. The report shall not include the patient's name or other information that could lead to identification of the patient.
3. Each registrant shall maintain records of all misadministrations for Department inspection. The records shall:
 - a. Contain the names of all individuals involved in the event, including:
 - i. The physician,
 - ii. The allied health personnel,
 - iii. The patient,
 - iv. The patient's referring physician,
 - v. The patient's identification number if one has been assigned,
 - vi. A brief description of the event,
 - vii. The effect on the patient, and
 - viii. The action taken to prevent recurrence.
 - b. Be maintained for three years beyond the termination date of the affected registration.

Historical Note

New Section R9-7-913 recodified from R12-1-913 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-914. Initial Inspections of Particle Accelerators Used in the Practice of Medicine

The Department shall inspect a particle accelerator, used in the practice of medicine, before its initial use to treat human disease.

Historical Note

New Section R9-7-914 recodified from R12-1-914 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Quality Control Program

- A. Mechanical Tests
 1. Patient support assembly motions,
 2. Gantry angle indicators,
 3. Optical distance indicators,
 4. Alignment lights,

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5. Congruence of radiation beam and light field,
 6. Accuracy of field size indicators,
 7. Mechanical isocenter-gantry and collimator,
 8. Mechanical interlocks.
- B. Radiation Beam Tests**
1. Machine operating parameters,
 2. Dose per monitor unit for x-ray and electron beams,
 3. Dose per degree for moving beam therapy,
 4. Radiation isocenter,
 5. Flatness and symmetry,
 6. Wedge transmission factors,
 7. Shadow tray transmission factors,
 8. Energy check on central axis,
 9. Radiation output versus field size.
- C. Control Panel Checks**
1. Radiation "ON" condition,
 2. Indicator lamp check,
 3. Computer control of accelerator,
 4. Interlock display,
 5. Digital display,
 6. Analog display,
 7. Status display,
 8. Reset display.
- D. Facility Checks**
1. Patient audio-visual communication,
 2. Entrance door interlock,
 3. Warning lights,
 4. Emergency off button.
- E. Dose Output Check**
1. Each registrant shall use the services of a third party authorized medical physicist or third party TLD system to verify the accelerator's radiation output every two years.
 2. If the output check is not within plus or minus 5 percent of the calibrated output, the accelerator shall be recalibrated and the discrepancy investigated.
 3. Records of output checks shall be maintained for three years.
- F. Patient Dosimetry Calculation Checks**
1. Calculation of patient treatment times,
 2. Computer calculation of patient treatment times.

Historical Note

New Article 9, Appendix A recodified from 12 A.A.C. 1, Article 9, Appendix A, 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 10. NOTICES, INSTRUCTIONS, AND REPORTS TO RADIATION WORKERS; INSPECTIONS**R9-7-1001. Purpose and Scope**

This Article establishes requirements for notices, instructions, and reports by licensees or registrants to individuals working for a licensee or registrant. This Article explains the options available to these individuals in connection with Department inspections of licensees or registrants regarding radiological working conditions. The rules in this Article apply to all persons who receive, possess, use, own, or transfer sources of radiation licensed or registered by the Department.

Historical Note

New Section R9-7-1001 recodified from R12-1-1001 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1002. Posting of Notices for Workers

- A.** Each licensee or registrant shall post current copies of the following documents:
1. The rules in this Chapter;
 2. The license, certificate of registration, conditions, or documents incorporated into the license or registration by

- reference, and any amendments to the license or registration;
 3. The operating procedures applicable to work under the license or registration;
 4. Any notice of violation involving radiological working conditions, proposed imposition of a civil penalty, or order issued under 9 A.A.C. 7, Article 12, and any response from the licensee or registrant.
- B.** If posting of a document specified in subsections (A)(1), (2) and (3) is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.
- C.** Form ARRA-6 (shown following R9-7-1008), "Notice to Employees" shall be posted by each licensee or registrant wherever individuals work in or frequent any portion of a restricted area.
- D.** Each licensee or registrant shall post documents, notices, or forms, as required by this Section, so that they are conspicuous and appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies and shall replace any document if it is defaced or altered.
- E.** Department documents posted as required in subsection (A)(4) shall be posted within two working days after receipt of the documents from the Department; the licensee's or registrant's response, if any, shall be posted within two working days after dispatch from the licensee or registrant. The documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

Historical Note

New Section R9-7-1002 recodified from R12-1-1002 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1003. Instructions for Workers

- A.** A licensee or registrant shall ensure that each individual who, in the course of employment, is likely to receive in a year an occupational dose in excess of 1 mSv (100 mrem), receives instruction in all of the following subjects:
1. Storage, transfer, or use of radiation and radioactive material;
 2. Health protection problems associated with exposure to radiation or radioactive material, precautions or procedures to minimize exposure, and purposes and functions of protective devices;
 3. Applicable provisions in Department rules, licenses, and registrations that protect of personnel from exposure to radiation or radioactive material, with an emphasis on the duties of workers;
 4. The duty to promptly report to the licensee or registrant any condition that may lead to or cause a violation of a provision in a Department rule, license, or registration or unnecessary exposure to radiation or radioactive material;
 5. Correct response to warnings in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
 6. Radiation exposure reports that a worker may request according to R9-7-1004.
- B.** In determining whether subsection (A) applies to an individual, a licensee or registrant shall take into consideration assigned activities during normal and abnormal situations that involve exposure to radiation or radioactive material and could reasonably be expected to occur during the life of a facility. The licensee or registrant shall provide instruction that is com-

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mensurate with potential radiological health protection problems present in the work place.

Historical Note

New Section R9-7-1003 recodified from R12-1-1003 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1004. Notifications and Reports to Individuals

A. A licensee or registrant shall report radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body to the individual as specified in this Section. The information reported shall include data and results obtained under Department rules, orders, or license conditions, as shown in records maintained by the licensee or registrant. Each notification and report shall be in writing; include appropriate identifying data, such as the name of the licensee or registrant, the name of the individual, and the individual's Social Security number; include the individual's exposure information; and contain the following statement:

"This report is furnished to you under the provisions of 9 A.A.C. 7. You should preserve this report for future reference."

B. Each licensee or registrant shall make dose information available to workers as shown in records maintained by the licensee or registrant under the provisions of Article 4. Each licensee or registrant shall provide annual notification of exposure to radiation or radioactive material for each worker, as shown in records maintained by the licensee or registrant under R9-7-419(E) if:

1. The individual's occupational dose exceeds 1 mSv (100 mrem) TEDE or 1 mSv (100 mrem) to any individual organ or tissue; or
2. The individual requests his or her annual dose report.

C. At the request of a worker formerly engaged in work controlled by the licensee or the registrant, each licensee or registrant shall furnish to the worker a report of the worker's exposure to radiation or radioactive material. The report shall be furnished within 30 days from the time the request is made, or within 30 days after the exposure of the individual has been determined by the licensee or registrant, whichever is later; the report shall cover, within the period of time specified in the request, each calendar quarter in which the worker's activities involved exposure to radiation from radioactive material licensed by, or radiation machines registered with, the Department; and the report shall include the dates and locations of work under the license or registration in which the worker participated during this period.

D. Reports to individuals of their exposure to radiation shall be made according to R9-7-446.

Historical Note

New Section R9-7-1004 recodified from R12-1-1004 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1005. Licensee, Registrant, and Worker Representation During Department Inspection

A. As a condition of licensure or registration, each licensee or registrant shall afford to the Department, at all reasonable times and without undue delay, an opportunity to inspect materials, machines, activities, facilities, premises, and records.

B. During an inspection, the licensee or registrant shall permit Department inspectors to consult privately with workers as specified in R9-7-1006. The licensee or registrant may accompany Department inspectors during other phases of an inspection.

C. A worker authorized to consult with an Department inspector under R9-7-1006 may authorize another individual to repre-

sent the worker's interests during the Department inspection. The licensee or registrant shall notify the inspectors of the worker's authorization and give the worker's representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

D. Each worker's representative shall be routinely engaged in work under control of the licensee or registrant or shall have received instructions under R9-7-1003.

E. Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the inspection. However, only one worker's representative at a time may accompany the inspectors.

F. With the approval of the licensee or registrant and the worker's representative an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the worker's representative, shall be afforded the opportunity to accompany Department inspectors during the inspection of physical working conditions.

G. Notwithstanding the other provisions of this Section, Department inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information the worker's representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, any individual who accompanies an inspector may have access to such information only if authorized by the classifying agency.

Historical Note

New Section R9-7-1005 recodified from R12-1-1005 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1006. Consultation with Workers During Inspections

A. A licensee or registrant shall afford Department inspectors talking to a licensee or registrant representative the opportunity to consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of Department rules, licenses, and registrations to the extent the inspectors deem consultation necessary for conducting an effective and thorough inspection.

B. During the course of an inspection, any worker may privately bring to the attention of the inspectors, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violation of the Act, these rules, or a license or registration condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. If this notification is in writing, the worker shall comply with the requirements of R9-7-1007(A).

C. The provisions of subsection (B) shall not be interpreted as authorization to disregard instructions required by R9-7-1003.

Historical Note

New Section R9-7-1006 recodified from R12-1-1006 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-1007. Inspection Requests by Workers

A. Any worker or representative of workers who believes that a violation of the Act, these rules, license, or registration conditions exists, or has occurred with regard to radiological working conditions in which the worker is engaged, may request an

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inspection of the facility by the Department. Any request shall be in writing, addressed to the Director, set forth the specific grounds for the request, and be signed by the worker or representative of the workers. The Department shall provide a copy to the licensee or registrant no later than at the time of inspection except that, upon the request of the worker, the Department shall protect the worker's name and the name of individuals referred to in the request to the extent authorized by law, except for good cause shown.

- B.** If, upon receipt of a request for inspection, the Department Director determines that there are reasonable grounds to believe that the alleged violation exists or has occurred, the Director shall initiate an inspection as soon as practicable, to determine if the alleged violation exists or has occurred. Inspections performed under this subsection need not be limited to matters referred to in the complaint.
- C.** A licensee or registrant shall not discharge or in any manner discriminate against any worker because the worker has filed any complaint or caused to be instituted any proceeding under these rules or has testified or is about to testify in the instituted

proceeding or because the worker exercises on behalf of the worker or others, any option afforded by this Article.

Historical Note

New Section R9-7-1007 recodified from R12-1-1007 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1008. Inspection not Warranted; Review

If the Department determines, with respect to a complaint under R9-7-1007, that an inspection is not warranted or there are no reasonable grounds to believe that a violation exists or has occurred, the Department shall notify the complainant in writing of the determination. The complainant may obtain review of the determination by submitting a written request for hearing to the Department. The Department shall provide for a hearing before the Radiation Regulatory Hearing Board under 9 A.A.C. 7, Article 12 and A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section R9-7-1008 recodified from R12-1-1008 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Exhibit A. Form ARRA-6 (2012) Notice to Employees**ARRA-6 (2012) Arizona Department of Health Services, Bureau of Radiation Control****NOTICE TO EMPLOYEES****STANDARDS FOR PROTECTION AGAINST RADIATION;
NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS;
INSPECTIONS**

In Article 4 of the Arizona Department of Health Services, Bureau of Radiation Control rules for the Control of Radiation, the Arizona Department of Health Services, Bureau of Radiation Control has established standards for your protection against radiation hazards. In Article 10 of the rules for the Control of Radiation, the Arizona Department of Health Services, Bureau of Radiation Control has established certain provisions for the options of workers engaged in work under a license or registration issued by the Arizona Department of Health Services, Bureau of Radiation Control.

YOUR EMPLOYER'S RESPONSIBILITY

Your employer is required to -

1. Apply these rules to work involving sources of radiation.
2. Post or otherwise make available to you a copy of the Arizona Department of Health Services, Bureau of Radiation Control rules, licenses, and operating procedures which apply to work you are engaged in, and explain their provisions to you.
3. Post notice of violation involving radiological working conditions, proposed imposition of civil penalties, and orders.

YOUR RESPONSIBILITY AS A WORKER

You should familiarize yourself with those provisions of the Arizona Department of Health Services, Bureau of Radiation Control rules and the operating procedures which apply to the work you are engaged in. You should observe their provisions for your own protection and protection of your co-workers.

WHAT IS COVERED BY THESE RULES

1. Limits on exposure to radiation and radioactive material in restricted and unrestricted areas;
2. Measures to be taken after accidental exposure;
3. Personnel monitoring, surveys, and equipment;
4. Caution signs, labels, and safety interlock equipment;
5. Exposure records and reports;
6. Options for workers regarding inspections by the Arizona Department of Health Services, Bureau of Radiation Control; and
7. Related matters.

REPORTS ON YOUR RADIATION EXPOSURE HISTORY

1. The Arizona Department of Health Services, Bureau of Radiation Control rules require that your employer give you a written report if you receive an exposure in excess of any applicable limit set forth in the rules or in the

license. The basic limits for exposure to employees are set forth in Article 4 of the rules. These Sections specify limits on exposure to radiation and exposure to concentrations of radioactive material in air and water.

2. If you work where personnel monitoring is required, and if you request information on your radiation exposures,
 - a. Your employer must give you a written report, upon termination of your employment, of your radiation exposures; and
 - b. Your employer must advise you annually of your exposure to radiation.

INSPECTIONS

All licensed or registered activities are subject to inspection by representatives of the Arizona Department of Health Services, Bureau of Radiation Control. In addition, any worker or representative of workers who believes that there is a violation of the regulations issued thereunder, or the terms of the employer's license or rules with regard to radiological working conditions in which the worker is engaged, may request an inspection by sending a notice of the alleged violation to the Arizona Department of Health Services, Bureau of Radiation Control. The request must set forth the specific grounds for the notice and must be signed by the worker on his own behalf or as a representative of the workers. During inspections, inspectors of the Arizona Department of Health Services, Bureau of Radiation Control may confer privately with workers, and any worker may bring to the attention of the inspectors any past or present condition which he believes contributed to or caused any violation as described above.

INQUIRIES

Inquiries dealing with the matters outlined above can be sent to the:
**ARIZONA DEPARTMENT OF HEALTH SERVICES,
BUREAU OF RADIATION CONTROL**

POSTING REQUIREMENT

IN ACCORDANCE WITH A.A.C. R9-7-1002, COPIES OF THIS NOTICE SHALL BE POSTED IN SUCH A MANNER TO PERMIT EMPLOYEES WORKING IN OR FREQUENTING ANY PORTION OF A RESTRICTED AREA, USED FOR ACTIVITIES LICENSED OR REGISTERED PURSUANT TO ARTICLE 2 OR ARTICLE 3 OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES, BUREAU OF RADIATION CONTROL'S RULES, TO OBSERVE A COPY OR COPIES ON THE WAY TO OR FROM THEIR WORK AREA.

Historical Note

New Article 10, Exhibit A recodified from 12 A.A.C.1, Article 10, Exhibit A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 11. INDUSTRIAL USES OF X-RAYS, NOT INCLUDING ANALYTICAL X-RAY SYSTEMS**R9-7-1101. Reserved****Historical Note**

Section R9-7-1101 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1102. Definitions

"Access point" means any door or cover that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of a cabinet x-ray unit.

"Annual refresher safety training" means a review provided by the registrant for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equipment, new or revised statutes or rules, accidents, or errors that

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have occurred, and provide opportunities for employees to ask safety questions.

“Aperture” means any opening in the outside surface of a cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

“Door” means any barrier that is designed to be movable or opened for routine operation purposes, rather than opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Hands-on experience” means the accumulation of knowledge or skill in any area relevant to radiography.

“Port” means any opening in the outside surface of a cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material that is being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation if the dimensions of the object do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, which includes use of all radiography equipment and tests knowledge of radiography procedures.

“Radiographic operations” means all activities associated with use of a radiographic x-ray system. This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

Historical Note

New Section R9-7-1102 recodified from R12-1-1102 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1103. Reserved**Historical Note**

Section R9-7-1103 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1104. Registration Requirements

- A. The Department shall review an application for registration of a radiation machine for use in industrial radiography and approve the registration if an applicant meets all of the following requirements:
 1. The applicant satisfies the general requirements in Article 2 and any special requirements contained in this Article,
 2. The applicant submits a program for training radiographer’s assistants that complies with R9-7-1146, and
 3. The applicant submits procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.
- B. An applicant shall submit written operating and emergency procedures, as prescribed in R9-7-1128.
- C. An applicant shall submit a description of a program for review of job performance of each radiographer and radiographer’s assistant at intervals that do not exceed six months, as prescribed in R9-7-1146(E).
- D. An applicant shall submit a description of the applicant’s overall organizational structure as it applies to radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.
- E. An applicant shall submit and list the qualifications of each individual designated as an RSO under R9-7-1120 and indicate which designee is responsible for ensuring that the registrant’s radiation safety program is implemented.

- F. If an applicant intends to perform “in-house” calibrations of survey instruments, the applicant shall describe each calibration method to be used, the relevant experience of each person who will perform a calibration, and procedures to ensure that all calibrations are performed according to the procedures prescribed in R9-7-1108.
- G. An applicant shall identify and describe the location of all field stations and permanent radiographic installations.
- H. An applicant shall identify each location where records required by this Chapter will be maintained.

Historical Note

New Section R9-7-1104 recodified from R12-1-1104 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1105. Reserved**Historical Note**

Section R9-7-1105 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1106. Equipment Performance

A registrant shall ensure that each x-ray machine has a lock or other security system designed to prevent unauthorized use or accidental production of radiation and is secured against unauthorized use at all times, except when under the direct surveillance of a radiographer or radiographer’s assistant.

Historical Note

New Section R9-7-1106 recodified from R12-1-1106 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1107. Reserved**Historical Note**

Section R9-7-1107 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1108. Radiation Survey Instruments

- A. A registrant shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.
- B. A registrant shall ensure that each radiation survey instrument required under subsection (A) is calibrated:
 1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;
 2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and
 3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C. A registrant shall make a record each time a radiation survey instrument is calibrated, and maintain each record for three years after it is made.

Historical Note

New Section R9-7-1108 recodified from R12-1-1108 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1109. Reserved

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Historical Note

Section R9-7-1109 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1110. Quarterly Inventory

- A. A registrant shall conduct a quarterly physical inventory to account for all x-ray machines received and possessed under the registration.
- B. A registrant shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required by subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, location of each x-ray machine, and manufacturer, model, and serial number of each x-ray machine.

Historical Note

New Section R9-7-1110 recodified from R12-1-1110 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1111. Reserved**Historical Note**

Section R9-7-1111 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1112. Utilization Logs

- A. A registrant shall maintain for each x-ray machine a utilization log that provides all of the following information:
 1. A description, including the make, model, and serial number of each x-ray machine;
 2. The identity and signature of the radiographer using the machine; and
 3. The plant or site where the machine is used and dates of use, including each date when the machine is removed from or returned to storage.
- B. A registrant shall retain a log required by subsection (A) for three years after the log is made.

Historical Note

New Section R9-7-1112 recodified from R12-1-1112 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1113. Reserved**Historical Note**

Section R9-7-1113 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1114. Inspection and Maintenance of Radiation Machines, Survey Instruments, and Associated Equipment

- A. A registrant shall perform visual and operability checks on survey instruments and radiation machines before use on each day the equipment is to be used to ensure that the equipment is in good working condition and required labeling is present. Survey instrument operability checks shall be performed using check sources or other authorized means. If equipment problems are found, the registrant shall remove the equipment from service until it is repaired.
- B. A registrant shall have written inspection and maintenance procedures for radiation machines and survey instruments that require inspection and maintenance, at intervals that do not exceed three months or before first use of the equipment and to ensure the proper functioning of components important to safety. Replacement components shall meet design specifications. If equipment problems are discovered, the registrant shall remove the equipment from service until the equipment is repaired.
- C. A registrant shall maintain records of equipment problems found in daily checks and quarterly inspections and retain each record for three years after it is made. The record shall include

the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

Historical Note

New Section R9-7-1114 recodified from R12-1-1114 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1115. Reserved**Historical Note**

Section R9-7-1115 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1116. Surveillance

During each radiographic operation a radiographer, or the radiographer's assistant as permitted by R9-7-1118, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the registrant is in compliance with R9-7-1136.

Historical Note

New Section R9-7-1116 recodified from R12-1-1116 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1117. Reserved**Historical Note**

Section R9-7-1117 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1118. Industrial Radiographic Operations

- A. If industrial radiography is performed at a location other than a permanent radiographic installation, a registrant shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R9-7-1146. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. The registrant shall not allow industrial radiography if only one qualified individual is present.
- B. A registrant shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the registration of a permanent radiographic installation, unless another permanent location is specifically authorized by the Department.

Historical Note

New Section R9-7-1118 recodified from R12-1-1118 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1119. Reserved**Historical Note**

Section R9-7-1119 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1120. Radiation Safety Officer (RSO)

- A. A registrant shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B. A registrant shall ensure that the RSO has satisfied the following minimum requirements:
 1. The training and testing requirements in R9-7-1146;
 2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation; and
 3. Formal training in the establishment and maintenance of a radiation safety program.

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- C. A registrant may use an individual in the position of RSO who does not have the training and experience required in subsection (B), if the registrant provides the Department with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program.
- D. The specific duties and authorities of the RSO include, but are not limited to:
1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter, and reviewing the procedures every year to ensure that they conform to current Department rules and registration conditions;
 2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
 3. Overseeing radiation surveys and associated documentation to ensure that the surveys are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
 4. Overseeing the personnel monitoring program to ensure that monitoring devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R9-7-444; and
 5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

Historical Note

New Section R9-7-1120 recodified from R12-1-1120 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1121. Reserved**Historical Note**

Section R9-7-1121 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1122. Expired**Historical Note**

New Section R9-7-1122 recodified from R12-1-1122 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1122 expired under A.R.S. § 41-1056(J) at 24 A.A.R. 3240, effective September 28, 2018 (Supp. 18-4).

R9-7-1123. Reserved**Historical Note**

Section R9-7-1123 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1124. Reserved**Historical Note**

Section R9-7-1124 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1125. Reserved**Historical Note**

Section R9-7-1125 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1126. Posting

A registrant shall post any area in which industrial radiography is being performed as required by R9-7-429. Exceptions listed in R9-7-430 do not apply to industrial radiographic operations.

Historical Note

New Section R9-7-1126 recodified from R12-1-1126 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1127. Reserved**Historical Note**

Section R9-7-1127 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1128. Operating and Emergency Procedures

- A. A registrant shall have operating and emergency procedures that include, at minimum, instructions in the following, as applicable:
1. Use of radiation machines, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
 2. Methods and occasions for conducting radiation surveys;
 3. Methods for controlling access to radiographic areas;
 4. Methods and occasions for locking and securing a radiation machine;
 5. Personnel monitoring and associated equipment;
 6. Inspection, maintenance, and operability checks of a radiation machine and survey instruments;
 7. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
 8. Procedures for identifying and reporting defects and non-compliance, as required by R9-7-448;
 9. The procedure for notifying the RSO and the Department in the event of an accident;
 10. Minimizing exposure of persons in the event of an accident, and
 11. Maintenance of records.
- B. The registrant shall maintain copies of current operating and emergency procedures until the Department terminates the registration. Superseded procedures shall be maintained for three years after a change is made. Additionally, records shall be maintained in accordance with R9-7-1138.

Historical Note

New Section R9-7-1128 recodified from R12-1-1128 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1129. Reserved**Historical Note**

Section R9-7-1129 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1130. Personnel Monitoring

- A. An individual shall not act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and either a film badge, a TLD, or an optically stimulated luminescence (OSL) dosimeter. At permanent radiography installations where other required alarm or warning devices are in routine use, an alarm rate meter is not required.
1. A registrant shall provide pocket dosimeters that have a range from zero to 2 millisieverts (200 millirems) and ensure that the dosimeters are recharged at the start of each shift. Electronic personnel dosimeters are permitted in place of ion-chamber pocket dosimeters.
 2. The registrant shall assign a film badge, TLD, or OSL dosimeter to one individual, who shall wear the assigned equipment.
 3. The registrant shall replace film badges at least monthly and replace TLDs or OSL dosimeters at least quarterly.

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4. After replacement, the registrant shall ensure that each film badge or TLD is processed as soon as possible.
- B.** A radiographer or radiographer's assistant shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personnel dosimeters, at the beginning and end of each shift.
- C.** A registrant shall check each pocket dosimeter or electronic personnel dosimeter at least yearly for correct response to radiation, and discontinue use of a dosimeter if it is not accurate within plus or minus 20% of the true radiation exposure.
- D.** If an individual's pocket dosimeter has an off-scale reading, or the electronic personnel dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a registrant shall send the individual's film badge, TLD, or OSL dosimeter for processing within 24 hours. The registrant shall not allow the individual to work with a radiation machine until the individual's radiation exposure is determined. Using the information from the badge or dosimeter, the RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure, as prescribed in Article 4 of this Chapter and include the results in records maintained in accordance with subsection (G).
- E.** If an individual's monitoring device is lost or damaged, the individual shall cease work immediately until the registrant provides a replacement film badge, TLD, or OSL dosimeter and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of a lost or damaged film badge, TLD, or OSL dosimeter. The registrant shall include the calculated exposure and the time period for which the film badge, TLD, or OSL dosimeter was lost or damaged in the records maintained in accordance with subsection (G).
- F.** For each alarm rate meter a registrant shall ensure that:
1. At the start of a shift each individual with an alarm rate meter checks that the alarm functions (sounds) before using the device;
 2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr) with an accuracy of plus or minus 20% of the true radiation dose rate;
 3. A special means is necessary to change the preset alarm function on the device; and
 4. Each device is calibrated at periods that do not to exceed 12 months for correct response to radiation
- G.** Each registrant shall maintain the following personnel monitoring records:
1. Each dosimeter reading and the yearly operability check required by subsections (B) and (C) for three years after each record is made;
 2. A record of each alarm rate meter calibration for three years after the record is made;
 3. Any report received from the film badge, TLD, or OSL processor. The registrant shall maintain these records until the Department terminates the registration; and
 4. Any estimation of an exposure evidenced by an off-scale personnel direct-reading dosimeter or a lost or damaged film badge, TLD, or OSL dosimeter. The records shall be maintained until the Department terminates the registration.

Historical Note

New Section R9-7-1130 recodified from R12-1-1130 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1131. Reserved**Historical Note**

Section R9-7-1131 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1132. Supervision of a Radiographer's Assistant

If a radiographer's assistant uses a radiation machine or conducts a radiation survey required by R9-7-1134(B), the registrant shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:

1. The radiographer is physically present at the site where the radiation machine is being used;
2. The radiographer is available to give immediate assistance if required; and
3. The radiographer is able to observe directly the assistant's performance.

Historical Note

New Section R9-7-1132 recodified from R12-1-1132 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1133. Reserved**Historical Note**

Section R9-7-1133 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1134. Radiation Surveys

- A.** A registrant shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R9-7-1108.
- B.** A registrant shall conduct a survey of a radiographic machine any time the machine is placed in storage to ensure that the machine will not expose personnel to radiation.
- C.** A registrant shall maintain a record of each exposure survey conducted before a machine is placed in storage under subsection (B), if that survey is the last one performed during the workday. Each record shall be maintained for three years after it is made.

Historical Note

New Section R9-7-1134 recodified from R12-1-1134 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1135. Reserved**Historical Note**

Section R9-7-1135 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1136. Permanent Radiographic Installations

- A.** If a registrant maintains a permanent radiographic installation that does not fall within the definition of "enclosed radiography" in R9-7-102, the registrant shall ensure that each entrance used for personnel access to the high radiation area has either:
1. An entrance control device of the type described in R9-7-420(A)(1), which reduces the radiation level upon entry into the area, or
 2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The registrant shall ensure that the visible signal is actuated by radiation if the x-ray tube is energized and the audible signal is actuated if a person attempts to enter the installation while the x-ray tube is energized.
- B.** A registrant shall test the alarm system for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. The registrant shall test each device referenced in subsection (A)(1) monthly. If an

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entrance control device or alarm signal is operating improperly, the registrant shall immediately label the device or signal as “defective” and repair the device or signal within seven calendar days. The registrant may continue to use the facility during this seven-day period, if the registrant implements continuous surveillance requirements of R9-7-1116 and uses an alarm rate meter.

- C. A registrant shall maintain each record of alarm system and entrance control device tests for three years after the record is made.

Historical Note

New Section R9-7-1136 recodified from R12-1-1136 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1137. Reserved**Historical Note**

Section R9-7-1137 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1138. Location of Documents and Records

- A. A registrant shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at the location specified on the registration application.
- B. A registrant shall maintain a copy of the following at each field station and temporary job site:
1. The registration that authorizes use of a radiation machines;
 2. A copy of Articles 4, 10, and 11 of this Chapter;
 3. Utilization logs for each radiation machine dispatched from that location, as required by R9-7-1112;
 4. Records of equipment problems identified in daily checks of equipment, as required by R9-7-1114;
 5. Records of alarm system and entrance control device checks, as required by R9-7-1136;
 6. Records of direct-reading dosimeters such as pocket dosimeters and electronic personnel dosimeters, as required by R9-7-1130;
 7. Operating and emergency procedures, as required by R9-7-1128;
 8. A report on the most recent calibration of the radiation survey instruments in use at the site, as required by R9-7-1108;
 9. A report on the most recent calibration of each alarm rate meter and operability check of each pocket dosimeter, or electronic personnel dosimeter, as required by R9-7-1130;
 10. Most recent survey record, as required by R9-7-1134; and
 11. If a registrant is operating in the state under R9-7-207, a copy of the out-of-state machine registration and a written authorization from the Department to operate in the state.

Historical Note

New Section R9-7-1138 recodified from R12-1-1138 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1139. Reserved**Historical Note**

Section R9-7-1139 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1140. Enclosed Radiography

- A. The Department has determined that any certified or certifiable cabinet x-ray system, as defined in Article 1, is exempt from the requirements of Article 11, provided that both of the following conditions are met:

1. The registrant makes, or causes to be made, an evaluation of each certified and certifiable cabinet x-ray system, at intervals that do not exceed 12 months, to determine whether the system conforms to the standards for certified and certifiable cabinet x-ray systems defined in Article 1. Records of each evaluation shall be maintained for three years from the date the record is created; and
 2. The registrant performs a physical radiation survey with a survey instrument calibrated within the preceding 12 months and designed for the energy range and levels of radiation that will be assessed.
- B. A registrant with a cabinet x-ray system that is not exempt under subsection (A) shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
1. Ensure that radiation levels measured at 5 centimeters (2 inches) from any accessible exterior surface of the enclosure do not exceed 50 microsievert (0.5 milliroentgen) in one hour for any combination of technical factors (i.e., mA, kVp);
 2. Ensure that access to the interior of the enclosure is possible only through interlocked doors or panels that prevent production of radiation unless all interlocked doors or panels are securely closed. The registrant shall ensure that opening a door or panel results in immediate termination of radiation production and subsequent reactivation of the x-ray tube is only possible at the control panel;
 3. Provide visible warning signals, activated only during production of radiation, at the control panel and at each access point to the interior of the enclosure;
 4. Before using an x-ray system make, or cause to be made, an initial evaluation of the x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years, and
 5. Using instrumentation that complies with R9-7-1108, perform a physical radiation survey to satisfy the requirements of subsection (B)(4).
- C. A registrant with a shielded room x-ray systems shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
1. Shield each x-ray room so that every location on the exterior meets the requirements for an “unrestricted area” as specified in R9-7-416;
 2. Provide access to the interior of a shielded x-ray room only through doors or panels that are interlocked. The registrant shall ensure that radiation production is possible only when all interlocked doors and panels are securely closed, opening of any interlocked door or panel results in immediate termination of radiation production; and subsequent reactivation of the x-ray tube is only possible at the control panel;
 3. Provide each access point with two interlocks, each on a separate circuit, so that failure of one interlock will not affect the performance of the other interlock;
 4. Provide visible warning signals, activated only during production of radiation at the control panel and each access point to the shielded room;
 5. Make, or cause to be made, an initial evaluation of each shielded room x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years;

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6. Perform radiation surveys to determine exposure with an instrument that meets the requirements of R9-7-1108;
 7. Inspect electrical interlocks and warning devices for correct operation before each use, and maintain a record of each inspection for two years;
 8. Not permit an individual to operate an x-ray machine for shielded room radiography unless the individual has received a copy of, and instruction in, the operating procedures and demonstrated competence in the safe use of the equipment;
 9. Ensure that an individual does not occupy the interior of any shielded room x-ray system during production of radiation;
 10. Provide personnel monitoring devices that meet the requirements of R9-7-1130 to each shielded room x-ray machine operator, and require that each operator use the devices;
 11. Maintain records of:
 - a. Quarterly inventories for mobile systems, as prescribed in R9-7-1110; and
 - b. Utilization logs for all systems, as prescribed in R9-7-1112; and
 12. Maintain records for three years from the date of the quarterly inventory or utilization log.
- D.** A registrant shall connect an enclosed radiography machine to the electrical system in a manner that will prevent a ground fault from generating x-radiation.

Historical Note

New Section R9-7-1140 recodified from R12-1-1140 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1141. Reserved**Historical Note**

Section R9-7-1141 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1142. Baggage and Package Inspection Systems

- A.** For x-ray systems designed to screen carry-on baggage or packages at airlines, railroads, bus terminals, package inspection facilities, or similar facilities, a registrant shall ensure the x-ray system has an operator present at the control area in a position that permits surveillance of the ports and doors during generation of x-radiation to prevent exposure to passengers and other members of the public.
- B.** For an exposure or preset succession of exposures of one-half second or greater duration, a registrant shall use a system that enables the operator to terminate the exposure or preset succession of exposures at any time.
- C.** For an exposure or preset succession of exposures of less than one-half second duration, a registrant shall use a system that allows the operator to complete the exposure in progress, but prevent additional exposures.
- D.** A registrant shall operate a baggage or package inspection system according to the manufacturer's instructions.
- E.** A registrant shall not disconnect or otherwise tamper with the safety systems of a baggage or package inspection system, except for maintenance purposes.
- F.** In addition to the requirements in this Section, a registrant using a baggage or package inspection system shall meet the requirements in R9-7-1140(A), (B), and (D).

Historical Note

New Section R9-7-1142 recodified from R12-1-1142 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1143. Reserved**Historical Note**

Section R9-7-1143 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1144. Reserved**Historical Note**

Section R9-7-1144 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1145. Reserved**Historical Note**

Section R9-7-1145 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1146. Training

- A.** A registrant shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by an independent certifying organization in accordance with the criteria specified in Appendix A.
1. A registrant shall provide the Department with proof of an individual's certification upon request.
 2. A registrant shall maintain proof of an individual's certification at the job site where the individual is performing field radiography.
 3. A registrant that employs a certified radiographer in Arizona shall ensure that:
 - a. The radiographer has obtained initial certification or recertification within the last five years; and
 - b. An uncertified radiographer works only as a radiographer's assistant until certified.
 4. A radiographer shall recertify every five years by:
 - a. Taking an approved radiography certification examination in accordance with this subsection; or
 - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
 5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
 6. A radiographer shall provide the registrant with proof of certification in the form of a card issued by the certifying organization that contains:
 - a. A picture of the certified radiographer,
 - b. The radiographer's certification number,
 - c. The date the certification expires, and
 - d. The radiographer's signature.
- B.** A registrant shall not allow an individual to act as a radiographer until the individual:
1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R9-7-107, the Department registration or registrations under which the individual will perform industrial radiography, and the registrant's operating and emergency procedures;
 2. Demonstrates an understanding of the registrant's registration and operating and emergency procedures by successful completion of a written or oral examination that covers the relevant material;
 3. Receives training in:
 - a. Use of the registrant's radiation machine,
 - b. Daily inspection of the radiation machine, and
 - c. Use of radiation survey instruments; and

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4. Demonstrates an understanding of the use of the radiation machines and survey instruments described in subsection (B)(3) by successful completion of a practical examination covering this material.
- C. A registrant shall not allow an individual to act as a radiographer's assistant until the individual:
1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R9-7-107, the Department registration or registrations under which the radiographer will perform industrial radiography, and the registrant's operating and emergency procedures;
 2. Develops competence to use, under the personal supervision of the radiographer, the registrant's radiation machine and radiation survey instruments; and
 3. Demonstrates understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and demonstrates competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D. A registrant shall provide refresher safety training for each radiographer and radiographer's assistant at intervals that do not exceed 12 months.
- E. Except where an individual serves both as a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and ensure that the Department's rules and registration requirements, and the registrant's operating and emergency procedures, are followed. The inspection program shall:
1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
 2. Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months since the last inspection, each radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and each radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before these workers can participate in a radiographic operation.
- F. A registrant shall maintain records of the training required in this Section, including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).
- G. A registrant shall include the following subjects in the training required under subsection (A):
1. Fundamentals of radiation safety, including:
 - a. Characteristics of x-ray radiation;
 - b. Units of radiation dose and quantity of radioactivity;
 - c. Hazards of exposure to radiation;
 - d. Levels of radiation from x-ray machines; and
 - e. Methods of controlling radiation dose (time, distance, and shielding);
 2. Radiation detection instruments, including:
 - a. Use, operation, calibration, and limitations of radiation survey instruments;
 - b. Survey techniques; and
 - c. Use of personnel monitoring equipment;
 3. Equipment topics, including:
 - a. Operation and control of radiation machines; and
 - b. Inspection and maintenance of each radiation machine and survey instrument;
 4. The requirements of pertinent Department rules; and
 5. Case histories of accidents in radiography.
- H. A registrant shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).
- I. A registrant shall maintain the following records for three years after each record is made:
1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
 2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of items checked during the inspection and any non-compliance observed by the RSO.

Historical Note

New Section R9-7-1146 recodified from R12-1-1146 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Standards for Organizations that Provide Radiography Certification

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

I. Requirements for an Organization that Provides
Radiographer Certification

To qualify to provide radiography certification, an organization shall:

- A. Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;
- B. Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C. Have a certification program that is open to nonmembers, as well as members;
- D. Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- E. Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F. Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G. Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;
- H. Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals, and determine sanctions;
- I. Have written procedures that describe all aspects of the organization's certification program;
- J. Maintain records of the current status of each individual's certification and administration of the certification program;
- K. Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;

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- L. Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;
- M. Exchange information about certified individuals with the Department, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Department of its procedures for choosing examination sites and providing a favorable examination environment.

II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
 1. Obtain training in the subjects listed in R9-7-1146(G), and
 2. Satisfactorily complete a written examination that covers these subjects;
- B. Require an applicant for certification to provide documentation demonstrating that the applicant has:
 1. Received training in the subjects listed in R9-7-1146(G);
 2. Satisfactorily completed the on-the-job training required in R9-7-1146(A); and
 3. Received verification from a registrant that the applicant has demonstrated the capability of independently working as a radiographer;
- C. Provides procedures that protect examination questions from disclosure;
- D. Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E. Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a system for assessing evidence of recent full-time employment and annual refresher training; and
- F. Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A. Is designed to test an individual's knowledge and understanding of the subjects listed in R9-7-1146(G) or equivalent NRC or Agreement State requirements;
- B. Is written in a multiple-choice format; and
- C. Has psychometrically valid questions drawn from a question bank and based on the material in R9-7-1146(G).

Historical Note

New Article 11, Appendix A, recodified from 12 A.A.C. 1, Article 11, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 12. ADMINISTRATIVE PROVISIONS**R9-7-1201. Timeliness**

- A. Any application, request, response, or report required by any rule, order, application, or letter shall be considered timely if it is postmarked on or before the due date, or hand-delivered to the Department office before 5:00 p.m. on the due date. If the due date falls on a Saturday, a Sunday, or a legal holiday, the due date is extended to the end of the next day that is not a Saturday, a Sunday, or legal holiday.

- B. As used in this Article, "working days" are all days other than Saturdays, Sundays, or legal holidays prescribed in A.R.S. § 1-301.

Historical Note

New Section R9-7-1201 recodified from R12-1-1201 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1202. Administrative Hearings

- A. All hearings shall be governed by Title 41, Chapter 6, Article 10.
- B. If the Radiation Regulatory Hearing Board is conducting a hearing, all motions and rulings shall be in writing, except those made during the hearing may be oral. The Board shall ensure that any agreements reached during a conference are incorporated in the record, and that all hearings are recorded.
- C. If it is necessary for an administrative law judge or the Board to visit the site of an alleged violation or activity that is regulated by the Department in order to supplement testimonial or documentary evidence presented at the hearing, the party that proposed the visit shall enter the purpose of the visit and all pertinent observations into the record.

Historical Note

New Section R9-7-1202 recodified from R12-1-1202 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1203. Expired**Historical Note**

New Section R9-7-1203 recodified from R12-1-1203 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Section R9-7-1203 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1204. Expired**Historical Note**

New Section R9-7-1204 recodified from R12-1-1204 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Section R9-7-1204 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1205. Expired**Historical Note**

New Section R9-7-1205 recodified from R12-1-1205 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Section R9-7-1205 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1206. Reserved**Historical Note**

Section R9-7-1206 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1207. Expired**Historical Note**

New Section R9-7-1207 recodified from R12-1-1207 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Section R9-7-1207 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1208. Reserved**Historical Note**

Section R9-7-1208 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1209. Expired

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New Section R9-7-1209 recodified from R12-1-1209 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1209 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1210. Expired**Historical Note**

New Section R9-7-1210 recodified from R12-1-1210 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1210 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1211. Expired**Historical Note**

New Section R9-7-1211 recodified from R12-1-1211 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1211 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1212. Expired**Historical Note**

New Section R9-7-1212 recodified from R12-1-1212 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1212 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1213. Severity Levels of Violations**A.** The following violations are classified as severity level I violations:

1. Any failure, malfunction, or insufficiency of a safety system which may result in
 - a. Radiation exposure to a person,
 - b. A concentration of radionuclides; or
 - c. A radiation level, in excess of 10 times the limits specified in 9 A.A.C. 7, or 10 times the prescribed therapeutic patient dose.
2. Any inaccurate or incomplete information that is intentionally provided by a licensee or registrant official, and if the information had been complete and accurate at the time it was provided, would have likely resulted in action such as an immediate order required to protect the public health and safety.
3. Any information that the Department requires be kept by a licensee or registrant that is incomplete or inaccurate because of falsification by or with the knowledge of a licensee or registrant official, and if the information had been complete and accurate at the time it was reviewed by the Department, would have likely resulted in action such as an immediate order required to protect the public health and safety.
4. Any concealment or attempted concealment of a severity level I violation of the Act, 9 A.A.C. 7, or a license condition. This is a separate violation in addition to the original violation.
5. Any concealment or attempted concealment of a severity level II violation of the Act, 9 A.A.C. 7, or a license condition. This violation shall increase the severity level of the original violation by one level.
6. For the purposes of subsections (A)(2) and (3) above the term "licensee or registrant official" means the owner, a partner, a corporate officer, a radiation safety officer, the individual signing an application for a license or registration, or the chairman of any radiation safety committee supervising the radiation safety program of the licensee or registrant.

B. The following violations are classified as severity level II violations:

1. Any failure, malfunction, or insufficiency of a safety system which may result in:
 - a. Radiation exposure to a person,
 - b. A concentration of radionuclides, or
 - c. A radiation level, in excess of two times the limits specified in 9 A.A.C. 7, or two times the prescribed therapeutic patient dose.
2. Any attempt to prevent a Department inspection.
3. Any concealment or attempted concealment of a severity level III violation of the Act, 9 A.A.C. 7, or a license condition by a licensee or registrant official as defined in subsection (A)(6). This violation shall increase the severity level of the original violation by one level.
4. Significant information provided and designated by a licensee or registrant and not previously provided to the Department because of careless disregard on the part of a licensee official or registrant.

C. The following violations are classified as severity level III violations:

1. Any failure, malfunction, or insufficiency of a safety system, or loss of control over a radiation source, which may result in:
 - a. Radiation exposure to a person,
 - b. A concentration of radionuclides, or
 - c. A radiation level in excess of the limits specified in 9 A.A.C. 7, or 20% higher than the prescribed therapeutic patient dose.
2. Any concealment or attempted concealment of a severity level IV or V violation of the Act, 9 A.A.C. 7, or a registration or license condition. This violation shall increase the severity level of the original violation by one level.
3. Any violation of the safety requirements for the use, storage, disposal, or the preparation for transportation of sources of radiation, as prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I or II violation and the licensee or registrant does not maintain a radiation protection program meeting the requirements of R9-7-407.
4. Any factually incorrect statement upon which the Department relied or would have relied in consideration of any action.
5. Any unlawful attempt to interfere with the progress of an inspection by the Department.
6. The acquisition of any source of radiation without the applicable current registration or license, unless otherwise authorized by these rules; or use of the source outside the scope of the current registration or license.
7. The continued use of sources of radiation after April 1, if the annual fee has not been paid for the current year.

D. The following violations are classified as severity level IV violations:

1. Any violation of R9-7-407;
2. Any violation of the safety requirements for the use, storage, disposal, or preparation for transportation of sources of radiation, prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I, II or III violation;
3. Failure to maintain records of mammography quality control tests required in R9-7-614.
4. Any failure to comply with the reporting requirements in the Act or 9 A.A.C. 7.

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E. The following violations are classified as severity level V violations:

1. Failure of a registrant or a licensee to comply with the recordkeeping requirements of:
 - a. The Act;
 - b. 9 A.A.C. 7; or
 - c. A registration or facility certification, or license condition, provided that all safety requirements prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition are met or otherwise demonstrated.
2. If compliance with all safety requirements cannot be demonstrated by the registrant or licensee the failure to comply with the recordkeeping requirements is classified as a level IV violation.

Historical Note

New Section R9-7-1213 recodified from R12-1-1213 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1214. Mitigating Factors

A. The Department may refrain from issuing a Notice of Violation for Severity Level IV or V violations identified by the registrant or licensee provided the severity level IV or V violations are identified in an inspection report, the report includes a brief description of the corrective action, and the violation meets all of the following criteria:

1. It was identified by the licensee, as a result of an event discovered by the licensee or registrant;
2. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
3. It was or will be corrected within a reasonable time, by specific corrective action committed to by the registrant or licensee by the end of the inspection. The corrective action shall include comprehensive measures that will prevent reoccurrence;
4. It was not a willful violation or, if it was willful:
 - a. The violation was reported to the Department;
 - b. The violation appears to be the isolated action of an employee without management involvement and the violation was not caused by lack of management oversight;
 - c. Significant remedial action was taken by the licensee or registrant, demonstrating the seriousness of the violation to all affected personnel.

B. The Director may:

1. Reduce the scheduled civil penalty, including any augmentation, by 50% for the discovery, remedy, and voluntary reporting of a severity level I or II violation by the registrant or licensee; or
2. Waive the scheduled civil penalty, including augmented civil penalties, for the discovery, remedy, and voluntary reporting of a severity level III, IV, or V violation by the registrant or licensee. For the purposes of this rule, "voluntary reporting" means that the registrant or licensee has notified the Department of a violation, the reporting of which may or may not be required under 9 A.A.C. 7.

Historical Note

New Section R9-7-1214 recodified from R12-1-1214 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1215. License and Registration Divisions

A. Each registrant or license type is classified into one of three administrative sanction divisions.

1. Division I licenses and registrations:

- a. Broad Academic Class A,
- b. Broad Academic Class B,
- c. Broad Academic Class C,
- d. Broad Industrial Class A,
- e. Broad Medical,
- f. Class C Laser Facility,
- g. Distribution,
- h. Fixed Gauge Class A,
- i. Industrial Radiography Class A,
- j. Low Level Radioactive Waste Disposal Site,
- k. Major Accelerator Facility,
- l. Medical Materials Class A,
- m. Medical Teletherapy,
- n. NORM Commercial Disposal Site,
- o. Nuclear Laundry,
- p. Nuclear Pharmacy,
- q. Open Field Irradiator,
- r. Secondary Uranium Recovery,
- s. Waste Processor Class A,
- t. Well Logging,
- u. X-Ray Machine Class A.

2. Division II licenses and registrations:

- a. Broad Industrial Class B,
- b. Broad Industrial Class C,
- c. Class B Industrial Radiofrequency Facility,
- d. Class B Laser Facility,
- e. Class C Industrial Radiofrequency Facility,
- f. Fixed Gauge Class B,
- g. Health Physics Class A,
- h. Industrial Radiation Machine,
- i. Industrial Radiography Class B,
- j. Laser Light Show,
- k. Limited Academic,
- l. Medical Imaging Facility,
- m. Medical Laser,
- n. Medical Materials Class B,
- o. Medical Radiofrequency Device Facility,
- p. NORM Commercial Disposal Site,
- q. Research and Development,
- r. Self Shielded Irradiator,
- s. Tanning Facility,
- t. Waste Processor Class B,
- u. X-Ray Machine Class B.

3. Division III licenses and registrations:

- a. Class A Industrial Radiofrequency Facility,
- b. Class A Laser Facility,
- c. Gas Chromatograph,
- d. General Depleted Uranium,
- e. General Industrial,
- f. General Medical,
- g. General Veterinary Medicine,
- h. Health Physics Class B,
- i. Laboratory,
- j. Leak Detector,
- k. Limited Industrial,
- l. Medical Materials Class C,
- m. Other Ionizing Radiation Machine,
- n. Other Nonionizing Radiation Machine,
- o. Portable Gauge,
- p. Possession Only,
- q. Radioactive waste transfer-for-disposal,
- r. Unclassified,
- s. Veterinary Medicine,
- t. X-ray Machine Class C,
- u. Class A Medical (non-cosmetic) Radiofrequency Facility,

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- v. Class B Medical (non-cosmetic) Radiofrequency Facility,
 - w. Class C Medical (non-cosmetic) Radiofrequency Facility,
 - x. Class D Medical (non-cosmetic) Radiofrequency Facility.
- B.** Any person required by the Act to register the use of a general license with the Department, or to obtain a specific license from the Department, is considered a licensee of the appropriate type notwithstanding the failure of the person to register or obtain a license.
- C.** The Department shall classify each person that possesses an out-of-state specific license for the use of radioactive material and operates in Arizona under reciprocal recognition, as prescribed in R9-7-320 and authorized in R9-7-1302(D)(16), by placing the person into the administrative sanction division listed in subsection (A) that best defines the out-of-state, licensed activities.
- D.** For administrative purposes, the following persons are classified with the Division III licensees and registrants in subsection (A)(3):
1. Any person not required to register the use of a general license,
 2. Any person not required to obtain a specific license,
 3. Any person not required to register a source of radiation who violates the Act or 9 A.A.C. 7, and
 4. Any person registered to provide x-ray machine service.

Historical Note

New Section R9-7-1215 recodified from R12-1-1215 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1216. Civil Penalties

- A.** Except as augmented by R9-7-1217, the schedule of civil penalties is as follows:
1. Severity level I violations:
 - a. Division I registration or license -- \$4,000;
 - b. Division II registration or license -- \$3,000;
 - c. Division III registration or license -- \$2,000.
 2. Severity level II violations:
 - a. Division I registration or license -- \$3,000;
 - b. Division II registration or license -- \$2,000;
 - c. Division III registration or license -- \$1,000.
 3. Severity level III violations:
 - a. Division I registration or license -- \$2,000;
 - b. Division II registration or license -- \$1,000;
 - c. Division III registration or license -- \$500.
 4. Severity level IV violations:
 - a. Division I registration or license -- \$1,000;
 - b. Division II registration or license -- \$500;
 - c. Division III registration or license -- \$250.
 5. Severity level V violations:
 - a. Division I registration or license -- \$500,
 - b. Division II registration or license -- \$250,
 - c. Division III registration or license -- \$125.
- B.** Payment of civil penalties for severity level I and severity level II violations may not be avoided merely by rectifying the condition; however, the Board may mitigate or waive the penalty upon determining a violation meets all of the following:
1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
 2. It was or will be corrected within the time given for corrections, by specific corrective action committed to by the licensee or registrant by the end of the inspection,
- which includes immediate and comprehensive measures to prevent recurrence;
3. It was not a willful violation.
- C.** The Director or Board shall waive payment of penalties for severity level III through severity level V violations provided:
1. The violation is not subject to augmentation under R9-7-1217; and
 2. The registrant or licensee submits a timely and adequate response to the notice; rectifies the conditions which appear to have caused the violation; and complies with the Act, 9 A.A.C. 7, registration, and license conditions.

Historical Note

New Section R9-7-1216 recodified from R12-1-1216 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1217. Augmentation of Civil Penalties

- A.** A continuing violation, for the purposes of calculating the proposed civil penalty, is considered a separate violation for each day it continues. The second (or successive) day of a continuing violation is not considered a repeat violation of the violation occurring on the first day.
- B.** If a second severity level I violation is committed within five years, the Department shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R9-7-1219.
- C.** If a second severity level II violation is committed within a period of five years, the Department shall increase the base civil penalty by 50%, provided the registration or license is not revoked under R9-7-1219.
- D.** If a severity level III violation is repeated within five years, the Department shall increase the base civil penalty by 50%. If the same severity level III violation is repeated a second time within five years, the base civil penalty shall be increased by 100%, provided the registration or license is not revoked under R9-7-1219.
- E.** If a severity level IV violation is repeated within five years, the Department shall propose the base civil penalty.
1. If the same violation occurs three times within five years, the Department shall increase the base civil penalty by 50%.
 2. If the same violation occurs four times within five years, the Department shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R9-7-1219.
- F.** If more than three severity level V violations are observed during two consecutive inspections, the Department shall impose a civil penalty for each violation. The base civil penalty for each violation is the base civil penalty assessed for a severity level V violation. If the inspection shows repetition of a violation the base civil penalty for each repeat violation is the base civil penalty assessed for a severity level IV violation. Subsection (E) does not apply to penalties under this subsection.
- G.** Other rights and procedures are not affected by the repeat nature of a violation.
- H.** A person may avoid the penalties in subsections (D) and (E) by demonstrating to the Director in the response to the penalty that the violation meets all of the following criteria:
1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
 2. It was or will be corrected within the time given for correction, by specific corrective action committed to by the licensee or registrant by the end of the inspection, which

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includes immediate and comprehensive measures to prevent recurrence;

3. It was not a willful violation.

- I. Notwithstanding any other provision of this Section, the Department shall not impose a penalty that exceeds a maximum of \$5,000 for each violation for each day up to a maximum of \$25,000 for any 30-day period.

Historical Note

New Section R9-7-1217 recodified from R12-1-1217 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1218. Expired

Historical Note

New Section R9-7-1218 recodified from R12-1-1218 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1218 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1219. Additional Sanctions-Show Cause

- A. If a severity level I violation is repeated or if any second severity level I violation is committed within 10 years, the Department shall require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.
- B. If any second severity level II violation is committed within five years, or if a severity level II violation involving radioactive effluent releases, excessive radiation levels, or radiation overexposure to an individual is committed within five years of a similar severity level I violation, the Department shall require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.
- C. If repeated or different severity level III violations are committed on three separate occasions within any five year period, the Department may require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.

Historical Note

New Section R9-7-1219 recodified from R12-1-1219 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1220. Escalated Enforcement

- A. The Director may issue an order to suspend, revoke, or modify a registration or license, or impound a radiation source for:
 1. Any severity level I violation; or
 2. Any of the following occurring within a five-year period:

- a. A repeat severity level II violation,
- b. A different second severity level II violation, or
- c. A severity level II violation after a severity level I violation.

- B. The Director may issue an order impounding the radiation source or suspending, revoking, or modifying the registration or license upon determining that conditions exist which cause a potential for a severity level I or severity level II violation.
- C. The Department shall hold hearings according to A.R.S. § 30-688.
- D. An order to impound a radiation source, or an order to suspend, revoke, or modify a registration or a license shall remain in effect until the order is suspended or modified by the Board according to A.R.S. § 30-688.

Historical Note

New Section R9-7-1220 recodified from R12-1-1220 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1221. Reserved

Historical Note

Section R9-7-1221 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1222. Expired

Historical Note

New Section R9-7-1222 recodified from R12-1-1222 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1222 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1223. Registration and Licensing Time-frames

The Department shall perform an administrative completeness review and substantive review of an application for a new or renewal license or registration; or an amendment to a license or registration within the time-frames in Table A. The Department shall review an application for an amendment to an existing license or registration that changes the license category listed in R9-7-1306, using the time-frames specified for the requested category.

Historical Note

New Section R9-7-1223 recodified from R12-1-1223 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Table A. Registration and Licensing Time-frames

REGISTRATION AND LICENSING TIME-FRAMES

License or Registration category in R9-7-1306	Administrative Completeness Review Time-frame, in days	Substantive Review Time-frame, in days	Overall Time-frame, in days
A1	90	30	120
A2	90	30	120
A3	90	30	120
A4	60	30	90
B1	90	30	120
B2	90	30	120
B3	90	30	120
B4	90	30	120
B5	90	30	120
B6	40	20	60
C1	60	30	90
C2	60	30	90
C3	60	30	90

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C4	60	30	90
C5	60	30	90
C6	60	30	90
C7	60	30	90
C8	90	30	120
C9	60	30	90
C10	40	20	60
C11	90	30	120
C12	90	30	120
C13	90	30	120
C14	90	30	120
C15	90	30	120
C16	90	30	120
C17	90	30	120
D1	90	30	120
D2	90	30	120
D3	90	30	120
D4	40	20	60
D5	40	20	60
D6	90	30	120
D7	40	20	60
D8	60	30	90
D9	90	30	120
D10	90	30	120
D11	1095	365	1460
D12	730	180	910
D13	365	90	455
D14	90	30	120
D15	40	20	60
D16	20	10	30
D17	40	20	60
D18	90	30	120
D19	365	120	485
E1	40	20	60
E2	40	20	60
E3	40	20	60
E4	40	20	60
E5	90	30	120
E6	90	30	120
F1	40	20	60
F2	40	20	60
F3	40	20	60
F4	40	20	60
F5	20	10	30
F6	40	20	60
F7	40	20	60
F8	40	20	60
F9	40	20	60
F10	40	20	60
F11	40	20	60
F12	40	20	60

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F13	40	20	60
F14	40	20	60
F15	40	20	60
F16	90	30	120

Footnote: “administrative completeness review time-frame”; “substantive review time-frame,” and “overall time-frame” are defined in A.R.S. § 41-1072.

Historical Note

New Article 12, Table 1, recodified from 12 A.A.C. 1, Article 12, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 13. LICENSE AND REGISTRATION FEES**R9-7-1301. Definition**

“Combined” means the Department has granted authorized activities contained in two or more license types in a single license document, requiring the payment of a single license fee for the more expensive license of the planned combination.

Historical Note

New Section R9-7-1301 recodified from R12-1-1301 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1302. License and Registration Categories

- A. Category A licenses are those specific licenses that authorize a school, college, university, or other teaching facility to possess and use radioactive materials for instructional or research purposes.
1. A broad academic class A license is any category A license that meets the specifications of R9-7-310(A)(1).
 2. A broad academic class B license is any category A license other than a broad academic class A license that meets the specifications of R9-7-310(A)(2).
 3. A broad academic class C license is any category A license other than a broad academic class A or B license that meets the specifications of R9-7-310(A)(3).
 4. A limited academic license is any category A license that authorizes only those radioisotopes, forms, and quantities individually specified in the license.
- B. Category B licenses are those specific or general licenses that authorize the application of radioactive material or the radiation from it to a human being for medical diagnostic, therapeutic, or research purposes, or the use of radioactive material in medical laboratory testing. Except for a type B6, general medical license, the Department shall not combine a category B license with a license of any other category.
1. A broad medical license is any category B license that meets the specifications of R9-7-310(A)(1) and meets the requirements of 9 A.A.C. 7, Article 7. A broad medical license may authorize any medical use other than teletherapy.
 2. A medical materials class A license is any specific category B license other than a broad medical license, that authorizes the use of radiopharmaceuticals and sealed sources containing radioactive materials for a therapeutic purpose in quantities that require hospitalization of the patient for radiation safety purposes. The license may authorize other radioactive materials and other medical uses, except teletherapy.
 3. A medical materials class B license is any specific category B license that authorizes the diagnostic or therapeutic use, other than teletherapy, of radioactive materials only in limited quantities such that the patient need not be hospitalized for radiation safety purposes.
 4. A medical materials class C license is any specific category B license that authorizes possession of specified radioisotopes only in the form of sealed sources for treatment of the eye or skin or for use in diagnostic medical imaging devices.
5. A medical teletherapy license is a specific category B license that solely authorizes radioisotopes in the form of multi-curie sealed sources for use in external beam therapy. The Department shall not combine a medical teletherapy license with any other type of category B license.
6. A general medical license is one that authorizes the use of radioactive material pursuant to R9-7-306(D) or R9-7-306(E). A general medical license may be combined into a broad medical, medical materials class A, or medical materials class B license.
- C. Category C licenses are those specific or general licenses that authorize the use of radioactive materials in any activity other than those authorized by a category A, B, or D license. Except as specifically authorized in this Section, the Department shall not combine a category C license with any other type of license.
1. A broad industrial class A license is any category C license that meets the specifications of R9-7-310(A)(1). The Department may combine a broad industrial class A license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
 2. A broad industrial class B license is any category C license other than a broad industrial class A license that meets the specifications of R9-7-310(A)(2). The Department may combine a broad industrial class B license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
 3. A broad industrial class C license is any category C license other than a broad industrial class A or B license that meets the specifications of R9-7-310(A)(3). The Department may combine a broad industrial class C license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
 4. A limited industrial license is a specific category C license that authorizes the possession of the radioactive materials authorized in R9-7-305(A), or R9-7-306(A), (C), or (F) for uses authorized in those subsections, but in quantities greater than authorized by those subsections.
 5. A portable gauge license is a specific category C license that authorizes radioactive materials in the form of sealed sources for use in measuring or gauging devices designed and manufactured to be transported to the location of use. The Department may combine a portable gauge license with any broad scope industrial license or a fixed gauge class A license.
 6. A fixed gauge class A license is a specific category C license that authorizes the possession of 50 or more measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.

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7. A fixed gauge class B license is a specific category C license that authorizes the possession of 1 through 49 measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
 8. A leak detector license is a specific category C license that authorizes the use of radioisotopes in the form of a gas to test hermetic seals on electronic packages.
 9. A gas chromatograph license is a specific category C license that authorizes the use of radioactive materials as ionization sources in gas chromatography or electron capture devices.
 10. A general industrial license is one that authorizes the use of a material, source, or device generally licensed pursuant to R9-7-305 or R9-7-306, except R9-7-305(B), R9-7-306(D), or R9-7-306(E).
 11. An industrial radiography class A license is a specific category C license that authorizes industrial radiography using sealed radioisotope sources at specific facilities identified in the license conditions or at temporary field job sites.
 12. An industrial radiography class B license is a specific category C license that authorizes industrial radiography using sealed radioisotope sources only at specific facilities identified in the license conditions.
 13. An open field irradiator license is a specific category C license that authorizes the use of radioisotopes in the form of sealed sources not permanently mounted within a shielding container, for irradiation of materials.
 14. A self-shielded irradiator license is a specific category C license that authorizes the use of radioisotopes in the form of sealed sources for irradiation of materials in a shielding device from which the sources are not removed during irradiation. The Department may combine a self-shielded irradiator license with any broad license.
 15. A well logging license is a specific category C license that authorizes the use of radioactive material in sealed or unsealed sources for wireline services or field tracer studies.
 16. A research and development license is a specific category C license that authorizes a licensee to utilize radioactive material in unsealed and sealed form for industrial, scientific, or biomedical research, not including administration of radiation or radioactive material to human beings.
 17. A laboratory license is a specific category C license that authorizes a licensee to perform specific in-vitro or in-vivo medical or veterinary testing, while possessing quantities of radioactive material greater than the general license quantities authorized in R9-7-306.
- D.** Category D licenses are the following specific or general radioactive material licenses. Except for type D4, general industrial; type D5, depleted uranium; type D8 and D9, health physics; and type D14, additional facilities licenses, the Department shall not combine a category D license with any other license.
1. A distribution license is one that authorizes the commercial distribution of radioactive materials or radioisotopes in products to persons holding an appropriate general or specific license. The Department shall ensure that a distribution license does not:
 - a. Authorize distribution of radiopharmaceuticals or distribution to persons exempt from regulatory control, or
 - b. Authorize any other use of the radioactive material. An appropriate category C license is required for possession of radioisotopes and their incorporation into products.
 2. A nuclear pharmacy license is one that authorizes the preparation, compounding, packaging, or dispensing of radiopharmaceuticals for use by other licensees.
 3. A nuclear laundry license is one that authorizes the collection and cleaning of items contaminated with radioactive materials.
 4. A general industrial gauging device license is one that authorizes the use of a gauging device in accordance with R9-7-306(A). The Department may combine a general industrial gauging device license with a class A, B, or C broad industrial, limited industrial, portable gauge, or class A or B fixed gauge license.
 5. A general depleted uranium license is one that authorizes the use of the general license authorized pursuant to R9-7-305(C) or the use of depleted uranium as a concentrated mass or as shielding for another radiation source within a device or machine. The Department may combine a general depleted uranium license with a medical teletherapy; class A, B, or C broad industrial; portable gauge; class A or B fixed gauge; class A or B industrial radiography; or self-shielded irradiator license. For licensing purposes, an applicant shall follow the requirements in R9-7-305(C).
 6. A veterinary medicine license is one that authorizes the use of radioactive materials for specific applications in veterinary medicine as authorized in the license.
 7. A general veterinary medicine license is one that authorizes the use of the general license authorized in R9-7-306(E) in veterinary medicine.
 8. A health physics class A license is one that authorizes the use of radioactive materials for performing instrument calibrations, processing leak test or environmental samples, or providing radiation dosimetry services.
 9. A health physics class B license is one that authorizes only the collection, possession, and transfer of radioactive materials in the form of leak test samples for processing by others.
 10. A secondary uranium recovery license is one that authorizes the extraction of natural uranium or thorium from an ore stream or tailing that is being or has been processed primarily for the extraction of another mineral. The Department shall not combine a secondary uranium recovery license with any other license.
 11. A low-level, radioactive waste disposal facility license is a license that is issued for a "disposal facility," as that term is used in R9-7-439 and R9-7-442, that has a closure or long-term care plan and is constructed and operated according to the requirements in 10 CFR 61, revised January 1, 2015, incorporated by reference, available under R9-7-101 and containing no future editions or amendments.
 12. A waste processor class A license is one that authorizes the incineration, compaction, repackaging, or any other treatment or processing of low-level radioactive waste prior to transfer to another person authorized to receive or dispose of the waste. The Department shall not combine a waste processor class A license with any other license.
 13. A waste processor class B license is one that authorizes a waste broker to receive prepackaged, low-level radioactive waste from other licensees; combine the waste into shipments; and transfer the waste without treating or processing the waste in any manner and without repackaging except to place damaged or leaking packages into overpacks. The Department shall not combine a waste processor class B license with any other license.

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14. An additional storage and use site license is an endorsement, by license condition to an existing specific license, authorizing one or more additional separate facilities where radioactive material may be stored or used for a period exceeding six months.
 15. A possession-only license is a license of any other category that authorizes only the possession in storage, but no use of, the authorized materials. A license that has been suspended as an enforcement action is not considered a possession-only license.
 16. A reciprocal license is the general license authorized by R9-7-320. This license is subject to a special fee as provided by R9-7-1306(C) but is exempt from annual fees.
 17. Reserved
 18. An "unclassified" radioactive material license is one that authorizes radioisotopes, physical or chemical forms, possession limits, or uses not included in any other type of license specified in this Section.
 19. A NORM commercial disposal site license is one that authorizes the receipt of waste material contaminated with naturally occurring radioactive material from other licensees for permanent disposal, provided the concentration of the radioactive material does not exceed 74kBq (2,000 picocuries)/gram.
- E.** Category E registrations are those that register the possession of x-ray machine(s) under 9 A.A.C. 7, Article 2. The Department shall not combine category E registrations with any other registration.
1. An X-ray machine class A registration is one authorizing the possession of X-ray machines in a hospital or other facility offering inpatient care.
 2. An X-ray machine class B registration is one authorizing the possession of X-ray machines in a medical, osteopathic, or chiropractic office or clinic not offering inpatient care; or the possession of X-ray machines in a school, college, university, or other teaching facility.
 3. An X-ray machine class C registration is one authorizing the possession of X-ray machines in dental, podiatry, or veterinarian offices or clinics.
 4. An industrial radiation machine registration is one authorizing the possession of X-ray machines, or the possession of particle accelerators not capable of producing a high radiation area, in a nonmedical facility.
 5. An accelerator facility registration is one authorizing the possession and operation of one or more particle accelerators of any kind capable of accelerating any particle and producing a high radiation area.
 6. An "other" ionizing radiation machine registration is one authorizing possession or use of an ionizing radiation machine not included in any other category specified in subsection (E).
- F.** Category F registrations are those that register non-ionizing radiation producing sources regulated under 9 A.A.C. 7, Article 14. The Department shall not combine category F registrations with any other registration categories that have a difference in fee per unit.
1. A tanning registration authorizes the commercial operation of one or more tanning booths, beds, cabinets, or other devices in a single establishment.
 2. A Class A laser registration authorizes the operation of one to 10 laser devices subject to R9-7-1433.
 3. A Class B laser registration authorizes the operation of 11 to 49 laser devices subject to R9-7-1433.
 4. A Class C laser registration authorizes operation of 50 or more laser devices subject to R9-7-1433.
 5. A laser light show or laser demonstration registration authorizes the operation of a laser device subject to R9-7-1441.
 6. A medical laser registration authorizes the operation of one or more laser devices subject to R9-7-1440.
 7. A Class II surgical device registration authorizes the operation of one or more Class II surgical devices subject to R9-7-1438. A device is designated as a Class II surgical device by the USFDA and is labeled as such by the manufacturer.
 8. A cosmetic radiofrequency device registration authorizes the operation of one or more medical radiofrequency devices for non-ionizing cosmetic procedures.
 9. A class A industrial radiofrequency device registration authorizes the operation of one to five radiofrequency devices.
 10. A class B industrial radiofrequency device registration authorizes the operation of six to 20 radiofrequency devices.
 11. A class C industrial radiofrequency device registration authorizes the operation more than 20 radiofrequency devices.
 12. A medical radiofrequency device registration authorizes the operation of one or more medical radiofrequency devices for non-ionizing, non-cosmetic procedures.
 13. An "other" non-ionizing radiation device registration authorizes the operation of a non-ionizing radiation device or other device not included in any other category specified in subsection (F).

Historical Note

New Section R9-7-1302 recodified from R12-1-1302 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1303. Fee for Initial License and Initial Registration

An applicant shall remit for a new license or new registration the appropriate fee as prescribed in R9-7-1306 and Table 13.1. Table of Fees.

Historical Note

New Section R9-7-1303 recodified from R12-1-1303 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1304. Annual Fees for Licenses and Registrations

- A.** Each license or registration issued by the Department shall identify the category by a letter and number corresponding to the appropriate subsection of R9-7-1302 or the category and type listed in Table 13.1. Table of Fees.
- B.** Except as specified in R9-7-1306(C), (D), and (E), each licensee or registrant shall submit payment of the annual fee in the amount prescribed in Table 13.1 Table of Fees on or before January 1 of each year. This single annual fee will cover any and all renewals, amendments, and regular inspections of the license during the forthcoming calendar year.
- C.** If a licensee or registrant fails to pay the annual fee by January 1, the license is not current.
- D.** If a licensee or registrant fails to pay the annual fee by April 1, the Department shall apply administrative sanction provisions of Article 12 of this Chapter.
- E.** A licensee who is required to pay an annual fee under this Article may qualify as a small entity and pay the reduced

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annual fee in Table 13.2 if the licensee has the following characteristics:

1. For a business not engaged in manufacturing or a not-for-profit organization, having a three-year average of gross annual receipts of \$6.5 million or less;
 2. For an entity engaged in manufacturing, having an annual average of no more than 500 employees;
 3. For a government jurisdiction, not including publicly supported educational institutions, having no more than 50,000 residents in the jurisdiction;
 4. For a publicly supported educational institution, having no more than 50,000 faculty, staff, and students; and
 5. For an educational institution that is not publicly supported, having no more than 500 faculty and staff.
- F.** A licensee who seeks to establish status as a small entity for the purpose of paying an annual fee in Table 13.2, rather than the annual fee in Table 13.1, shall file with the Department a certification statement annually on Department Form 333, accessed through the Department website at <https://azdhs.gov/documents/licensing/radiation-regulatory/forms/ram-small-entity-form.pdf>, for each license under which the licensee is billed.
- G.** If a licensee qualifies as a small entity and provides the Department with the certification required in subsection (F), the licensee may pay the applicable reduced annual fee shown in Table 13.2. Small Entity Fees. Failure to file a small entity certification, according to subsection (F), in a timely manner may result in the licensee being required to pay the applicable fee in Table 13.1. Table of Fees.

Historical Note

New Section R9-7-1304 recodified from R12-1-1304 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1305. Method of Payment

- A.** An applicant licensee or registrant shall pay fees by check or money order, payable to the "State of Arizona" at the address shown on the application, license, registration, or renewal notice.
- B.** Once a license or registration has been issued, no portion of the application fee or any annual fee will be refunded.

Historical Note

New Section R9-7-1305 recodified from R12-1-1305 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1306. Application Fees and Annual Fees

- A.** The application fee or annual fee for each category and type is shown in Table 13.1. Table of Fees.
- B.** The fee for a category D11 license, for a low-level radioactive waste disposal site, is \$6,000,000 for years one through five. Based on data gathered during the first five years, the Department shall set a reasonable fee after consideration of the following factors:
1. Unrecovered costs that the Department may charge under A.R.S. § 30-654(B)(18), and
 2. Actual costs incurred by the Department in regulating the licensee.
- C.** The fee for a category D16 license, providing reciprocal recognition under R9-7-320 of a radioactive materials license issued by the NRC or another Agreement state, is half of the annual fee for an Arizona license of the appropriate category and type. If there is no Arizona license of the appropriate category and type, the Department shall assess the "Full Cost" fee according to subsection (D) or (E), as applicable. The fee is

due and payable at the time reciprocity is requested, and the general license does not become current until the fee is paid.

- D.** "Full Cost" for an application fee is based on professional personnel time for preparation, travel, onsite inspection, any reports, review of findings, and preparation of the license or registration or denial charged at \$99 per hour and mileage charged at 44.5¢ per mile. The Department shall assess the licensee or registrant 90% of the estimated full cost of issuing the license or registration. The Department will assess for any remaining costs when it is prepared to issue the license, registration, denial, or if Department costs for the requested activity exceed \$10,000.
- E.** "Full Cost" for an annual fee is based on professional personnel time for preparation, travel, onsite inspection, preparation of reports, review of findings, and preparation for any inspections or completion of any amendments to the license, registration or denials charged at \$99 per hour and mileage charged at 44.5¢ per mile for the preceding 12 months.

Historical Note

New Section R9-7-1306 and Table 13.1 recodified from R12-1-1306 and Table 13.1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Table 13.1 under subsection (A) repealed; Section amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1307. Repealed**Historical Note**

New Section R9-7-1307 recodified from R12-1-1307 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Repealed by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1308. Fee for Requested Inspections

- A.** A licensee or registrant may request an inspection of its facility at any time. The Department shall assess the licensee or registrant the full cost of the inspection, based on personnel time for preparation, travel, onsite inspection, review of findings, and preparation of a report, charged at \$99 per hour and mileage charged at 44.5¢ per mile.
- B.** The fee specified in this Section does not apply to:
1. Regular inspections as scheduled by the Department,
 2. Enforcement reinspections conducted to ensure the correction of violations or safety hazards, or
 3. Inspections requested by workers pursuant to R9-7-1007.

Historical Note

New Section R9-7-1308 recodified from R12-1-1308 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1309. Abandonment of License or Registration Application

- A.** Any license or registration application for which the applicant has been provided a written notification of deficiencies in the application and for which the applicant does not make a written attempt to supply the requested information or request an extension in writing within 90 days of the date of the written notice of deficiencies, is considered abandoned and will not be processed.
- B.** If an applicant does not act in the time-frame specified in subsection (A), the applicant shall submit a new application with the appropriate fee.

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Historical Note

New Section R9-7-1309 recodified from R12-1-1309 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Historical Note

New Article 13, Table 1, recodified from 12 A.A.C. 1, Article 13, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Table 1, Small Entity Fees repealed by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

Table 1. Repealed**Table 13.1. Table of Fees**

Category	Type	Application/Annual Fee
A1	Broad academic class A	\$10,000
A2	Broad academic class B	\$10,000
A3	Broad academic class C	\$10,000
A4	Limited academic	\$2,500
B1	Broad medical	\$20,000
B2	Medical materials class A	\$4,000
B3	Medical materials class B	\$4,000
B4	Medical materials class C	\$4,000
B5	Medical teletherapy	\$8,000
B6	General medical	\$500
C1	Broad industrial class A	\$20,000
C2	Broad industrial class B	\$20,000
C3	Broad industrial class C	\$6,000
C4	Limited industrial	\$1,500
C5	Portable gauge	\$2,000
C6	Fixed gauge class A	\$2,000
C7	Fixed gauge class B	\$2,000
C8	Leak detector	\$2,000
C9	Gas chromatograph	\$2,000
C10	General industrial	\$300
C11	Industrial radiography class A	\$10,000
C12	Industrial radiography class B	\$10,000
C13	Open field irradiator	\$10,000
C14	Shelf-shielded irradiator	\$5,000
C15	Well logging	\$5,000
C16	Research and development	\$5,000
C17	Laboratory	\$3,000
D1	Distribution	\$5,000
D2	Nuclear pharmacy	\$10,000
D3	Nuclear laundry	\$25,000
D4	General industrial gauging device	\$500
D5	General depleted uranium	\$200
D6	Veterinary medicine	\$2,000
D7	General veterinary medicine	\$500
D8	Health physics class A	\$5,000
D9	Health physics class B	\$3,000
D10	Secondary uranium recovery	\$8,000
D11	Low-level radioactive waste disposal facility	According to R9-7-1306(B)
D12	Waste processor class A	\$10,000

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D13	Waste processor class B	\$8,000
D14	Additional storage and use site	30% of the applicable fee for each additional site
D15	Possession-only	50% of the applicable fee for the category under which storage will occur
D16	Reciprocal	According to R9-7-1306(C)
D17	Reserved	
D18	Unclassified radioactive material	Full Cost, according to R9-7-1306(D) or (E)
D19	NORM commercial disposal site	\$600,000
E1	X-ray machine class A (per tube)	\$195
E2	X-ray machine class B (per tube)	\$145
E3	X-ray machine class C (per tube)	\$95
E4	Industrial radiation machine (per device)	\$95
E5	Accelerator facility	\$2,500
E6	Other ionizing radiation machine	Full Cost, according to R9-7-1306(D) or (E)
F1	Tanning device (per device)	\$50
F2	Class A laser (1 to 10 laser devices)	\$300
F3	Class B laser (11 to 49 laser devices)	\$600
F4	Class C laser (50 or more laser devices)	\$1,000
F5	Laser light show or laser demonstration	\$500
F6	Medical laser (per laser device)	\$100
F7	Class II surgical device (per device)	\$100
F8	Cosmetic radiofrequency device (per device)	\$100
F9	Class A industrial (1 to 5 radiofrequency devices)	\$150
F10	Class B industrial (6 to 20 radiofrequency devices)	\$350
F11	Class C industrial (more than 20 radiofrequency devices)	\$600
F12	Medical radiofrequency (one or more device)	\$100
F13	Other non-ionizing radiation device	Full Cost, according to R9-7-1306(D) or (E)

Historical Note

Table 13.1 under subsection R9-7-1306(A) repealed; new Table 13.1 Table of Fees made by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

Table 13.2. Small Entity Fees

Licensee qualifying as a small entity under R9-7-1304(E)(1)	
<i>Gross Annual Receipts</i>	<i>Fee</i>
\$350,000 to \$6.5 million	\$2,200
<\$350,000	\$500
Licensee qualifying as a small entity under R9-7-1304(E)(2)	
<i>Number of Employees</i>	<i>Fee</i>
35 to 500 employees	\$2,200
<35 employees	\$500
Licensee qualifying as a small entity under R9-7-1304(E)(3)	
<i>Number of Residents</i>	<i>Fee</i>
20,000 to 50,000	\$2,200
<20,000	\$500
Licensee qualifying as a small entity under R9-7-1304(E)(4)	
<i>Number of Faculty, Staff, and Students</i>	<i>Fee</i>
20,000 to 50,000	\$2,200

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<20,000	\$500
Licensee qualifying as a small entity under R9-7-1304(E)(5)	
<i>Number of Faculty and Staff</i>	<i>Fee</i>
35 to 500 employees	\$2,200
<35 employees	\$500

Historical Note

Table 13.2, Small Entity Fees made by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION

R9-7-1401. Registration of Nonionizing Radiation Sources and Service Providers

- A. A person shall not use a nonexempt nonionizing radiation source, unless the source is registered by the Department.
- B. A person who possesses a nonexempt nonionizing source shall submit to the Department an application for registration within 30 days of its first use.
 - 1. A person who possesses a nonexempt source listed in R9-7-1302(F) shall register the source with the Department.
 - 2. A person applying for the registration of a nonexempt source shall use an application form provided by the Department.
 - 3. An applicant shall provide the information identified in Appendix B of this Article.
- C. A registrant shall notify the Department within 30 days of any change to the information contained in the registration, or sale of a source that results in termination of the activities conducted under the registration.
- D. In addition to the application form, an applicant shall remit the applicable registration fee, specified in R9-7-1306.
- E. A person who is operating more than one facility, where one or more nonexempt nonionizing sources are used, shall apply for a separate registration for each facility.
- F. A person in the business of installing or servicing nonexempt nonionizing sources shall apply to the Department for registration 30 days before furnishing the service. The person shall apply for registration on a form furnished by the Department and shall provide the information required by A.R.S. § 30-672.01.

Historical Note

New Section R9-7-1401 recodified from R12-1-1401 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1402. Definitions

General definitions:

- “Controlled area” means any area to which human access is restricted for the purpose of protection from nonionizing radiation.
- “Direct supervision” means that a licensed practitioner supervises the use of a source for medical purposes while the practitioner is present inside the facility where the source is being used.
- “Indirect supervision” means for lasers or IPL devices used for hair removal procedures, there is at a minimum, responsible supervision and control by a licensed practitioner who is easily accessible by telecommunication.
- “Licensed practitioner” (See R9-7-102)
- “Medical director” means a licensed practitioner, as defined in R9-7-102, who delegates a laser, IPL, or other light-emitting medical device procedure to a non-physician and is qualified

to perform the procedure within the scope of practice of the license.

“Nonexempt nonionizing source” means any system or device that contains a nonionizing source listed in R9-7-1302(F).

“Operator” means a person who is trained in accordance with this Article and knowledgeable about the control and function of a nonionizing device regulated under this Article.

“Other cosmetic procedure” means a method of using medical lasers or intense pulse light (IPL) devices approved by the Federal Food and Drug Administration (FDA), for the cosmetic purpose of spider vein removal, skin rejuvenation, non-ablative skin resurfacing, skin resurfacing, port wine stain removal, epidermal pigmented skin lesion removal, or tattoo removal; and does not include hair removal.

Laser definitions:

“Accessible emission limit (AEL)” means the maximum accessible emission level of laser or collateral radiation permitted within a particular class.

“Accessible radiation” means laser or collateral radiation to which human access is possible.

“Angular subtense” means the apparent visual angle, α , as calculated from the source size and distance from the eye.

“Aperture” means an opening in the protective housing or other enclosure of a laser product, through which laser or collateral radiation is emitted, allowing human access to the radiation.

“Aperture stop” means an opening serving to limit the size and to define the shape of the area over which radiation is measured.

“Certified laser product” means that the product is certified by a manufacturer in accordance with the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“CDRH” means the Center for Devices and Radiological Health.

“Classes of lasers” means the following categories of lasers, defined in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department: Class 1, Class 2, Class 2a, Class 3, Class 3a, Class 3b, and Class 4. This incorporation by reference contains no future editions or amendments.

“Collateral radiation” means any electronic product radiation, except laser radiation, emitted by a laser product as a result of operation of the laser or any component of the laser product

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that is physically necessary for operation of the laser. The accessible emission limits for collateral radiation are specified in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Continuous wave” (cw) means the output of a laser that is operated in a continuous rather than a pulsed mode. For purposes of this Article, a laser operating with a continuous output for a period ≥ 0.25 seconds, is regarded as a cw laser.

“Cosmetic procedure protocol” means a delegated written authorization to select specific laser or IPL settings, initiate a laser or IPL procedure, and conduct necessary follow-up procedures.

“Demonstration laser” means any laser manufactured, designed, intended, or used for purposes of demonstration, entertainment, advertising display, or artistic composition.

“Embedded laser” means an enclosed laser with an assigned class number higher than the inherent capability of the laser system in which it is incorporated, where the system’s lower classification is due to engineering features that limit accessible emission.

“Enclosed laser” means a laser that is contained within its own protective housing or the protective housing of a laser or laser system in which it is incorporated. Opening or removing the protective housing provides more access to laser radiation above the applicable MPE than is possible with the protective housing in place. (An embedded laser is a type of enclosed laser.)

“Federal performance standards for light-emitting products” means the regulations in 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives, and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Human access” means the capacity to intercept laser or collateral radiation by any part of the human body.

“Incident” means an event or occurrence that results in actual or suspected accidental exposure to laser radiation that has caused or is likely to cause biological damage.

“Integrated radiance” means radiant energy per unit area of a radiating surface per unit solid angle of emission, expressed in joules per square centimeter per steradian.

“Irradiance” means the time-averaged radiant power incident on an element of a surface divided by the area of that element, expressed in watts per square centimeter.

“Laser” See the definition in Article 1.

“Laser energy source” means any device intended for use in conjunction with a laser to supply energy for the operation of the laser. General energy sources, such as electrical supply mains or batteries, are not considered laser energy sources by the Department.

“Laser facility” means a facility where one or more lasers are used. For purposes of this definition a Class 1 facility is a facility that has one or more Class 1 lasers; a Class 2 facility is a facility that has one or more Class 2 or 2a lasers; a Class 3 facility is a facility that has one or more Class 3, 3a, or 3b lasers, and a Class 4 facility is a facility that has one or more

Class 4 lasers. Facilities that contain more than one laser class are classified according to the highest laser class in use at the facility.

“Laser product” means any manufactured product or assemblage of components that constitutes, incorporates, or is intended to incorporate a laser or laser system. A laser or laser system that is intended for use as a component of an electronic product is itself considered a laser product.

“Laser protective device” means any device used to reduce or prevent exposure of personnel to laser radiation. This includes: protective eyewear, garments, engineering controls, and operational controls.

“Laser radiation” means all electromagnetic radiation emitted by a laser product, within the spectral range specified in the definition of “laser,” which is produced as a result of controlled stimulated emission or that is detectable with radiation so produced through the appropriate aperture stop and within the appropriate solid angle of acceptance.

“Laser Safety Officer (LSO)” means any individual, qualified by training and experience in the evaluation and control of laser hazards, who is designated by the registrant and has the authority and responsibility to establish and administer the laser radiation protection program for a particular class of facility.

“Laser system” means a laser in combination with an appropriate laser energy source with or without additional incorporated components.

“Limited exposure duration (T_{max})” means an exposure duration that is specifically limited by design or intended use.

“Maintenance” means performance of those adjustments or procedures specified in operator information provided by the manufacturer with the laser product, which are to be performed by the operator to ensure the intended performance of the product. The term does not include operation or service as defined in this Section.

“Maximum permissible exposure (MPE)” means the level of laser radiation to which a person may be exposed without hazardous effect or adverse biological changes in the eye or skin. MPE values for eye and skin exposure are listed in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Medical laser product” means any laser product that is a medical device defined in 21 U.S.C. 321(h) and is manufactured, designed, intended, or promoted for in vivo laser irradiation of any part of the human body for the purpose of: diagnosis, surgery, therapy, or relative positioning of the human body.

“Operation” means the performance of the laser product over the full range of its function. It does not include maintenance or service as defined in this Section.

“Protective housing” means those portions of a laser product that are designed to prevent human access to laser or collateral radiation in excess of the prescribed accessible emission limits under conditions specified in this Article.

“Pulse duration” means the time increment measured between the half-peak-power points at the leading and trailing edges of a pulse.

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“Pulse interval” means the period of time between identical points on two successive pulses.

“Radiance” means the time-averaged radiant power per unit area of a radiating surface per unit solid angle of emission, expressed in watts per square centimeter per steradian.

“Radiant energy” means energy emitted, transferred, or received in the form of radiation, expressed in joules.

“Radiant exposure” means the radiant energy incident on an element of a surface divided by the area of that element, expressed in joules per square centimeter.

“Radiant power” means the time-averaged power emitted, transferred, or received in the form of radiation, expressed in watts.

“Rule of nines” means a method for estimating the extent of burns, expressed as a percentage of total body surface. In this method the body is divided into sections of 9 percent or multiples of 9 percent, each: head and neck, 9 percent; anterior trunk, 18 percent; posterior trunk, 18 percent; upper limbs, 18 percent; lower limbs, 36 percent; and genitalia and perineum, 1 percent.

“Safety interlock” means a device associated with the protective housing of a laser product to prevent human access to excessive radiation.

“Sampling interval” means the time interval during which the level of accessible laser or collateral radiation is sampled by a measurement process. The magnitude of the sampling interval in units of seconds is represented by the symbol “t”.

“Secured enclosure” means an area to which casual access is impeded by various means, such as a door secured by a lock, latch, or screws.

“Service” means the performance of those procedures or adjustments described in the manufacturer’s service instructions that may affect any aspect of the product’s performance. The term does not include maintenance or operation as defined in this Section.

“T_{max}” See limited exposure duration.

“Uncertified laser product” means any laser that has not been certified in accordance with the requirements of 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Radio frequency and microwave radiation definitions:

“Accessible emission level” means the level of radio frequency radiation emitted from any source, expressed in terms of power density in milliwatts per square centimeter or electric and magnetic field strength, as applicable, and to which human access is normally possible.

“Far field region” means the area in which locally uniform distribution of electric and magnetic field strengths exists in planes transverse to the direction of propagation. The far field region is presumed to exist at distances greater than $2D^2/\lambda$ from the antenna, where λ is the wavelength and D is the largest antenna aperture dimension.

“Maximum permissible exposure MPE” means the rms and peak electric and magnetic field strengths, their squares, or the plane-wave equivalent power densities associated with these fields and the induced and contact currents to which a person

may be exposed without harmful effect and with an acceptable safety factor.

“Near field region” means the area near an antenna in which the electric and magnetic field components vary considerably in strength from point to point. For most antennas the outer boundary of the region is presumed to exist at a distance $\lambda/2\pi$ from the antenna surface, where λ is the wavelength.

“Radio frequency controlled area” means any location to which access is controlled for the purpose of protection from radio frequency radiation.

“Radio frequency source” means a source or system that produces electromagnetic radiation in the radio frequency spectrum.

“Radio frequency radiation” means electromagnetic radiation (including microwave radiation) with frequencies in the range of 0.3 megahertz to 100 gigahertz.

“Root-mean-square (rms)” means the effective value, or the value associated with joule heating, of a periodic electromagnetic wave. The rms is obtained by taking the square root of the mean of the squared value of a function.

“Safety device” means any mechanism incorporated into a radio frequency source that is designed to prevent human access to excessive levels of radio frequency radiation.

Ultraviolet, high intensity light, and intense pulsed light source definitions:

“EPA” means the United States Environmental Protection Agency.

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

“High intensity mercury vapor discharge (HID) lamp” means any lamp, including a mercury vapor or metal halide lamp that incorporates a high-pressure arc discharge tube with a fill that consists primarily of mercury and is contained within an outer envelope, except the tungsten filament self-ballasted mercury vapor lamp.

“Intense pulsed light device (IPL)” means, for purposes of R9-7-1438, any lamp-based device that produces an incoherent, filtered, and intense light.

“Maximum exposure time” means the greatest continuous exposure time interval recommended by the manufacturer of a product.

“Protective sunlamp eyewear” means any device designed to be worn by a user of a product to reduce exposure of the eyes to radiation emitted by the product.

“Sanitize” means treat the surfaces of equipment and devices using an EPA or FDA registered product that provides a specified concentration of chemicals, for a specified period of time, to reduce the bacterial count, including pathogens, to a safe level.

“Self-extinguishing lamp” means any HID lamp that ceases operation in conformance with the requirements of the performance standard in 21 CFR 1040.30(d), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Sunlamp product” means any electronic product designed to incorporate one or more ultraviolet lamps and intended for

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irradiation of any part of the living human body, by ultraviolet radiation with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

“Timer” means any device incorporated into a product that terminates radiation emission after a preset time interval.

“Ultraviolet lamp” means any light source that produces ultraviolet radiation and that is intended for use in any sunlamp product.

“Ultraviolet radiation” means electromagnetic radiation in the wavelength interval from 200 to 400 nanometers in air.

“User” means any member of the public who is provided access to a tanning device in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning device as a condition or benefit of membership or access.

Historical Note

New Section R9-7-1402 recodified from R12-1-1402 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1403. General Safety Provisions and Exemptions

- A. Based on consideration of the following factors, the Department may waive compliance with specific requirements of this Article:
1. Whether compliance requires product replacement or substantial modification of a product’s current installation, and
 2. Whether the registrant provided information requested by the Department to determine if there are alternative methods of achieving the same or a greater level of radiation protection.
- B. The registrant shall:
1. Ensure that any nonionizing source is operated by an individual who is trained and has demonstrated competence in the safe use of the source.
 2. Provide safety rules to each individual who operates a nonionizing radiation source and determine whether the individual is aware of operating restrictions and procedures associated with the safe use of the source.
 3. Make, or cause to be made, any physical radiation surveys required by this Article.
 4. Maintain the following records for three years for Department review:
 - a. Results of any physical survey or calibration required by this Article;
 - b. Radiation source inventories;
 - c. Maintenance, service, and modification records; and
 - d. Incident reports of known or suspected exposure to nonionizing radiation that exceeds any MPE specified in this Article.
- C. A registrant shall not operate a nonionizing radiation source unless the source complies with all of the applicable requirements of this Article.

Historical Note

New Section R9-7-1403 recodified from R12-1-1403 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1404. Radio Frequency Equipment

- A. A registrant shall operate a radiation source that emits radio frequency radiation in a radio frequency controlled area, in a manner that will prevent human exposure that exceeds the MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorpo-

rated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Department. This incorporation by reference contains no future editions or amendments. The registrant shall post each point of access into a radio frequency controlled area according to R9-7-1406.

- B. If a registrant is required to operate a radio frequency source in a controlled area, the registrant shall employ visual or audible emission indicators that function only during production of radiation.
- C. If a source of radio frequency emissions is physically separate from the source’s means of activation by a distance greater than 2 meters, the registrant shall place a visual or an audible emission indicator at the source and the point of activation.
- D. A registrant shall place each visual emission indicator so that the location of the indicator does not require human exposure to radio frequency radiation that exceeds the applicable MPE.
- E. A registrant shall inspect each safety device designed to prevent human exposure to excessive radio frequency radiation for proper operation at intervals that do not exceed one month.
- F. If a machine emits mechanically scanned radio frequency radiation, a registrant shall ensure that the machine cannot, as the result of scan failure or any other malfunction, cause a change in angular velocity or amplitude, allowing human exposure that exceeds the applicable MPE.
- G. A registrant shall physically secure each radio frequency sources to prevent unauthorized use and tampering.

Historical Note

New Section R9-7-1404 recodified from R12-1-1404 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1405. Radio Frequency Radiation: Maximum Permissible Exposure

- A. A registrant shall not expose a person to radio frequency radiation that exceeds the applicable MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorporated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. At frequencies between 300 kHz and 100 GHz a registrant may exceed the applicable MPE if exposure conditions can be shown by laboratory procedures to produce specific absorption rates (SARs) above 0.4 watts per kilogram, averaged over the whole body, and spatial peak SAR values above 8 watts per kilogram, averaged over 1 gram of tissue.
 - C. At frequencies between 300 kHz and 1 GHz, a registrant may exceed the applicable MPE, if the radio frequency input power to the radiating device is seven watts or less.

Historical Note

New Section R9-7-1405 recodified from R12-1-1405 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1406. Radio Frequency Hazard Caution Signs, Symbols, Labeling, and Posting

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- A. A registrant shall post each point of access to a controlled area with caution signs of the type designated in Figure 1.



- B. A registrant shall post operating procedure restrictions or limitations, used to prevent unnecessary or excessive exposure to radio frequency radiation, in a location visible to the operator.
- C. A registrant shall place each warning sign or label so that an observer is not exposed to radio frequency radiation that exceeds the applicable MPE.

Historical Note

New Section R9-7-1406 recodified from R12-1-1406 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1407. Microwave Ovens

A person shall register with the Department any microwave oven that does not meet the requirements in 21 CFR 1030.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1407 recodified from R12-1-1407 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1408. Reporting of Radio Frequency Radiation Incidents

- A. A registrant shall report in writing to the Department within 15 days of a known or suspected personnel exposure to radiation that exceeds the applicable MPE incorporated by reference in R9-7-1405.
- B. A registrant shall report to the Department within 24 hours of a known or suspected personnel exposure to radiation that exceeds 150% of an applicable MPE incorporated by reference in R9-7-1405.
- C. A registrant shall immediately report to the Department a known or suspected personnel exposure to radiation that exceeds 500% of an applicable MPE incorporated by reference in R9-7-1405.

Historical Note

New Section R9-7-1408 recodified from R12-1-1408 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1409. Medical Surveillance for Workers Who May Be Exposed to Radio Frequency Radiation

- A. Upon request by the Department, a registrant shall provide a medical examination to an individual exposed to radiation reported to the Department according to R9-7-1408.
- B. A registrant shall provide a copy of the results to the Department if an individual undergoes a medical examination, requested under subsection (A).

Historical Note

New Section R9-7-1409 recodified from R12-1-1409 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1410. Radio Frequency Compliance Measurements

- A. For obtaining measurements to determine compliance with R9-7-1405, the Department shall use an instrument capable of measuring the field strength and frequency of radiation.
- B. The Department shall ensure that each instrument used for compliance measurements is calibrated every 12 months. The calibration shall be performed in a manner that meets the standards in IEEE Std C95.1-1999, incorporated by reference in R9-7-1404(A).
- C. For compliance measurements of exposure conditions in the near field, the Department shall obtain measurements of both the electric and magnetic field components. The applicable protection standards for near field measurements are the mean squared electric and magnetic field strengths (using the applicable MPE) referenced in R9-7-1405.
- D. If the Department is obtaining measurements to determine compliance in far field exposure conditions, the Department may use measurements of power density in milliwatts per square centimeter or the calculated equivalent plane wave power density, based on measurement of either the electric or magnetic field strength. The applicable protection standards are the power density values (using the applicable MPE) referenced in R9-7-1405.
- E. In obtaining measurements in accordance with this Section, the Department shall measure the electric and magnetic field strength:
 1. Obtained at an emission frequency of 300 megahertz or less; and
 2. Expressed in terms of power density.
- F. For mixed or broadband fields at frequencies for which there are different protection standards, the Department shall determine the fraction of the applicable MPE incurred within each frequency interval. To achieve compliance the sum of all the fractions shall not exceed unity (1).
- G. The Department shall obtain compliance measurements at a distance of five centimeters or greater from any object.
- H. A registrant shall obtain measurements that are averaged over a six-minute period for pulsed and non-pulsed modes of radio frequency emission and make a correction for duty cycle in determining the average field strength.

Historical Note

New Section R9-7-1410 recodified from R12-1-1410 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1411. Reserved**Historical Note**

Section R9-7-1411 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1412. Tanning Operations

A registrant shall establish and maintain written policies and procedures that are part of a radiation safety program to assure compliance with the requirements in R9-7-1412 through R9-7-1416.

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Historical Note

New Section R9-7-1412 recodified from R12-1-1412 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1413. Tanning Equipment Standards

- A.** A registrant operating a tanning facility shall use sunlamp products that are certified by the manufacturer to comply with 21 CFR 1040.20, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. For sunlamp products in use before the effective date of this Article, the Department shall determine compliance based on the standard in effect at the time of manufacture, as shown on the equipment identification label.
- B.** A registrant shall replace burned-out or defective lamps or filters, before any use of a tanning device.
- C.** A registrant shall replace a burned-out or defective lamp or filter with a lamp or filter intended for use in that equipment, as specified on the sunlamp product label, or that is equivalent to a lamp or filter specified on the sunlamp product label under the FDA regulations and policies applicable to the sunlamp product at the time of manufacture. If an equivalent lamp or filter is used instead of the Original Equipment Manufacturer (OEM) lamp or filter specified on the product label, the registrant shall maintain a copy of the equivalency certification, provided by the lamp supplier, on file for review by Department inspectors.
- D.** A registrant shall ensure that each sunlamp product has a timer and control system that complies with 21 CFR 1040.20(c), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. In addition the registrant shall ensure that:
1. The timer interval does not exceed the manufacturer's maximum, recommended exposure time;
 2. The timer is functional and accurate to within +/- 10% of the maximum timer interval of the product;
 3. The timer does not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle;
 4. The timer is tested annually for accuracy;
 5. For a new facility (including existing facilities with change of ownership) a remote timer control system is installed before operation of sunlamp products. For an existing facility that has sunlamp products not equipped with a remote timer control system, a remote timer control system (outside of the sunlamp product room) is installed no later than 6 months after the effective date of this Section; and
 6. Each sunlamp product is equipped with an emergency shutoff mechanism that allows manual termination of the UV exposure by the user.
- E.** A registrant shall provide physical barriers between each sunlamp product to protect users from injury caused by touching or breaking a lamp.
- F.** A registrant that employs a stand-up sunlamp product shall:
1. Use physical barriers, handrails, floor markings, or other methods to indicate the proper exposure distance between the ultraviolet lamps and the user's skin;
 2. Construct each tanning booth so that it can withstand the stress of use and the impact of a falling person;

3. Provide access to a tanning booth with doors of rigid construction that open outward, handrails, and non-slip floors; and
4. Control the interior temperature of a sunlamp product so that it never exceeds 100 degrees Fahrenheit (38 degrees Centigrade).

Historical Note

New Section R9-7-1413 recodified from R12-1-1413 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1414. Tanning Equipment Operators

- A.** A registrant shall ensure that at least one operator is present during operating hours. The operator shall:
1. Limit the occupancy of the tanning room to one person when the tanning equipment is in use;
 2. Prevent use of the tanning equipment by anyone under 18 years of age unless the person has written permission from a parent or guardian;
 3. Limit exposure time to the manufacturer's recommendation on the equipment label or in the operator's manual;
 4. Limit exposure time during a 24-hour period to the maximum recommended for a 24-hour period by the manufacturer; and
 5. Maintain a record of each user's total number of tanning visits and exposure times for Department inspection. The registrant shall maintain the records for three years from the date on the record.
- B.** Before use of tanning equipment, an operator shall:
1. Provide the user sanitized protective sunlamp eyewear and directions for its use;
 2. Demonstrate the use of any physical aids, necessary to maintain correct exposure distance for the user, as recommended by the manufacturer of the tanning equipment;
 3. Set the exposure timer so that the user is not exposed to excess radiation;
 4. Instruct the user on the maximum exposure time and correct distance from the radiation source as recommended by the manufacturer of the tanning equipment; and
 5. Instruct the user about the location and correct operation of the emergency shutoff switch.
- C.** An operator shall control a sunlamp's timer. A registrant shall:
1. Provide training to operators that covers:
 - a. The requirements of this Section;
 - b. Facility operating procedures, including:
 - i. Determination of skin type and associated duration of exposure;
 - ii. Procedures for use of minor and adult user consent forms;
 - iii. Potential harm associated with photosensitizing foods, cosmetics, and medications;
 - iv. Requirements for use of protective eyewear by users of the equipment; and
 - v. Proper sanitizing procedures for the facility, equipment, and eyewear;
 - c. The manufacturer's procedures for operation and maintenance of tanning equipment;
 - d. Recognition of injury or overexposure; and
 - e. Emergency procedures used in the case of an injury.
 2. Maintain records of training for Department review, which include dates and material covered, for three years from the date the training is provided.
 3. Post a list of operators at the facility.
- D.** Before the first use of a tanning facility in each calendar year by a user:
1. An operator shall request that the user read a copy of the warnings in R9-7-1415(A);

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- 2. The operator shall obtain the user's signature on a statement as an acknowledgment that the user has heard or read and understands the warnings in R9-7-1415(A); and
- 3. For illiterate or visually handicapped persons, the operator shall read the warnings in R9-7-1415(A) in the presence of a witness. Both the witness and the operator shall sign the statement described in subsection (D)(2).

Historical Note

New Section R9-7-1414 recodified from R12-1-1414 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1415. Tanning Facility Warning Signs

- A. A registrant shall post the warning sign shown in this subsection within 1 meter (39.37 inches) of each tanning device,

ensuring that the sign is clearly visible and easily viewed by the user before the tanning device is operated.

- B. A registrant shall post a warning sign, which contains the statement shown, at or near the reception area.
PERSONS UNDER AGE 18 ARE REQUIRED TO HAVE PARENT OR LEGAL GUARDIAN SIGN AN AUTHORIZATION TO TAN IN THE PRESENCE OF A TANNING FACILITY OPERATOR
- C. The lettering on each warning sign shall be at least 10 millimeters high for all words shown in capital letters and at least 5 millimeters high for all lower case letters.

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- 1. Follow instructions.
- 2. Avoid overexposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin, dryness, wrinkling, and skin cancer.
- 3. Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG TERM INJURY TO THE EYES.

- 4. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications or have a history of skin problems or believe you are especially sensitive to sunlight.
- 5. If you do not tan in the sun, you are unlikely to tan from use of this device.

Historical Note

New Section R9-7-1415 recodified from R12-1-1415 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1416. Reporting of Tanning Injuries

- A. A registrant shall report any incident involving an eye injury; skin burn; fall injury, if the fall occurs within the tanning device or while entering or exiting the device; laceration; infection believed to have been transmitted by use of the tanning device; or any other injury reasonably related to the use of the tanning device.
- B. A registrant shall provide a written report of an incident to the Department within 10 working days of its occurrence or within 10 working days of the date the registrant became aware of the incident.
- C. The report shall include:
 - 1. The name of the user;
 - 2. The name and location of the tanning facility;
 - 3. A description of and the circumstances associated with the injury;
 - 4. The name and address of the health care provider treating the user, if any; and
 - 5. Any other information the registrant considers relevant to the incident.

Historical Note

New Section R9-7-1416 recodified from R12-1-1416 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1417. Reserved

Historical Note

Section R9-7-1417 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1418. High Intensity Mercury Vapor Discharge (HID) Lamps

A person shall register with the Department any HID lamp that does not meet the requirements in 21 CFR 1040.30, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1418 recodified from R12-1-1418 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1419. Reserved

Historical Note

Section R9-7-1419 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1420. Reserved

Historical Note

Section R9-7-1420 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1421. Laser Safety

- A. The requirements contained in this Section apply to laser products that are used in accordance with the manufacturer's classification and instructions. If certain engineering controls are impractical during manufacture or research and development activities, the LSO shall specify alternate requirements to obtain equivalent laser safety protection.
- B. A registrant shall establish and maintain a laser radiation safety program.
- C. If R9-7-1433 is applicable, a registrant shall conduct a laser radiation protection survey to ensure compliance with R9-7-1433 before initial use, following system modifications, and at intervals that do not exceed six months. During a survey the registrant shall:

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1. Determine whether each laser protective device is labeled correctly, functioning within the design specifications, and meets required standards for the type and class of laser in use;
 2. Determine whether each warning device is functioning within design specifications;
 3. Determine whether each controlled area is identified, controlled, and posted with accurate warning signs in accordance with this Article;
 4. Reevaluate potential hazards from surfaces that are associated with Class 3 and Class 4 beam paths; and
 5. Evaluate the laser and collateral radiation hazard incident to the use of lasers.
- D.** The registrant shall maintain records of:
1. Results of all physical surveys made to determine compliance with this Article;
 2. Any restriction in operating procedures necessary to prevent unnecessary or excessive exposure to laser or collateral radiation;
 3. Any incident for which reporting to the Department is required pursuant to R9-7-1436;
 4. Results of medical surveillance to determine extent of injury resulting from exposure to laser or collateral radiation;
 5. Inventory to account for all sources of radiation possessed by the licensee.
- E.** A registrant shall provide the Laser Safety Officer with training that covers the subjects listed in Appendix D.

Historical Note

New Section R9-7-1421 recodified from R12-1-1421 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1422. Laser Protective Devices

- A.** A registrant shall ensure that each laser product has a protective housing that prevents access to laser and collateral radiation if it exceeds the exposure limits for Class 1 lasers in R9-7-1426. If a laser's accessible emission levels must exceed the limits for Class 1 lasers, the registrant shall use a laser from the lowest class that will enable the registrant to perform the intended function.
- B.** To prevent access to radiation above the applicable MPE, a registrant shall ensure that each laser has a safety interlock, which prevents operation of the laser if a person has removed any portion of the protective housing that can be removed or displaced without the use of tools during normal operation or maintenance. The registrant shall ensure that:
1. Service, testing, or maintenance of a laser does not render the interlocks inoperative or increase radiation outside the protective housing to levels that exceed the applicable MPE, unless a controlled area is established as specified in R9-7-1433;
 2. For pulsed lasers, interlocks are designed to prevent the laser from firing;
 3. For Class 3b and 4 continuous wave (cw) lasers, interlocks turn off the power supply or interrupt the beam.
 4. An interlock does not allow automatic accessibility to radiation emission above the applicable MPE when the interlock is closed; and
 5. Multiple safety interlocks or a means to preclude removal or displacement of the interlocked portion of the protective housing is provided if failure of a single interlock could result in:
 - a. Human access to levels of laser radiation that exceed the radiant power accessible emission limit for Class 3a laser radiation, or
 - b. Laser radiation that exceeds the accessible emission limit for Class 2, emitted directly through the opening created by removal or displacement of a portion of the protective housing.
- C.** A registrant shall ensure that a laser with viewing ports, viewing optics, or display screens, included as an integral part of the enclosed laser or laser system has:
1. A suitable means to attenuate laser and collateral radiation transmitted through the optical system to less than the accessible emission limit for collateral radiation required by 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments; and
 2. Specific written administrative procedures developed by the LSO, and use controls, such as interlocks or filters, if there is increased hazard to the eye or skin associated with the use of optical systems such as lenses, telescopes, or microscopes.
- D.** A registrant shall ensure that each Class 3 or 4 laser product provides a visual or audible indication before the emission of accessible laser radiation that exceeds the limits for Class 1, as follows:
1. For Class 3, except for laser products that allow access to less than 5 milliwatts peak visible laser radiation, and Class 4 lasers, the indication occurs before the emission of the radiation and allows enough time for action to avoid exposure;
 2. Any visual indicator is clearly visible through protective eyewear designed specifically for the wavelength of the emitted laser radiation;
 3. If the laser and laser energy source are housed separately and can be operated at a separation distance of greater than 2 meters, both the laser and laser energy source incorporate visual or audible indicators; and
 4. Any visual indicators are positioned so that viewing does not require human access to laser radiation that exceeds the applicable MPE.
- E.** In addition to the information signs, symbols, and labels prescribed in R9-7-1427, R9-7-1428, and R9-7-1429, each registrant shall provide, near the signs, symbols, and labels within the laser facility, operating procedure restrictions and any other safety information required to ensure compliance with this Article and minimize exposure to laser and collateral radiation.

Historical Note

New Section R9-7-1422 recodified from R12-1-1422 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1423. Laser Prohibitions

- A.** A registrant shall not require or permit an individual to look directly into a laser beam or directly at specular reflections of a laser beam, or align a laser by eye while looking along the axis of the laser beam if the intensity of the beam or the beam's reflections exceeds the applicable MPE.
- B.** A registrant shall not permit an individual to enter a controlled area if the skin exposure exceeds the applicable MPE, unless the registrant provides and requires the use of protective clothing, gloves, and shields.
- C.** A registrant shall ensure that any laser product, emitting spatially scanned laser radiation, does not, as a result of scan failure or any other failure that causes a change in angular velocity or amplitude, permit human access to laser radiation class of product.

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Historical Note

New Section R9-7-1423 recodified from R12-1-1423 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1424. Reserved**Historical Note**

Section R9-7-1424 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1425. Laser Product Classification

- A. Each laser product is classified on the basis of emission level, emission duration, and wavelength of accessible laser radiation emitted over the full range of resulting operational capability, any time during the useful life of the product, according to the federal performance standards for light-emitting products contained in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. Any person that modifies a certified laser product in a manner that affects any aspect of performance or intended functions of the product, shall recertify and reidentify the product in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- C. Any laser system that is incorporated into a laser product that is subject to the requirements of this Article, and capable, without modification, of producing laser radiation when removed from the laser product, is considered a laser product, subject to the applicable requirements of this Article. Upon removal of the laser system described in this subsection, the laser product is classified on the basis of accessible laser radiation emission.

Historical Note

New Section R9-7-1425 recodified from R12-1-1425 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1426. Laser and Collateral Radiation Exposure Limits

- A. A registrant shall not use, or permit the use of a laser product that will result in a human exposure that exceeds the applicable MPE or accessible emission limit (AEL) listed in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. Accessible emission limits are listed in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. These incorporations by reference contain no future editions or amendments.
- B. A registrant shall not allow exposure to collateral radiation that exceeds any accessible emission limit in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1426 recodified from R12-1-1426 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1427. Laser Caution Signs, Symbols, and Labels

- A. Except as otherwise authorized by the Department, a registrant shall use signs, symbols, and labels prescribed by this Section and the design and colors specified in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. A registrant shall ensure that the word “invisible” immediately precedes the word “radiation” on labels and signs required by this Section for lasers that only produce wavelengths of laser and collateral radiation that are outside of the range of 400 to 710 nanometers.
- C. A registrant shall ensure that the words “visible and invisible” immediately precede the word “radiation” on labels and signs required by this Section for lasers that produce wavelengths of laser and collateral radiation that are both within and outside the range of 400 to 710 nanometers.
- D. A registrant shall position any label placed on lasers or signs posted in laser facilities so that the reader of the label or sign is not exposed to laser or collateral radiation that exceeds the applicable MPE or accessible emission limit while reading the label or sign.
- E. A registrant shall use labels and signs that are clearly visible, legible, and permanently attached to the laser or facility.
- F. A registrant shall ensure that a permanent and legible label is affixed to each laser, identifying the classification of the laser in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- G. For a Class 3 or Class 4 laser a registrant shall ensure that a permanent and legible label is affixed to each laser, specifying the maximum output of laser radiation, the pulse duration if applicable, and the laser medium or emitted wavelength.
- H. For a Class 3 or Class 4 laser, used in the practice of medicine, a registrant shall ensure that a permanent and legible label is affixed to each laser providing one or more of the following warnings near each aperture that emits laser radiation or collateral radiation that exceeds the applicable MPE, as follows:
 1. “AVOID EXPOSURE - Laser radiation is emitted from this aperture” if the radiation emitted through the aperture is laser radiation;
 2. “AVOID EXPOSURE - Hazardous electromagnetic radiation is emitted from this aperture” if the radiation emitted through the aperture is collateral radiation; or
 3. “AVOID EXPOSURE - Hazardous x-rays are emitted from this aperture” if the radiation emitted through the aperture is collateral x-ray radiation.
- I. A registrant shall ensure that there is a label on each non-interlocked or defeatable interlocked portion of the protective housing or enclosure that permits human access to laser or collateral radiation. The label shall include one or more of the following warnings, as applicable:
 1. For laser radiation that exceeds the applicable accessible emission limit for a Class 1 or Class 2 laser, but does not exceed the applicable accessible emission limit for a Class 3 laser, the warning: “DANGER - Laser radiation

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when open, AVOID DIRECT EXPOSURE TO THE BEAM.”

2. For laser radiation that exceeds the applicable accessible emission limit for a Class 3 laser, the warning: “DANGER - Laser radiation when open, AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION.”
3. For collateral radiation that exceeds an applicable accessible emission limit:
 - a. If the applicable limit for collateral laser radiation is exceeded, the warning: “CAUTION - Hazardous electromagnetic radiation when open”; and
 - b. If the applicable limit for collateral x-ray radiation is exceeded, the warning: “CAUTION - Hazardous x-ray radiation”.
4. For a protective housing or an enclosure that has a defeatable interlock, the warning “and interlock defeated” in addition to the warnings in subsections (1) through (3).

Historical Note

New Section R9-7-1427 recodified from R12-1-1427 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1428. Reserved**Historical Note**

Section R9-7-1428 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1429. Posting of Laser Facilities

Unless other methods are approved by the Department, a registrant shall post each laser facility in accordance with ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1429 recodified from R12-1-1429 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1430. Reserved**Historical Note**

Section R9-7-1430 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1431. Reserved**Historical Note**

Section R9-7-1431 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1432. Reserved**Historical Note**

Section R9-7-1432 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1433. Laser Use Areas that are Controlled

- A. A registrant shall establish a controlled area for a laser if it is possible for a person to be exposed to laser radiation from a Class 3b laser, except a Class 3b laser of less than 5 milliwatts visible peak power, or a Class 4 laser that exceeds the applicable MPE or AEL in R9-7-1426.
- B. A registrant shall ensure that a controlled area associated with a Class 3b laser is:
 1. The responsibility of a LSO;
 2. Posted in accordance with this Article; and
 3. Access controlled by the LSO or a trained, designated representative.

- C. A registrant shall ensure that a controlled area associated with a Class 4 laser is:
 1. The responsibility of a LSO;
 2. Posted in accordance with this Article;
 3. Access controlled by the LSO or a trained, designated representative; and
 4. If an indoor controlled area:
 - a. Equipped with latches, interlocks, or another means of preventing unexpected entry into the controlled area;
 - b. Equipped with a control-disconnect switch, panic button, or an equivalent device for deactivating the laser during an emergency;
 - c. Operated so that the person in charge of the controlled area can momentarily override the safety interlocks during tests that require continuous operation to provide access to other personnel if there is no optical radiation hazard at the point of entry and the entering personnel are wearing required protective devices; and
 - d. Controlled in a way that reduces the transmitted values of laser radiation through optical paths such as windows, to levels at or below the applicable ocular MPE and AEL in R9-7-1426. If a laser beam with an irradiance or radiant-exposure above the applicable MPE or AEL will exit the indoor controlled area (as in the case of exterior atmospheric beam paths), the registrant and the operator are responsible for ensuring that the beam path is limited to controlled air space or controlled ground space.
- D. If a panel or protective cover is removed or an interlock bypassed for service, testing, or maintenance, a registrant shall establish an accessible controlled area. The registrant, through a LSO or a designated representative, shall comply with laser safety requirements for all potentially-exposed individuals.

Historical Note

New Section R9-7-1433 recodified from R12-1-1433 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1434. Laser Safety Officer (LSO)

- A. Each registrant shall designate a Laser Safety Officer (LSO).
- B. The LSO shall administer the laser radiation protection program and shall:
 1. Ensure that maintenance or service for Class 3b and Class 4 lasers is performed only by technicians trained to provide the maintenance or service by either the manufacturer’s service organization or the registrant;
 2. Approve or reject written service, maintenance, and operating procedures;
 3. Investigate, document, and report all incidents as required by R9-7-1436;
 4. Select protective eyewear as required by R9-7-1435, along with any other protective equipment;
 5. For health care facilities, establish authorization and operating procedures, including preoperative and postoperative checklists, for use by operating room personnel;
 6. Ensure that authorized personnel are trained in the assessment and control of laser hazards;
 7. Select signs, symbols, and labels as required by R9-7-1427;
 8. Perform laser radiation protection surveys as required by R9-7-1421 and R9-7-1441;
 9. Classify or verify the classification of lasers and laser systems used under the LSO’s jurisdiction;
 10. Evaluate the hazard of laser use areas, treatment areas, and controlled areas, as required by R9-7-1421(C).

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Historical Note

New Section R9-7-1434 recodified from R12-1-1434 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1435. Laser Protective Eyewear

- A.** A registrant shall require that protective eyewear, as specified by the LSO, be worn by an individual who has access to:
1. Class 4 laser radiation; or
 2. Class 3b laser radiation.
- B.** A registrant shall, through the LSO, provide protective eyewear that is:
1. Marked with a label that indicates the optical density protection afforded for the relevant laser wavelength;
 2. Maintained so that the protective properties of the eyewear are preserved;
 3. Inspected at intervals that do not exceed six months to ensure integrity of the protective properties; and
 4. Removed from service if the protective properties of the eyewear fall below the optical density on the label.
- C.** A registrant shall maintain records of protective eyewear maintenance, inspection, and removal from service for five years.

Historical Note

New Section R9-7-1435 recodified from R12-1-1435 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1436. Reporting Laser Incidents

- A.** A registrant shall notify the Department by telephone within 24 hours of any incident that has caused or may have caused:
1. Permanent loss of sight in either eye; or
 2. Third-degree burns of the skin involving more than 5 percent of the body surface as estimated by the rule of nines.
- B.** A registrant shall notify the Department by telephone within five working days of any incident that has or may have caused:
1. Any second-degree burn of the skin larger than one inch (2.54 centimeter) in greatest diameter; or
 2. Any third-degree burn of the skin; or
 3. An eye injury with any potential loss of sight.
- C.** Each registrant shall file a written report with the Department of any known exposure of an individual to laser radiation or collateral radiation within 30 days of its discovery, describing:
1. Each exposure of the individual to laser or collateral radiation that exceeds the applicable MPE; and
 2. Any incident that triggered a notice requirement in subsections (A) or (B).
- D.** Each report required by subsection (C) shall describe the extent of exposure to each individual including:
1. An estimate of the individual's exposure;
 2. The level of laser or collateral radiation involved;
 3. The cause of the exposure; and
 4. The corrective steps taken or planned to prevent a recurrence.
- E.** A registrant shall not operate or permit the operation of any laser product or system that does not meet the applicable requirements in this Article.

Historical Note

New Section R9-7-1436 recodified from R12-1-1436 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1437. Special Lasers

A registrant operating a laser system with an unenclosed beam path shall:

1. Conduct an evaluation before operating the laser to determine the expected beam path and the potential hazards from reflective surfaces. Based on the evaluation the registrant shall exclude reflective surfaces from the beam

- path at all points where the laser radiation exceeds an applicable MPE;
2. Evaluate the stability of the laser platform to determine the constraints placed upon the beam traverse and the extent of the range of control; and
3. Refrain from operating or making a laser ready for operation until the area along all points of the beam path, where the laser radiation will exceed the applicable MPE, is clear of individuals, unless the individuals are wearing the correct protective devices.

Historical Note

New Section R9-7-1437 recodified from R12-1-1437 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1438. Hair Reduction and Other Cosmetic Procedures Using Laser and Intense Pulsed Light

- A.** Registration. A person who seeks to perform hair reduction or other cosmetic procedures shall apply for registration of any medical laser or IPL device that is a Class II surgical device, certified as complying with the labeling standards in 21 CFR 801.109, revised April 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The applicant shall provide all of the following information to the Department with the application for registration:
1. Documentation demonstrating that the health professional is qualified in accordance with A.R.S. § 32-516 or 32-3233, has 24 hours of didactic training on the subjects listed in Appendix C, and has passed an Department-approved exam on subjects covered with a minimum grade of 80%;
 2. For any health professional in practice prior to October 1, 2010, proof of 24 hours of training on the subjects listed in Appendix C;
 3. Documentation endorsed by the prescribing health professional, acknowledging responsibility for the minimum level of supervision required for hair reduction procedures as defined in R9-7-1402 under "indirect supervision";
 4. Procedures to ensure that the registrant has a written order from a prescribing health professional before the application of radiation;
 5. If authorized, procedures to ensure that, in the absence of a prescribing health professional at the facility, the registrant has established a method for emergency medical care and assumed legal liability for the service rendered by an indirectly-supervised certified laser technician; and
 6. Documentation that the indirectly-supervised certified laser technician has participated in the supervised training required by A.R.S. § 32-516 or 32-3233.
- B.** Hair Reduction Procedures
1. If a registrant is using a medical laser or an IPL device that is a Class II surgical device, certified in accordance with the labeling standards in subsection (A), for hair reduction procedures, the registrant shall:
 - a. Ensure that the device is only used by a health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) or by a certified laser technician who is working under the indirect supervision of a health professional described in A.R.S. §§ 32-516(C)(1) and 32-3233(D) and (H)(1), and
 - b. Ensure that a prescribing health professional purchases or orders the Class II surgical device that will be used for hair reduction procedures.
 2. A registrant shall:

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- a. Not permit an individual to use a medical laser or IPL device for hair reduction procedures unless the individual:
 - i. Completes an approved laser technician didactic training program of at least 40 hours duration. To successfully complete the training program, the individual shall pass a test that consists of at least 50 multiple choice questions on subjects covered with a minimum grade of 80%. The training program shall be provided by an individual who is a health professional acting within the health professional's scope of practice, or a certified laser technician with a minimum of 100 hours of hands-on experience per procedure being taught;
 - ii. Is present in the room for at least 24 hours of hands-on training, conducted by a health professional or a certified laser technician as described in subsection (B)(2)(a)(i);
 - iii. Performs or assists in at least 10 hair reduction procedures; and
 - iv. Has the qualified health professional or qualified supervising certified laser technician certify that the laser technician has completed the training and supervision as described in subsection (B)(2)(a).
 - b. Ensure that the laser technician follows written procedure protocols established by a prescribing health professional; and
 - c. Ensure that the laser technician follows any written order, issued by a prescribing health professional, which describes the specific site of hair reduction.
3. A registrant shall maintain a record of each hair reduction procedure protocol that is approved and signed by a prescribing health professional, and ensure that each protocol is reviewed by a prescribing health professional, at least annually.
 4. A registrant shall:
 - a. Maintain each procedure protocol onsite, and ensure that the protocol contains instructions for the patient concerning follow-up monitoring; and
 - b. Design each protocol to promote the exercise of professional judgment by the laser technician commensurate with the individual's education, experience, and training. The protocol need not describe the exact steps that a qualified laser technician should take with respect to a hair reduction procedure.
 5. A registrant shall require that a prescribing health professional observe the performance of each laser technician during procedures at intervals that do not exceed six months. The registrant shall maintain a record of the observation for three years from the date of the observation.
 6. A registrant shall verify that a health professional is qualified to perform hair reduction procedures by obtaining evidence that the health professional has received relevant training specified in subsection (A)(1) and in physics, safety, surgical techniques, pre-operative and post-operative care and can perform these procedures within the relevant scope of practice, as defined by the health professional's licensing board.
 7. A registrant shall provide radiation safety training to all personnel involved with hair reduction procedures, designing each training program so that it matches an individual's involvement in hair reduction procedures. The registrant shall maintain records of the training program and make them available to the Department for three years from the date of the program, during and after the individual's period of employment.
- C. Other Cosmetic Procedures
 1. If a registrant is using a medical laser or an IPL device that is a Class II surgical device, certified in accordance with the labeling standards in subsection (A), for other cosmetic procedures, the registrant shall:
 - a. Ensure that the device is only used by a health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) or by a certified laser technician who is directly supervised by a health professional as described in A.R.S. §§ 32-516(C)(2) and 32-3233(D) and (H)(2); and
 - b. Ensure that a prescribing health professional purchases or orders the Class II surgical device that will be used for other cosmetic procedures.
 2. A registrant shall not permit an individual to use a medical laser or IPL device for other cosmetic procedures unless the individual:
 - a. Completes an approved laser technician didactic training program of at least 40 hours duration. To successfully complete the training program the individual shall pass a test that consists of at least 50 multiple choice questions on subjects covered with a minimum grade of 80%. The training program shall be provided by an individual who is a health professional acting within the health professional's scope of practice, or a certified laser technician with a minimum of 100 hours of hands-on experience per procedure being taught;
 - b. Is present in the room for at least 24 hours of hands-on training, conducted by a health professional or a certified laser technician as described in subsection (C)(2)(a); and
 - c. Performs or assists in at least 10 cosmetic procedures governed by subsection (C), for each type of procedure (for example: spider vein reduction, skin rejuvenation, non-ablative skin resurfacing); and
 - d. Has the qualified health professional or qualified supervising certified laser technician certify that the laser technician has completed the training and supervision as described in subsection (C)(2).
 3. A registrant shall maintain a record of each protocol for a cosmetic procedure governed by subsection (C) that is approved and signed by a prescribing health professional, and ensure that each protocol is reviewed by a prescribing health professional, at least annually. The registrant shall:
 - a. Maintain each protocol onsite, and ensure that the protocol contains instructions for the patient concerning follow-up monitoring; and
 - b. Design each protocol to promote the exercise of professional judgment by the laser technician commensurate with the individual's education, experience, and training. The protocol need not describe the exact steps that a qualified laser technician should take with respect to a cosmetic procedure governed by subsection (C).
 4. A registrant shall verify that a health professional is qualified to perform laser, IPL, and related procedures, by obtaining evidence that the health professional has received relevant training specified in subsection (A)(1) and in physics, safety, surgical techniques, pre-operative and post-operative care and can perform these procedures within the relevant scope of practice, as defined by the health professional's licensing board.

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5. A registrant shall provide radiation safety training to all personnel involved with cosmetic procedures governed by subsection (C), designing each training program so that it matches an individual's involvement in each procedure. The registrant shall maintain records of the training program and make them available to the Department for three years from the date of the program, during and after the individual's period of employment.
- D. Persons governed by this Section shall also comply with other applicable licensing and safety laws.
- E. A laser shall be secured so that the laser cannot be removed from the facility and the on/off switch is turned to the "off" position with the key removed when a certified laser technician or a health professional is not present in the room where the laser is located.
15. Additional procedures as approved by the Department after consultation with other health professional boards as defined in A.R.S. § 32-516(F)(3) or 32-3233(D)(1).
- G. For any application relating to the certification of laser technicians, as described in A.R.S. § 41-1072, there is an administrative completeness review time-frame of 30 days and a substantive review time-frame of 30 days with an overall time-frame of 60 days.
- H. Certified laser technicians shall display a valid original certificate as issued by the Department in a location that is viewable by the public.

Historical Note

New Section R9-7-1438.01 recodified from R12-1-1438.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Historical Note
New Section R9-7-1438 recodified from R12-1-1438 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1438.01. Certification and Revocation of Laser Technician Certificate

- A. An applicant for a laser technician certificate shall submit a completed application and certification that the applicant has received the training specified in A.R.S. §§ 32-516(A) or 32-3233(E).
- B. The applicant shall pay a nonrefundable fee of \$30.00. A duplicate certificate may be requested at the time of initial application or renewal at a fee of \$10.00 per certificate. To obtain a duplicate certificate at other times a laser technician shall pay \$20.00 per certificate.
- C. Initial certificates are issued for 12 months and expire on the last day of the month. A renewal application shall be accompanied by a renewal fee of \$30.00 each year in addition to \$10.00 per duplicate certificate requested.
- D. Under A.R.S. § 32-3233(I) and (J), the Department may take appropriate disciplinary action, including revocation of the certificate of a certified laser technician. The Department may discipline a certified laser technician who has had a relevant professional license suspended or revoked, or been otherwise disciplined by a health professional board or the Board of Cosmetology. The Department may also discipline the certified laser technician for falsifying documentation related to training, prescriptions, or other required documentation. As provided in Article 12 of this Chapter, the Department may assess civil penalties, suspend, revoke, deny, or put on probation a certified laser technician.
- E. A laser technician who has been using laser and IPL devices prior to November 24, 2009 may continue to do so if the technician applies for and receives a certificate from the Department before October 1, 2010.
- F. Certification may be issued for one or more of the following procedures:
1. Hair Reduction,
 2. Skin Rejuvenation,
 3. Non-Ablative Skin Resurfacing,
 4. Spider Vein Reduction,
 5. Skin Tightening,
 6. Wrinkle Reduction,
 7. Laser Peel,
 8. Telangiectasia Reduction,
 9. Acquired Adult Hemangioma Reduction,
 10. Facial Erythema Reduction,
 11. Solar Lentigo Reduction (Age Spots),
 12. Ephelis Reduction (Freckles),
 13. Acne Scar Reduction,
 14. Photo Facial, or

R9-7-1439. Laser and IPL Laser Technician and Laser Safety Training Programs

- A. A person seeking to initiate a medical laser or IPL laser technician training program shall submit an application to the Department for certification that contains a description of the training program. In addition, the person shall submit a syllabus and a test that consists of at least 50 multiple choice questions on subjects covered. In the program materials, the person shall address the subjects in R9-7-1438 through this Section, and Appendix C.
- B. The Department shall review the application and other documents required by subsections (A) and (E) in a timely manner, using an administrative completeness review time-frame of 40 days and a substantive review time-frame of 20 days with an overall time-frame of 60 days.
- C. The Department shall maintain a list of certified laser or IPL training programs.
- D. Applicants for approval as a certified laser or IPL training program shall pay a nonrefundable \$100.00 fee.
- E. Initial certification shall be issued for 12 months and shall expire on the last day of the month. A renewal application shall be accompanied by a renewal fee of \$100.00 each year.
- F. A person seeking to initiate a medical laser or IPL laser technician safety training program shall submit an application to the Department for certification that contains a description of the training program. In addition, the person shall submit a syllabus and a test that consists of at least 50 multiple choice questions on subjects covered. In the program materials, the person shall address the subjects in R9-7-1421 through R9-7-1444, Appendix C, and Appendix D, with emphasis on personal and public safety. The program shall also contain the training required by A.R.S. § 32-3233(E) or clearly state the portions of the training that are not provided or met if didactic certification is to take place in another program. The applicant shall conduct training in accordance with the program submitted to the Department and certified by the Department.

Historical Note

New Section R9-7-1439 recodified from R12-1-1439 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1440. Medical Lasers

- A. A registrant shall ensure that a Class 3 and Class 4 laser product used in the practice of medicine has a means for measuring the level of laser radiation with an error in measurement of no greater than +20%, when calibrated in accordance with the laser product manufacturer's calibration procedure.
- B. A registrant shall calibrate a laser used in the practice of medicine according to the manufacturer's specified calibration procedure, at intervals that do not exceed those specified by the manufacturer.

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- C. In a medical facility where several medical disciplines or a number of different practitioners use Class 3b and Class 4 lasers, a registrant shall form a Laser Safety Committee to govern laser activity, establish use criteria, and approve operating procedures, as follows:
1. With regard to membership of the committee the registrant shall include at least one representative of the Nursing staff, the LSO, one management representative, and one representative of each medical discipline that uses the lasers;
 2. The committee shall review actions by the LSO related to hazard evaluation and the monitoring and control of laser hazards; and
 3. The committee shall approve or deny requests by potential operators and ancillary personnel to operate or assist in the operation of a laser under the direction of a licensed practitioner.
- D. A registrant shall use Class 3b and Class 4 Lasers that have a guard mechanism on the switch to control patient exposure and prevent inadvertent exposure.
- E. A registrant shall establish a written laser safety training program that provides a thorough understanding of established procedures for each type of laser in use and the medical procedures associated with use of the laser. The registrant shall make program documentation available for Department review and, at minimum, address all of the following in the documentation:
1. Regulatory requirements and the laser classification system;
 2. Fundamentals of laser operation and the significance of specular and diffuse reflections;
 3. Biological effects of laser radiation on the eye and skin;
 4. Non-beam hazards (for example: electrical, chemical, and reaction by-product hazards) and ionizing radiation hazards (for example: x-rays from power sources and target interactions, if applicable) of lasers; and
 5. Responsibilities of management and employees regarding control measures.
- Historical Note**
New Section R9-7-1440 recodified from R12-1-1440 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-1441. Laser Light Shows and Demonstrations**
- A. Before a conducting laser light show or laser demonstration, a registrant shall provide documentation to the Department that a variance from 21 CFR 1040.10 has been obtained from the FDA.
- B. A registrant shall notify the Department in writing, at least three working days in before a proposed laser light show or demonstration, and include all of the following information:
1. The location, time, and date of the light show or demonstration;
 2. Sketches showing the locations of each laser, operator, performer, laser beam path, viewing screen, wall, mirror ball, or any other reflective or diffuse surface that could be hit by or reflect the laser beam;
 3. Scanning beam patterns, scan velocity, and frequency in occupied areas; and
 4. Physical surveys and calculations made to comply with this Article.
- C. A registrant shall supply any additional information required by the Department for the safety evaluation of the proposed activity.
- D. Before an outdoor laser light show, a registrant shall notify the Federal Aviation Administration of the proposed show.
- E. If a light show or demonstration involves laser radiation emissions outside the spectral range of 400 to 700 nanometers, a registrant shall prevent the emissions from exceeding the applicable Class 1 accessible emission limit.
- F. If it is likely that an audience member or any operator, performer, or employee will view laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 1 accessible emission limit.
- G. Even if it is unlikely that an individual, including any operator, performer, or employee in the vicinity of a laser light show or demonstration will view or be exposed to laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 2 accessible emission limit.
- H. A registrant shall identify any area where levels of laser radiation exceed the applicable Class 2 accessible emission limit by posting warning signs and using barriers or guards to prevent entry.
- I. If a registrant uses a scanning device, the registrant shall not use a device which, as a result of scan failure or any other failure, can change its angular velocity or amplitude, permitting audience exposure to laser radiation that exceeds the applicable Class 1 accessible emission limit.
- J. If a mirror ball is used with a scanning laser, a registrant shall meet the requirements of subsections (F) and (G) when the mirror ball is stationary or during any failure mode that results in a change in the rotational speed of the mirror ball.
- K. A registrant shall ensure that an operator is at all times directly and personally supervising a laser light show or demonstration, except in cases where the maximum laser power output level is less than 5 milliwatts (all spectral lines) and the laser beam path is located at all times at least 6 meters above any surface upon which an individual in the audience is permitted to stand, and at any point, more than 2.5 meters in lateral separation from any position where an individual in the audience is permitted during the performance.
- L. A registrant shall prevent laser radiation levels from exceeding the applicable Class 2 accessible emission limit at any point less than three meters above any surface upon which an individual in the audience is permitted to stand and 2.5 meters in lateral separation from any position where an individual in the audience is permitted, unless physical barriers are present that prevent human access to the radiation.
- M. A registrant shall limit the maximum power output of any laser to a level sufficient to produce the desired effect.
- N. If a registrant is required to limit output power to a level less than the available power to meet the requirements of this Article, the registrant shall adjust, measure, and record the laser output power before the laser light show or demonstration.
- O. A registrant shall functionally test and evaluate all safety devices and procedures necessary to comply with this Article after setup, and before a laser light show or demonstration.
- P. A registrant shall secure a laser system, when not in use, against unauthorized operation or tampering.
- Q. A registrant shall perform laser alignment procedures with the laser output power reduced to the lowest practicable level, and ensure that any operator, performer, or other employee wears protective eyewear as necessary to prevent exposure to radiation levels that exceed the applicable MPE. The registrant shall only allow individuals who are performing the alignment be present during alignment procedures.
- R. A registrant shall not conduct a laser light show or demonstration unless the Department has specifically exempted the show or demonstration from the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file

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with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1441 recodified from R12-1-1441 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1442. Measurements and Calculations to Determine MPE Limits for Lasers

A registrant shall take measurements to determine MPE values in a manner consistent with the procedures contained in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1442 recodified from R12-1-1442 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1443. Laser Compliance Measurement Instruments

A registrant shall ensure that the radiation output measurement is performed with an instrument that is calibrated and designed for use with the laser that is being evaluated for compliance. The registrant shall specify the date of calibration, accuracy of calibration, wavelength range, and power or energy of calibration on a legible, clearly visible label attached to the instrument.

Historical Note

New Section R9-7-1443 recodified from R12-1-1443 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1444. Laser Classification Measurements

A. A registrant shall measure accessible emission for classification:

1. Under the operational conditions and procedures that maximize accessible emission levels, including start-up, stabilized operation, and shutdown of the laser or laser facility;
2. With all controls and adjustments listed in the operating and service instructions adjusted for the maximum accessible emission level of laser radiation that is not expected to be detrimental to the functional integrity of the laser or enclosure;
3. At points in space to which human access is possible for a given laser configuration. If operations include the defeat of safety interlocks or removal of portions of the protective housing or enclosure, the registrant shall measure accessible emission at points accessible in that configuration;
4. With the measuring instrument detector positioned so that the maximum possible radiation is measured by the instrument; and
5. With the laser coupled to the type of laser energy source specified as compatible by the laser manufacturer and producing the maximum emission of accessible laser radiation.

B. A registrant shall perform measurements of accessible emission levels, used to classify laser and collateral radiation in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1444 recodified from R12-1-1444 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Radio Frequency Devices (Include, but are not limited to, the following)

Dielectric heaters and sealers
 Medical diathermy units
 Radar
 R.F. activated alarm systems
 Sputter devices
 R.F. activated lasers
 Edge gluers
 Industrial microwave ovens and dryers
 Asher-etcher equipment
 R.F. welding equipment
 Medical surgical coagulators

Historical Note

New Article 14, Appendix A recodified from 12 A.A.C. 1, Article 14, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix B. Application Information

The Department shall issue a registration if an applicant provides the following information and fee as required in R9-7-1401(D). The Department shall provide an application form to the applicant with a guide and upon request, assist the applicant to ensure that correct information is provided on the application form.

Name and mailing address of applicant
 Person responsible for radiation safety program
 Type of facility
 Legal structure and ownership
 Radiation source information
 Shielding information
 Equipment operator instructions and restrictions
 Classification of professional in charge
 Type of request: amendment, new, or renewal
 Protection survey results, if applicable
 Radiation Safety Officer name, if applicable
 Laser class and type, if applicable
 Information required by Article 14 for the specific source
 Use location
 Telephone number
 Facility subtype
 Signature of certifying agent
 Equipment identifiers
 Scale drawing
 Physicist name and training, if applicable
 Contact person
 Applicable fee listed in Article 13 schedule

Historical Note

New Article 14, Appendix B recodified from 12 A.A.C. 1, Article 14, Appendix B at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix C. Hair Removal and Other Cosmetic Laser or IPL Operator Training Program

1. General Considerations. An applicant shall ensure that:
 - a. The training program is specific to the medical laser or IPL device in use and the clinical procedures to be performed;
 - b. Program content is consistent with facility policy and procedure and applicable federal and state law; and
 - c. The training program addresses hazards associated with laser or IPL device use.

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2. Technical Considerations. The applicant's training program shall cover all of the following technical subjects:
 - a. Laser and IPL device descriptions
 - b. Definitions
 - c. Laser and IPL device radiation fundamentals
 - d. Laser mediums, types of lasers, and other light-emitting devices – solid, liquid, gas, and IPL devices
 - e. Biological effects of laser or IPL device light
 - f. Damage mechanisms
 - i. Eye hazard
 - ii. Skin hazard (includes information regarding skin type and skin anatomy)
 - iii. Absorption and wavelength effects
 - iv. Thermal effects
 - g. Photo chemistry
 - h. Criteria for setting the Maximum Permissible Exposure (MPE) for eye and skin associated hazards
 - i. Explosive, electrical, and chemical hazards
 - j. Photosensitive medications
 - k. Fire, ionizing radiation, cryogenic hazards, and other hazards, as applicable
3. Medical Considerations. The applicant's training program shall cover all of the following medical subjects:
 - a. Local anesthesia techniques, including ice, EMLA® cream, and other applicable topical treatments
 - b. Typical laser and IPL device settings for hair removal and cosmetic procedures
 - c. Expected patient response to treatment
 - d. Potential adverse reactions to treatment
 - e. Anatomy and physiology of skin areas to be treated
 - f. Indications and contraindications for use of pigment and vascular-specific lasers for cutaneous procedures
4. General Laser or IPL device safety. The applicant's training program shall cover the following general safety subjects:
 - a. Laser and IPL device classifications
 - b. Control measures (includes information regarding protective equipment)
 - c. Manager and operator responsibilities
 - d. Medical surveillance practices
 - e. Federal and state legal requirements
 - f. Related safety issues
 - i. Controlled access
 - ii. Plume management
 - iii. Equipment testing, aligning, and troubleshooting
 - g. Control measures
 - h. Responsibilities of managers and operators
 - i. Medical surveillance practices (if applicable)
 - j. CPR for personnel servicing lasers with exposed high voltages, the capability of producing potentially lethal electrical currents, or both.
2. The LSO or other individual responsible for the safety program, evaluation of hazards, and implementation of control measures, or any others, if directed by management to obtain a thorough knowledge of laser safety:
 - a. The subjects covered in subsection (1)
 - b. Laser terminology
 - c. Laser types, wavelengths, pulse shapes, modes, power and energy
 - d. Basic radiometric units and measurement devices
 - e. MPE levels for eye and skin under all conditions
 - f. Laser hazard evaluations, range equations, and other calculations
3. Technical Considerations
 - a. Laser and IPL device descriptions
 - b. Definitions
 - c. Laser and IPL device radiation fundamentals
 - d. Laser mediums, types of lasers, and other light-emitting devices (includes information regarding diodes and solid, liquid, gas, and IPL devices)
 - e. Biological effects of laser or IPL device light
 - f. Damage mechanisms
 - i. Eye hazard
 - ii. Skin hazard (includes information regarding skin type and skin anatomy)
 - iii. Absorption and wavelength effects
 - iv. Thermal effects
 - g. Photo chemistry
 - h. Photosensitive medications
 - i. Criteria for setting the Maximum Permissible Exposure (MPE) levels for eye and skin associated hazards
 - j. Explosive, electrical, and chemical hazards
 - k. Fire, ionizing radiation, cryogenic hazards, and other hazards as applicable.

Historical Note

New Article 14, Appendix D recodified from 12 A.A.C. 1, Article 14, Appendix D at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 15. TRANSPORTATION**R9-7-1501. Requirement for License**

- A. A person shall not transport radioactive material or deliver radioactive material to a carrier for transport unless the person is authorized in a general or specific license issued by the Department or exempt under R9-7-103(A).
- B. This Article applies to any licensee to transfer licensed material if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this Article authorizes possession of licensed material.

Historical Note

New Section R9-7-1501 recodified from R12-1-1501 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1502. Definitions

Terms defined in Article 1 have the same meaning when used in this Article.

Historical Note

New Article 14, Appendix C recodified from 12 A.A.C. 1, Article 14, Appendix C at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix D. Laser Operator and Laser Safety Officer Training

1. Operators and personnel that work around lasers:
 - a. Fundamentals of laser operation (for example: physical principles, construction, and other basic information)
 - b. Bioeffects of laser radiation on the eye and skin
 - c. Significance of specular and diffuse reflections
 - d. Non-beam hazards of lasers (for example: electrical, chemical, and reaction byproducts)
 - e. Ionizing radiation hazards (includes information regarding x-rays from power sources and target interactions, if applicable)
 - f. Laser and laser system classifications

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Historical Note

New Section R9-7-1502 recodified from R12-1-1502 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1503. Transportation of Licensed Material

Each licensee that transports licensed material outside the site of usage, as specified in a Department license, or where transport is on public highways, or that delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations listed in 10 CFR 71.5, revised January 1, 2008, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1503 recodified from R12-1-1503 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1504. Intrastate Transportation and Storage of Radioactive Materials

- A.** A general license is issued to:
- Any common or contract carrier not exempt under R9-7-103 to receive, possess, transport, and store radioactive material in the regular course of carriage for others or to store radioactive material incident to the transport activities, provided the transportation or storage is in accordance with applicable requirements for the mode of transport of the U.S. Department of Transportation, 49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 - Any private carrier or licensee who transports and stores radioactive material, provided the transportation and storage are in accordance with the requirements applicable to the mode of transport, of the U.S. Department of Transportation, 49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B.** Any notification of incidents required under federal regulations in subsection (A) shall also be filed with, or made to, the Department.
- C.** A person who transports or stores radioactive material according to the general license in this Section is exempt from the requirements of Article 4 and Article 10 of this Chapter to the extent that this Section applies to transportation of the radioactive material.

Historical Note

New Section R9-7-1504 recodified from R12-1-1504 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1505. Storage of Radioactive Material in Transport

- A.** A carrier shall not store, for any period in excess of 72 hours, any package that contains radioactive material bearing a Department of Transportation Yellow II or Yellow III label, unless the radioactive material is stored in an area other than, and not adjacent to, any food storage area or area that is normally occupied by an individual.
- B.** A carrier shall not store a package that contains radioactive material with other hazardous materials, except as authorized by U.S. Department of Transportation regulations in 49 CFR 177.848, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

- C.** Whenever a package containing radioactive material is stored in excess of 48 hours, the storage area shall be conspicuously posted according to the requirements of Article 4.
- D.** When transit is interrupted and storage is required for an extended period, the following requirements apply:
- When radioactive materials are stored for longer than 48 hours during transit, the carrier shall notify the local fire department and provide the following information:
 - Warehouse location and carrier name and telephone number;
 - Radionuclide(s);
 - Activity per package in curies or becquerels and number of packages;
 - Form (solid, metallic, liquid, gas);
 - Flammability (if flammable);
 - Specific location in warehouse;
 - Estimated date of departure;
 - Toxicity (if toxic).
 - If the radioactive material will be, or has been in storage for longer than 90 days, the carrier shall notify the Department in writing and include the information required in subsection (D)(1).
 - The licensee or carrier shall immediately notify the Department of Public Safety of an accident involving radioactive material.

Historical Note

New Section R9-7-1505 recodified from R12-1-1505 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1506. Preparation of Radioactive Material for Transport

A licensee shall not deliver any package that contains radioactive material to a carrier for transport or transport radioactive material, unless the licensee:

- Complies with the U.S. Department of Transportation packaging, monitoring, manifesting, marking, and labeling regulations applicable to the mode of transport, (Contained in 49 CFR 171 through 180, revised October 1, 2007, or 39 CFR 111.1, revised July 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); and
- Establishes procedures for safely opening and closing packages in which radioactive material is transported; and
- Prior to delivery of a package to a carrier for transport, assures that:
 - The package is properly closed, and
 - Any special instructions needed to safely open the package are made available to the consignee.

Historical Note

New Section R9-7-1506 recodified from R12-1-1506 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1507. Packaging Quality Assurance

- A.** A licensee that transports radioactive material in the course of business or delivers radioactive material to a carrier for transport in a package for which a license, certificate of compliance, applicant for a certificate of compliance, or other approval has been issued by the Nuclear Regulatory Commission, or meets the applicable criteria (10 CFR 71, Subpart H), shall establish, maintain, and execute the quality assurance program specified in 10 CFR 71, Subpart H.
- B.** The transportation of radioactive material shall be in accordance with the requirements in 10 CFR Part 71, with the exception of the following sections: 71.2, 71.6, 71.11,

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71.14(b), 71.19, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.52, 71.53, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71.85(a)-(c), 71.91(b), 71.99, 71.100, 71.101(c)(2), 71.101(g), 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123 and 71.125. The provisions of this subsection apply to the transportation of radioactive material, or delivery of radioactive material to a carrier for transportation, regardless of whether or not the carrier is also subject to the rules and regulations of the NRC contained in 10 CFR Part 71 and other agencies of the United States having jurisdiction.

- C. In addition to the requirements in subsection (A) for a quality assurance program, a licensee shall verify by procedures such as checking or inspection, that deficiencies or defective material or equipment relative to the shipment of packages containing radioactive material are promptly identified and corrected.
- D. Before the first use of any Type B packaging, a licensee shall obtain approval of its quality assurance program by the Department.
- E. A licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a Type B package for shipment of radioactive material shall be maintained for three years after the package is used for a shipment.

Historical Note

New Section R9-7-1507 recodified from R12-1-1507 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1508. Advance Notification of Nuclear Waste Transportation

- A. Prior to the transport of any nuclear waste, as defined in Article 1, outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the Department.
- B. Each advance notification required in subsection (A) above shall contain the following information:
1. The name, address, and telephone number of the shipper, carrier, and receiver of the shipment;
 2. A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d) (Revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);
 3. The point of origin of the shipment and the seven-day period during which departure of the shipment will occur;
 4. The seven-day period during which arrival of the shipment at state boundaries will occur;
 5. The destination of the shipment, and the seven-day period during which arrival of the shipment will occur; and
 6. A point of contact with a telephone number for current shipment information.
- C. The licensee shall make the notification required by subsection (A) in writing to the Department. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. The licensee shall maintain a copy of the notification for one year.
- D. The licensee shall notify the Department of any changes in shipment plans, including cancellations, rerouting, or rescheduling, provided pursuant to subsection (A). Such notification shall be by telephoning the Department. The licensee shall

maintain for one year a record of the name of the individual contacted.

- E. After June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of 10 CFR 71.97, or the official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

Historical Note

New Section R9-7-1508 recodified from R12-1-1508 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-1509. General License: Plutonium-Beryllium Special Form Material

- A. A general license is issued to any licensee of the Department to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver Pu-Be sealed sources to a carrier for transport, if the material is shipped in accordance with this Article. This material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a), revised October 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B. The general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the provisions of R9-7-1507.
- C. The general license applies only when a package's contents:
1. Contain no more than a Type A quantity of radioactive material; and
 2. Contain less than 1000 g of plutonium, provided that: plutonium-239, plutonium-241, or any combination of these radionuclides, constitutes less than 240 g of the total quantity of plutonium in the package.
- D. The general license applies only to packages labeled with a CSI which:
1. Has been determined in accordance with subsection (E);
 2. Has a value less than or equal to 100; and
 3. For a shipment of multiple packages containing Pu-Be sealed sources, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).
- E. The value for the CSI must be greater than or equal to the number calculated by the following equation:
1. $CSI = 10[(\text{grams of } ^{239}\text{Pu} + \text{grams of } ^{241}\text{Pu})/24]$,
 2. The calculated CSI must be rounded up to the first decimal place.

Historical Note

New Section R9-7-1509 recodified from R12-1-1509 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1510. Packaging

- A. A general license is issued to any licensee to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.
1. This general license applies only to a licensee that has a quality assurance program approved by the Department as satisfying R9-7-1507;
 2. This general license applies only to a licensee that:

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- a. Has a copy of the license, certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;
 - b. Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Article;
 - c. Before the licensee's first use of the package, submits in writing to the Department and to ATTN: Document Control Desk, Director, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in 10 CFR 71.1(a), the licensee's name, license number, and the package identification number specified in the package approval;
 - d. The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this part. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated; and
 - e. The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by 10 CFR 71.85; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
3. This general license applies only when the package approval authorizes use of the package under this general license.
 4. For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of subsection (B).
- B. Type B packages.**
1. Before the first use of any packaging for the shipment of licensed material, refer to 10 CFR 71.85 (a), (b) and (c).
 2. A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the "-85" designation in the identification number of the NRC certificate of compliance, may be used under the general license of subsection (A) with the following additional conditions:
 - a. Fabrication of the packaging is satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with 10 CFR 71.85(c);
 - b. A package that is used for a shipment to a location outside the United States is subject to multilateral approval as defined in 49 CFR 173.403, revised January 8, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; and
 - c. A serial number which uniquely identifies each package which conforms to the approved design and is assigned to, and legibly and durably marked on, the outside of each package.
 3. A licensee may modify the design and authorized contents of a Type B package, or a fissile material package, previously approved by NRC, provided:
 - a. The modifications of a Type B package are not significant with respect to the design, operating characteristics, or safe performance of the containment system, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73;
 - b. The modifications of a fissile material package are not significant, with respect to the prevention of criticality, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73; and
 - c. The modifications to the package satisfy the requirements of this Section.
 4. The NRC will revise the package identification number to designate previously approved package designs as B(U), B(M), AF, BF, or A as applicable, and with the identification number suffix "-85" after receipt of an application demonstrating that the design meets the requirements of this Section.
 5. For purposes of this Section, package types are defined in 10 CFR 71.4.
- C. A general license is issued to any licensee of the Department to transport fissile material, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in 49 CFR 173, revised July 16, 2018, and 49 CFR 178, revised March 11, 2013, incorporated by reference, available under R9-7-101, and containing no future editions or amendments, if the following requirements are met:**
1. The licensee maintains a quality assurance program approved by the Department as satisfying R9-7-1507;
 2. The licensee:
 - a. Maintains a copy of the specification; and
 - b. Complies with the terms and conditions of the specification and the applicable requirements in 10 CFR 71, Subparts A, G, and H;
 3. The licensee does not use the specification container for a shipment to a location outside the United States, except by multilateral approval, as defined in 49 CFR 173.403, revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments;
 4. The general license applies only when a package's contents:
 - a. Contain no more than a Type A quantity of radioactive material; and
 - b. Contain less than 500 total grams of beryllium, graphite, or hydrogenous material enriched in deuterium;
 5. The general license applies only to packages containing fissile material that are labeled with a CSI which:
 - a. Has been determined in accordance with subsection (E);
 - b. Has a value less than or equal to 10; and
 - c. For a shipment of multiple packages containing fissile material, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance); and
 6. The CSI value meets the following requirements:
 - a. The value for the CSI must be greater than or equal to the number calculated by the following equation: $CSI=10[(\text{grams of } 235\text{U}/X) + (\text{grams of } 235\text{U}/Y) + \text{grams of } 235\text{U}/Z]$;

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- b. The calculated CSI must be rounded up to the first decimal place;
 - c. The values of X, Y, and Z used in the CSI equation must be taken from Tables 71-1 or 71-2 as appropriate located in 10 CFR 71.22;
 - d. If Table 71-2 is used to obtain the value of X, then the values for the terms in the equation for uranium-233 and plutonium must be assumed to be zero; and
 - e. Table 71-1 values for X, Y, and Z must be used to determine the CSI if:
 - i. Uranium-233 is present in the package;
 - ii. The mass of plutonium exceeds 1 percent of the mass of uranium-235;
 - iii. The uranium is of unknown uranium-235 enrichment or greater than 24 weight percent enrichment; or
 - iv. Substances having a moderating effectiveness (i.e., an average hydrogen density greater than H₂O) (e.g., certain hydrocarbon oils or plastics) are present in any form, except as polyethylene used for packing or wrapping.
- D. Foreign packaging.**
1. A general license is issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the Federal Department of Transportation as meeting the applicable requirements of 49 CFR 171.23, revised March 30, 2017, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
 2. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the applicable provisions of R9-7-1507.
 3. This general license applies only to:
 - a. Shipments made to or from locations outside the United States.
 - b. A licensee that:
 - i. Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and
 - ii. Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements in 10 CFR 71, Subparts A, G, and H, revised September 9, 2015.
- E. Routine determination before each shipment of licensed material shall ensure that the package with its contents satisfies the applicable requirements of this Article and of the license. The licensee shall determine that:**
1. The package is proper for the contents to be shipped;
 2. The package is in unimpaired physical condition except for superficial defects such as marks or dents;
 3. Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
 4. Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
 5. Any pressure relief device is operable and set in accordance with written procedures;
 6. The package has been loaded and closed in accordance with written procedures;
 7. For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;
 8. Any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose, unless it satisfies the design requirements of 10 CFR 71.45;
 9. The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable, and within the limits specified in DOT regulations in 49 CFR 173.443, revised July 11, 2014, incorporated by reference, available under R9-7-101, and containing no future editions or amendments;
 10. External radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in 10 CFR 71.47, at any time during transportation; and
 11. Accessible package surface temperatures will not exceed the limits specified in 10 CFR 71.43(g), at any time during transportation.
- F. Fissile material meeting the requirements of at least one of the conditions in subsections (F)(1) through (F)(6) are exempt from classification as fissile material and from the fissile material package standards of 10 CFR 71.55 and 71.59, but are subject to all other requirements of this part, except as noted.**
1. Individual package containing 2 grams or less fissile material.
 2. Individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass for solid nonfissile material.
 3. Low concentrations of solid fissile material commingled with solid nonfissile material, provided that:
 - a. There is at least 2000 grams of solid nonfissile material for every gram of fissile material;
 - b. There is no more than 180 grams of fissile material distributed within 360 kg of contiguous nonfissile material; and
 - c. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass of solid nonfissile material.
 4. Uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass, and that the fissile material is distributed homogeneously and does not form a lattice arrangement within the package.
 5. Liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of 2. The material must be contained in at least a DOT Type A package.
 6. Packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

Historical Note

New Section R9-7-1510 recodified from R12-1-1510 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1511. Air Transport of Plutonium

A. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Section or included indirectly by citation of 49 CFR 107, and 171 through 180, previously incorporated in this Article, as may be applicable, the licensee shall ensure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

1. The plutonium is contained in a medical device designed for individual human application; or
2. The plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for Plutonium specified in 10 CFR 71, Appendix A, Table A-2 (Revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.), and in which the radioactivity is essentially uniformly distributed; or
3. The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form, and is shipped in accordance with R9-7-1503 and 10 CFR 71.5 (Revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
4. The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the NRC.

B. Nothing in subsection (A) is to be interpreted as removing or diminishing the requirements of 10 CFR 73.24, January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

C. For a shipment of plutonium by air that is subject to subsection (A)(4), the licensee shall, through special arrangement with the carrier, require compliance with 49 CFR 175.704, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This U.S. Department of Transportation regulation is applicable to the air transport of plutonium. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1511 recodified from R12-1-1511 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste

A. A licensee shall provide advance notification to the Governor, or the Director of the Department, of the shipment of licensed material as specified in 10 CFR 71.97, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

B. After June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of 10 CFR 71.97, or the Tribal official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

C. Advance notification is also required under this Section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:

1. The licensed material is required by this part to be in Type B packaging for transportation;
2. The licensed material is being transported to or across a State boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and
3. The quantity of licensed material in a single package exceeds the least of the following:
 - a. 3000 times the A1 value of the radionuclides as specified in appendix A, Table A-1 for special form radioactive material;
 - b. 3000 times the A2 value of the radionuclides as specified in appendix A, Table A-1 for normal form radioactive material; or
 - c. 1000 TBq (27,000 Ci).

D. Procedures for submitting advance notification. (1) The notification must be made in writing to:

1. The office of each appropriate governor or governor's designee;
2. The office of each appropriate Tribal official or Tribal official's designee; and
3. The Director, Division of Security Policy, Office of Nuclear Security and Incident Response.

Historical Note

New Section R9-7-1512 recodified from R12-1-1512 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-1513. Opening Instructions

Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee for the consignee's use in accordance with 10 CFR 20.1906(e) revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1513 recodified from R12-1-1513 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1514. Records

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

1. Identification of the packaging by model number and serial number;
2. Verification that there are no significant defects in the packaging, as shipped;
3. Volume and identification of coolant;
4. Type and quantity of licensed material in each package, and the total quantity of each shipment;
5. For each item of irradiated fissile material:
 - a. Identification by model number and serial number;
 - b. Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - c. Any abnormal or unusual condition relevant to radiation safety;
6. Date of the shipment;
7. For fissile packages and for Type B packages, any special controls exercised;
8. Name and address of the transferee;
9. Address to which the shipment was made; and

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10. Results of the determinations required by R9-7-1510(E) and by the conditions of the package approval.

- B.** The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this Chapter. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.
- C.** The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by R9-7-1507; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
- D.** Each record required by this Chapter must be legible throughout the retention period specified by each Department regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Historical Note

Section R9-7-1514 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1). New Section made by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1515. Exemption for Low-level Radioactive Materials

- A.** A licensee is exempt from all the requirements of 10 CFR 71 with respect to shipment or carriage of the low-level materials listed in 10 CFR 71.14(a), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B.** Natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in appendix A, Table A-2, or Table A-3 of this part.
- C.** Materials for which the activity concentration is not greater than the activity concentration values specified in appendix A, Table A-2, or Table A-3 of this part, or for which the consignment activity is not greater than the limit for an exempt consignment found in appendix A, Table A-2, or Table A-3 of 10 CFR 71 Appendix A.
- D.** Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in 10 CFR 71.4.

Historical Note

New Section R9-7-1515 recodified from R12-1-1515 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

ARTICLE 16. RESERVED**ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES****R9-7-1701. Definitions**

“Energy compensation source (ECS)” means a small sealed source, with activity that does not exceed 3.7 Mbq (100 microcuries), contained within a logging tool or other tool component.

“Tritium neutron generator target source” means a tritium source contained within a tritium neutron generator tube that produces neutrons for use in well logging applications.

Historical Note

New Section R9-7-1701 recodified from R12-1-1701 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1702. Agreement with Well Owner or Operator

- A.** A licensee that performs wireline service (well logging) with a sealed source shall enter into a written agreement with the employing well owner or operator that identifies the party responsible for complying with each of the following requirements. The responsible party shall:
1. Make a reasonable effort to recover any sealed source that may be lodged in the well;
 2. Not attempt to recover a sealed source in a manner which, in the licensee’s opinion, is likely to result in its rupture;
 3. Perform the radiation monitoring required in R9-7-1723(A);
 4. Decontaminate anyone or anything contaminated with licensed material before releasing personnel or equipment from the site or releasing the site for unrestricted use; and
 5. If a source is classified by the Department as irretrievable after reasonable efforts at recovery, implement the following requirements within 30 days:
 - a. Immobilize the irretrievable well logging source and seal it in place with a cement plug;
 - b. Provide a means to prevent inadvertent intrusion that could damage the source, unless the site is rendered inaccessible to subsequent drilling operations; and
 - c. Mount a permanent identification plaque, constructed of long-lasting material, such as stainless steel, brass, bronze, or Monel, in a conspicuous location adjacent to the well. The responsible party shall ensure that the plaque size is at least 17 cm (7 inches) square and 3 mm (1/8 inch) thick and the following information is written on the plaque:
 - i. The word “CAUTION,”
 - ii. The radiation symbol (the color requirement in R9-7-428(A) does not apply),
 - iii. The date the source was abandoned,
 - iv. The name of the well owner or operator that employed the licensee;
 - v. The well name and identification number or other designation,
 - vi. An identification of each source by radionuclide and quantity of radionuclide,
 - vii. The depth of the source and depth to the top of the plug, and
 - viii. The following warning, “DO NOT RE-ENTER THIS WELL,” and
 - d. Notify the Oil and Gas Conservation Commission, Department of Water Resources, or Department of Environmental Quality of the abandoned source, as required by law.
- B.** A licensee shall maintain a copy of the agreement at the field station during logging operations. The licensee shall retain a

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copy of the written agreement for three years after completion of the well logging operation.

- C. A licensee may apply in accordance with A.R.S. § 30-654(B)(13) for Department approval, on a case-by-case basis, of proposed procedures to abandon an irretrievable well logging source in a manner not otherwise authorized in subsection (A)(5).
- D. A written agreement between the licensee and the well owner or operator is not required if the licensee and the well owner or operator are employed by the same corporation or other business entity. If so, the licensee shall comply with the requirements in subsections (A)(1) through (A)(5).

Historical Note

New Section R9-7-1702 recodified from R12-1-1702 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1703. Limits on Levels of Radiation

A person in possession of any source of radiation shall transport the source according to 9 A.A.C. 7, Article 15, and use or store the source in a manner that is consistent with the dose limits in 9 A.A.C. 7, Article 4.

Historical Note

New Section R9-7-1703 recodified from R12-1-1703 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1704. Reserved**Historical Note**

Section R9-7-1704 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1705. Reserved**Historical Note**

Section R9-7-1705 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1706. Reserved**Historical Note**

Section R9-7-1706 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1707. Reserved**Historical Note**

Section R9-7-1707 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1708. Reserved**Historical Note**

Section R9-7-1708 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1709. Reserved**Historical Note**

Section R9-7-1709 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1710. Reserved**Historical Note**

Section R9-7-1710 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1711. Reserved**Historical Note**

Section R9-7-1711 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1712. Storage Precautions

- A. A person storing or transporting a source of radiation shall place the source in an approved storage container, transport container, or both. The container or combination of containers shall have a lock, or tamper-proof seal for calibration sources, to prevent unauthorized removal of the source and exposure to radiation.
- B. A person storing or transporting a source of radiation shall store the source in a manner that will minimize danger from explosion or fire.

Historical Note

New Section R9-7-1712 recodified from R12-1-1712 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1713. Transportation Precautions

Each licensee shall ensure that transport containers are physically secured in the transporting vehicle to prevent accidental movement, loss, tampering, or unauthorized removal.

Historical Note

New Section R9-7-1713 recodified from R12-1-1713 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1714. Radiation Survey Instruments

- A. A licensee shall maintain at each field station and temporary job site a calibrated and operable radiation survey instrument capable of detecting beta and gamma radiation. The licensee shall ensure that the radiation survey instrument is capable of measuring 1.0 microsievert (0.1 millirem) per hour through 500 microsievert (50 millirem) per hour.
- B. A licensee shall ensure that additional calibrated and operable radiation detection instruments are available as needed and that the instruments are sensitive enough to detect the low radiation and contamination levels that could be encountered if a sealed source is ruptured.
- C. A licensee shall ensure that the radiation survey instrument required in subsection (A) is calibrated
1. At intervals not to exceed six months and after each instrument servicing;
 2. At energies comparable to the energies of the radiation sources used;
 3. For linear scale instruments, at two points located approximately 1/3 and 2/3 of full-scale on each scale or for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and
 4. So that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.
- D. A licensee shall retain calibration records for a period of three years from the date of calibration.

Historical Note

New Section R9-7-1714 recodified from R12-1-1714 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1715. Leak Testing of Sealed Sources

- A. A licensee that uses a sealed source shall ensure that the source is tested for leakage according to subsection (C). The licensee shall maintain a record of leak test results in units of Becquerels (Bq) or microcuries, for inspection by the Department for three years after the leak test is performed.
- B. A person authorized under R9-7-417(C) shall wipe a sealed source using a leak test kit or a similar method approved by the Department, the NRC, or another Agreement State. The authorized person shall take the wipe sample from the nearest acces-

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sible point to the sealed source where contamination might accumulate, and ensure the wipe sample is analyzed for radioactive contamination. The authorized person shall use a method of analysis capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample.

- C. Test frequency.
1. A licensee shall ensure that each sealed source (except an energy compensation source (ECS)) is tested in accordance with R9-7-417. In the absence of a certificate from a transferor that a test has been performed within six months before transfer, a licensee shall not use the sealed source until it is tested.
 2. A licensee shall ensure that each ECS that is not exempt from testing under subsection (E) is tested at intervals that do not exceed three years. In the absence of a certificate from a transferor that a test has been performed within three years before transfer, a licensee shall not use the ECS until it is tested.
- D. Removal of leaking source from service.
1. If a test conducted according to this Section reveals the presence of 185 Bq (0.005 microcuries) or more of removable radioactive material, a licensee shall remove the sealed source from service immediately and have it decontaminated, repaired, or disposed of by a Department, a NRC, or an Agreement State licensee that is authorized to perform these functions. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if the equipment is contaminated, have it decontaminated or disposed of by a Department, a NRC, or an Agreement State licensee that is authorized to perform the chosen function.
 2. A licensee shall submit a report to the Department, within five days of receiving positive test results. The report shall describe the equipment involved in the leak, the test results, any contamination that resulted from the leaking source, and each corrective action taken up to the date on the report.
- E. The following sealed sources are exempt from the periodic leak test requirements in subsections (A) through (D):
1. Hydrogen-3 (tritium) sources;
 2. Sources that contain licensed material with a half-life of 30 days or less;
 3. Sealed sources that contain licensed material in gaseous form;
 4. Sources of beta- or gamma-emitting radioactive material with an activity of 3.7 MBq [100 microcuries] or less; and
 5. Sources of alpha- or neutron-emitting radioactive material with an activity of 0.37 MBq [10 microcuries] or less.

Historical Note

New Section R9-7-1715 recodified from R12-1-1715 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1716. Inventory

A licensee shall conduct a physical inventory every six months to account for all licensed material received and possessed under the license. The licensee shall maintain records of the inventory for three years from the date of the inventory for inspection by the Department. The inventory shall indicate the quantity and kind of licensed material, the location of the licensed material, the date of the inventory, and the name of each individual who conducted the inventory. Physical inventory records may be combined with leak test records.

Historical Note

New Section R9-7-1716 recodified from R12-1-1716 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1717. Utilization Records

Each licensee shall maintain records of use for three years from the date of the recorded event, that contain the following information for each source of radiation:

1. Make, model number, and serial number or a description of each source of radiation used;
2. The identity of the well-logging supervisor or the field unit to which the source is assigned;
3. Locations and dates of use; and
4. In the case of tracer materials and radioactive markers, the radionuclide and activity undertaken in a particular well.

Historical Note

New Section R9-7-1717 recodified from R12-1-1717 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1718. Design and Performance Criteria for Sealed Sources

- A. A licensee shall use a sealed source for well logging applications if the sealed source:
1. Is doubly encapsulated;
 2. Contains licensed material in a chemical and physical form that is insoluble and nondispersible; and
 3. Meets the requirements of subsection (B), (C), or (D).
- B. For a sealed source manufactured on or before July 14, 1989, a licensee may use a sealed source in well logging applications that meets the requirements of USASI N5.4-1968, Classification of Sealed Radioactive Sources, available from the American National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Department, or the requirements in subsection (C) or (D). This incorporation by reference contains no future editions or amendments.
- C. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications that meets the oil-well logging requirements of ANSI/HPS N43.6-1997, Sealed Radioactive Sources--Classification, available from the American National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
- D. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications if the sealed source's prototype has been tested and found to maintain its integrity after each of the following required tests:
1. Temperature. The test source is held at -40° C for 20 minutes and 600° C for one hour, and then subjected to a thermal shock with a temperature drop from 600° C to 20° C within 15 seconds.
 2. Impact. A 5 kg steel hammer, 2.5 cm in diameter, is dropped from a height of 1 m onto the test source.
 3. Vibration. The test source is subjected to vibration in the 25 Hz to 500 Hz range at 5 g amplitude for 30 minutes.
 4. Puncture. A 1 gram hammer with a pin, 0.3 cm in diameter, is dropped from a height of 1 m onto the test source.
 5. Pressure. The test source is subjected to an external pressure of 1.695 x 10⁷ pascals (24,600 pounds per square inch absolute).
- E. The requirements in subsections (A), (B), (C), and (D) do not apply to a sealed source that contains licensed material in gaseous form.

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- F. The requirements in subsections (A), (B), (C), and (D) do not apply to an energy compensation source (ECS).

Historical Note

New Section R9-7-1718 recodified from R12-1-1718 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1719. Labeling

- A. A licensee shall mark each source, source holder, or logging tool that contains radioactive material with a durable, legible, and clearly visible marking or label, consisting at minimum of the standard radiation caution symbol, without the conventional color requirement, and the following wording:

DANGER (or: CAUTION)
RADIOACTIVE

This labeling is required for each component transported as a separate piece of equipment regardless of size.

- B. A licensee shall permanently attach to each transport container a durable, legible, and a clearly visible label consisting at minimum, of the standard radiation caution symbol and the following wording:

DANGER (or: CAUTION)
RADIOACTIVE
NOTIFY CIVIL AUTHORITIES (or name of company)

Historical Note

New Section R9-7-1719 recodified from R12-1-1719 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1720. Inspection, Maintenance, and Opening of a Source or Source Holder

- A. Each licensee shall visually check source holders, logging tools, and source handling tools for defects before each use to ensure that the equipment is in good working condition and that required labeling is present. If defects are found, the licensee shall remove equipment from service until it is repaired, and make a record listing: date of check, name of inspector, equipment involved, each defect found, and repairs made. The licensee shall maintain each record for three years after a defect is found.
- B. Each licensee shall have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, injection tools, source handling tools, storage containers, transport containers, and uranium sinker bars to ensure that the required labeling is legible and that no physical damage is visible. If any defect is found, the licensee shall remove the equipment from service until it is repaired, and make a record listing: date of inspection, equipment involved, inspection and maintenance operations performed, each defect found, and each action taken to correct a defect. The licensee shall maintain each record for three years after a defect is found.
- C. A licensee shall not remove a sealed source from a source holder or logging tool, or perform maintenance on a sealed source or source holder that contains a sealed source without written permission from the Department.
- D. If a sealed source is stuck in the source holder, a licensee shall not perform any operation, such as drilling, cutting, or chiseling, on the source holder unless the licensee is specifically authorized to perform the operation by the Department.
- E. The opening, repair, or modification of any sealed source is prohibited, unless authorized by the Department, the NRC, or an Agreement State.

Historical Note

New Section R9-7-1720 recodified from R12-1-1720 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1721. Training

- A. A licensee shall not permit an individual to act as a logging supervisor until that person has:
1. Completed training in the subjects outlined in subsection (E);
 2. Received copies of, and instruction in:
 - a. The applicable rules contained in 9 A.A.C. 7;
 - b. The Department license under which the logging supervisor will perform well logging; and
 - c. The licensee's operating and emergency procedures, required by R9-7-1722;
 3. Completed on-the-job training and demonstrated competence during a field evaluation in the use of licensed materials, remote handling tools, and radiation survey instruments; and
 4. Demonstrated understanding of the requirements in subsections (A)(1) and (A)(2) by successfully completing a written test.
- B. The licensee shall not permit an individual to act as a logging assistant until that person has:
1. Received instruction in applicable rules of 9 A.A.C. 7;
 2. Received copies of, and instruction in, the licensee's operating and emergency procedures required by R9-7-1722;
 3. Demonstrated understanding of the materials listed in subsections (B)(1) and (B)(2) by successfully completing a written or oral test; and
 4. Received instruction in the use of licensed materials, remote handling tools, and radiation survey instruments that is related to the logging assistant's intended job responsibilities.
- C. A licensee shall provide a safety training review for logging supervisors and logging assistants at least once during each calendar year. Each logging supervisor and logging assistant shall attend a safety training review at least once during the current calendar year.
- D. A licensee shall maintain a record of each logging supervisor's and logging assistant's initial training and annual safety training review. The training records shall include copies of written tests and dates of oral tests given after the effective date of this Section. The licensee shall maintain the initial training records for three years following termination of employment, and maintain records of each annual safety training review, including a list of subjects covered during the review, for three years.
- E. A licensee shall provide instruction in the following subjects in the training required by subsection (A)(1):
1. Fundamentals of radiation safety, including:
 - a. Characteristics of radiation;
 - b. Units of radiation dose and quantity of radioactivity;
 - c. Hazards of exposure to radiation;
 - d. Levels of radiation from licensed material;
 - e. Methods of controlling radiation dose (time, distance, and shielding); and
 - f. Radiation safety practices, including prevention of contamination and methods of decontamination;
 2. Radiation detection instruments, including:
 - a. Use, operation, calibration, and limitations of radiation survey instruments;
 - b. Survey techniques; and
 - c. Use of personnel monitoring equipment;
 3. Equipment, including:
 - a. Operation of equipment, including source handling equipment and remote handling tools;

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- b. Storage, control, and disposal of licensed material; and
 - c. Maintenance of equipment;
4. The requirements of pertinent federal and state law, and
 5. Case histories of accidents in well logging.

Historical Note

New Section R9-7-1721 recodified from R12-1-1721 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1722. Operating and Emergency Procedures

Each licensee shall develop operating and emergency procedures on the following subjects:

1. Procedures designed to prevent individuals from being exposed to radiation in excess of the limits in Article 4 of this Chapter. This subject includes:
 - a. Use of a sealed source in a well without a surface casing for the purposes of protecting a fresh water aquifer, as appropriate;
 - b. Methods employed to minimize exposure from inhalation or ingestion of licensed tracer materials; and
 - c. Methods for minimizing exposure of individuals in the event of an accident;
2. Use of remote handling tools for manipulating a radioactive sealed source or tracer;
3. Methods and occasions for conducting a radiation survey;
4. Methods and occasions for locking and securing a source of radiation;
5. Personnel monitoring and the use of personnel monitoring equipment;
6. Transportation of a source to a temporary job site or field station, including packaging and placing the source of radiation in a vehicle, placarding the vehicle, and securing the source of radiation during transportation;
7. Procedure for notifying the Department if there is an accident;
8. Maintenance of records;
9. Inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, and injection tools;
10. Procedure required if a sealed source is:
 - a. Lost or lodged downhole; or
 - b. Ruptured, including safeguards to prevent job site and personnel contamination, inhalation; and ingestion;
11. Procedures required for picking up, receiving, and opening packages that contain radioactive material; and
12. Procedures required for site and equipment surveys and decontamination following tracer studies.

Historical Note

New Section R9-7-1722 recodified from R12-1-1722 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1723. Personnel Monitoring

- A. A licensee shall not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter that is processed and evaluated by an accredited National Voluntary Laboratory Accreditation Program (NVLAP) processor.
- B. A licensee shall assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
- C. A licensee shall replace film badges at least monthly and replace other personnel dosimeters at least quarterly. After replacement, a licensee shall promptly process each personnel dosimeter.

- D. A licensee shall provide bioassay services to each individual who uses licensed materials in subsurface tracer studies if required by the license.
- E. A licensee shall record exposures noted from personnel dosimeters required by subsection (A) and bioassay results and maintain these records for three years after the Department terminates the radioactive material license.

Historical Note

New Section R9-7-1723 recodified from R12-1-1723 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1724. Radioactive Contamination Control

- A. If a licensee detects evidence that a sealed source has ruptured or licensed materials have caused contamination, the licensee shall immediately initiate the emergency procedures required by R9-7-1722.
- B. If contamination results from the use of licensed material in well logging, the licensee shall decontaminate all affected areas, equipment, and personnel.
- C. During efforts to recover a source lodged in a well, the licensee shall continuously monitor, with a radiation detection instrument that complies with R9-7-1714 or a logging tool with a radiation detector, the well and any circulating fluids from the well to check for contamination resulting from damage to the source.

Historical Note

New Section R9-7-1724 recodified from R12-1-1724 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1725. Uranium Sinker Bars

A licensee may use a uranium sinker bar for a well logging application only if it is legibly impressed with the words "Caution Radioactive-Depleted Uranium" and "Notify Civil Authorities (or company name) if Found."

Historical Note

New Section R9-7-1725 recodified from R12-1-1725 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1726. Energy Compensation Source

- A. A licensee may use an energy compensation source (ECS) in a logging tool, or other tool component, if the ECS contains a quantity of radioactive material that does not exceed 3.7 MBq (100 microcuries).
- B. If used in a well with a surface casing, an ECS is subject to all Sections of this Article except R9-7-1702, R9-7-1728, and R9-7-1751.
- C. If used in a well logging hole without a surface casing, an ECS is subject to all Sections of this Article.

Historical Note

New Section R9-7-1726 recodified from R12-1-1726 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1727. Neutron Generator Source

- A. A licensee may use a tritium neutron generator source to produce neutrons for well logging applications.
- B. If the activity of a tritium neutron generator source does not exceed 1.11 TBq (30 Curies) and the source is used in a well with a surface casing, the source is subject to all Sections of this Article except R9-7-1702 and R9-7-1751.
- C. If the activity of a neutron generator source is equal to or exceeds 1.11 TBq (30 Curies) or the source is used in a well without a surface casing, the source is subject to all Sections of this Article.

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Historical Note

New Section R9-7-1727 recodified from R12-1-1727 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1728. Use of a Sealed Source in a Well Without a Surface Casing

A licensee may use a sealed source in a well without a surface casing if the licensee follows a procedure for reducing the probability that the source will be lodged in the well. The procedure shall be separately approved by the Department or in a license issued by the Department, the NRC, or another Agreement State.

Historical Note

New Section R9-7-1728 recodified from R12-1-1728 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1729. Reserved**Historical Note**

Section R9-7-1729 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1730. Reserved**Historical Note**

Section R9-7-1730 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1731. Security

- A. A logging supervisor shall be physically present at a temporary job site whenever licensed material is being handled or is not stored and locked in a vehicle or storage place. The logging supervisor may leave the job site to obtain assistance if a source becomes lodged in a well.
- B. During well logging, except when a radiation source is below ground or in a shipping or storage container, the logging supervisor or other individual designated by the logging supervisor shall maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in R9-7-102.

Historical Note

New Section R9-7-1731 recodified from R12-1-1731 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1732. Handling Tools

The licensee shall provide and require the use of tools that will assure remote handling of sealed sources other than low-activity calibration sources.

Historical Note

New Section R9-7-1732 recodified from R12-1-1732 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1733. Subsurface Tracer Studies

- A. Any person who handles radioactive tracer material shall wear protective gloves and other appropriate protective clothing and equipment. Precautions shall be taken to avoid ingestion or inhalation of radioactive material.
- B. A licensee shall not inject radioactive material into potable aquifers without authority granted in a radioactive material license issued by the Department.
- C. A licensee shall dispose of tracer study waste contaminated with radioactive material in accordance with R9-7-434.

Historical Note

New Section R9-7-1733 recodified from R12-1-1733 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1734. Use of a Sealed Source in a Well Without a Surface Casing and Particle Accelerators

- A. A licensee or registrant may use a sealed source in a well without a surface casing to protect a fresh water aquifer if the licensee follows the correct procedure for reducing the probability that the source will become lodged in the well.
- B. A licensee or registrant shall not begin well logging operations in a well without a surface casing unless the Department has approved the licensee's procedure for logging in an uncased hole.
- C. A licensee or registrant shall not permit above-ground testing of a particle accelerator, designed for use in well-logging, which results in the production of radiation, unless the area or facility affected is controlled or shielded in a manner consistent with applicable requirements in Article 4 of this Chapter.

Historical Note

New Section R9-7-1734 recodified from R12-1-1734 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1735. Reserved**Historical Note**

Section R9-7-1735 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1736. Reserved**Historical Note**

Section R9-7-1736 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1737. Reserved**Historical Note**

Section R9-7-1737 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1738. Reserved**Historical Note**

Section R9-7-1738 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1739. Reserved**Historical Note**

Section R9-7-1739 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1740. Reserved**Historical Note**

Section R9-7-1740 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1741. Radiation Surveys

- A. A licensee shall perform and make a record of a radiation survey using instruments or calculations of radiation levels in each area where radioactive material is stored.
- B. A licensee shall make and record a radiation survey using instruments or calculations of radiation levels in occupied positions and on the exterior of each vehicle used to transport radioactive material. The survey or calculation shall include each source of radiation or combination of sources to be transported in the vehicle.
- C. After removal of the sealed source from the logging tool and before departing the job site, a licensee shall ensure that the logging tool detector is energized, or a survey meter is used to test the logging tool for contamination. The licensee shall record the test for contamination.
- D. The licensee shall make and record each survey using an appropriate survey instrument for the radionuclide being used, at the job site or wellhead for each tracer operation, except those using Hydrogen-3, Carbon-14 and Sulfur-35. Each sur-

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vey shall include measurements of radiation levels before and after each tracer operation.

- E. Records of surveys conducted according to subsections (A) through (D) shall include the date of each survey, the identification of each individual making the survey, identification of each survey instrument used, each radiation measurement in millirem or microsievert per hour, and an exact description of the location of the survey. A licensee shall retain records of a survey for three years after completion of the survey.

Historical Note

New Section R9-7-1741 recodified from R12-1-1741 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1742. Documents and Records Required at Field Stations

Each licensee shall maintain the following documents and records at the field station:

1. A copy of 9 A.A.C. 7;
2. The license, authorizing use of licensed material;
3. Operating and emergency procedures required by R9-7-1722;
4. The record of radiation survey instrument calibrations required by R9-7-1714;
5. The record of leak test results required by R9-7-1715;
6. Physical inventory records required by R9-7-1716;
7. Utilization records required by R9-7-1717;
8. Records of inspection and maintenance required by R9-7-1720;
9. Training records required by R9-7-1721; and
10. Survey records required by R9-7-1741.

Historical Note

New Section R9-7-1742 recodified from R12-1-1742 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1743. Documents and Records Required at Temporary Job Sites

Each licensee that conducts operations at a temporary job site shall maintain the following documents and records at the temporary job site until the well logging operation is completed:

1. Operating and emergency procedures required by R9-7-1722;
2. The most current calibration records for the radiation survey instruments in use at the site required by R9-7-1714;
3. The most current survey records required by R9-7-1741.
4. The shipping papers for transportation of radioactive materials required by license condition; and
5. If operating under reciprocity in accordance with R9-7-320, a copy of the Department authorization for use of radioactive material in Arizona.

Historical Note

New Section R9-7-1743 recodified from R12-1-1743 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1744. Reserved**Historical Note**

Section R9-7-1744 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1745. Reserved**Historical Note**

Section R9-7-1745 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1746. Reserved**Historical Note**

Section R9-7-1746 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1747. Reserved**Historical Note**

Section R9-7-1747 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1748. Reserved**Historical Note**

Section R9-7-1748 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1749. Reserved**Historical Note**

Section R9-7-1749 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1750. Reserved**Historical Note**

Section R9-7-1750 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1751. Notification of Incidents and Lost Sources; Abandonment Procedures for Irretrievable Sources

- A. If, after making a reasonable effort to recover a sealed source or device that contains radioactive material using methods that are not likely to result in damage or rupture and contamination, a licensee determines that the source or device is lodged in a well, the licensee shall:

1. Immediately notify the Department by telephone of the circumstances that resulted in the inability to retrieve the source and, if there is no evidence of contamination, obtain the following from the Department:
 - a. A determination that the source is irretrievable and abandonment is necessary because further efforts to recover the source are likely to result in an immediate threat to public health and safety, and
 - b. An approval to implement abandonment procedures;
2. Advise the well owner or operator, as applicable, of the abandonment procedures implemented under R9-7-1702(A) and (C); and
3. Either ensure that abandonment procedures are implemented within 30 days after the Department classifies the source as irretrievable or request an extension of time if unable to complete abandonment procedures.

- B. A licensee shall immediately notify the Department by telephone and subsequently, within 30 days, by confirmatory letter if the licensee knows or has reason to believe that a sealed source has been ruptured or the well has otherwise been contaminated. The letter shall describe the well location, the magnitude and extent of radioactive contamination, the consequences of the rupture, and the efforts planned or initiated to mitigate the consequences.

- C. A licensee shall notify the Department of the theft or loss of any radioactive material, radiation overexposure, excessive levels and concentrations of radiation, and incidents as required by R9-7-443, R9-7-444, and R9-7-445.

- D. A licensee shall, within 30 days after a sealed source has been classified as irretrievable, report in writing to the Department. The licensee shall send a copy of the report to each state or federal agency that issued permits or otherwise approved of the drilling operation. The report shall contain the following information:

1. Date of occurrence;

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2. A description of the irretrievable well logging source involved, including the name of the radionuclide and its quantity, and the chemical and physical form of the radionuclide;
3. Surface location and identification of the well;
4. Results of efforts to immobilize and seal the source in place;
5. A brief description of the attempted recovery effort;
6. Depth of the source;
7. Depth of the top of the cement plug;
8. Depth of the well;
9. The reasons why further efforts to recover the source are likely to result in an immediate threat to public health and safety, necessitating abandonment;
10. Information contained on the permanent identification plaque; and
11. State and federal agencies receiving a copy of the report.

Historical Note

New Section R9-7-1751 recodified from R12-1-1751 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 18. RESERVED**ARTICLE 19. PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL****R9-7-1901. Purpose**

This Article has been established to provide the requirements for the physical protection program for any licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A to this Article. These requirements provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this Article authorizes possession of licensed material.

Historical Note

New Section R9-7-1901 recodified from R12-1-1901 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1902. Reserved**Historical Note**

Section R9-7-1902 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1903. Scope

- A. R9-7-1921 through R9-7-1957 of this Article apply to any person who, under the rules in this chapter, possesses or uses at any site, an aggregated category 1 or category 2 quantity of radioactive material.
- B. R9-7-1971 through R9-7-1981 of this Article applies to any person who, under the rules of this chapter:
 1. Transports or delivers to a carrier for transport in a single shipment, a category 1 or category 2 quantity of radioactive material; or
 2. Imports or exports a category 1 or category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.

Historical Note

New Section R9-7-1903 recodified from R12-1-1903 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1904. Reserved**Historical Note**

Section R9-7-1904 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1905. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

“Access control means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

“Act” means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

“Aggregated” means accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.

“Agreement State” means any state with which the Atomic Energy Commission or the U.S. Nuclear Regulatory Commission has entered into an effective agreement under subsection 274b. of the Act. Non-agreement State means any other State.

“Approved individual” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with R9-7-1921 through R9-7-1933 of this Article and who has completed the training required by R9-7-1943(C).

“Background investigation” means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

“Becquerel (Bq)” means one disintegration per second.

“Byproduct material” means the same as in R9-7-102.

“Category 1 quantity of radioactive material” means a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A to this Article. This quantity is determined by calculating the ratio of the total activity of each radionuclide to the category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“Category 2 quantity of radioactive material” means a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A to this Article. This quantity is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

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

“Curie” means the same as in R9-7-102.

“Diversion” means the unauthorized movement of radioactive material subject to this Article to a location different from the material’s authorized destination inside or outside of the site at which the material is used or stored.

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“Escorted access” means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

“Fingerprint orders” means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by Agreement States that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive material or safeguards information-modified handling.

“Government agency” means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

“License”, except where otherwise specified, means a license for byproduct material issued pursuant to the rules in Articles 3, 5, 7, and 15 of this chapter.

“License issuing authority” means the licensing agency that issued the license, i.e. the Department, the U.S. Nuclear Regulatory Commission, or the appropriate agency of an Agreement State.

“Local law enforcement agency (LLEA)” means a public or private organization that has been approved by a federal, state, or local government to carry firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantity of radioactive material is used, stored, or transported.

“Lost or missing licensed material” means licensed material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

“Mobile device” means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or is otherwise equipped for moving without a need for disassembly or dismounting; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

“Movement control center” means an operations center that is remote from transport activity and that maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.

“No-later-than arrival time” means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than 6 hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.

“Person” means:

Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission or the DOE (except that the DOE shall be considered a person within the meaning of the rules in 10 CFR chapter I to the extent that its facilities and activities are subject to the

licensing and related regulatory authority of the Commission under section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021), the Nuclear Waste Policy Act of 1982 (96 Stat. 2201), and section 3(b)(2) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (99 Stat. 1842)), any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and

Any legal successor, representative, agent, or agency of the foregoing.

“Reviewing official” means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee.

“Sabotage” means deliberate damage, with malevolent intent, to a category 1 or category 2 quantity of radioactive material, a device that contains a category 1 or category 2 quantity of radioactive material, or the components of the security system.

“Safe haven” means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

“Security zone” means any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 quantities of radioactive material.

“State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“Telemetric position monitoring system” means a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.

“Trustworthiness and reliability” means characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

“Unescorted access” means solitary access to an aggregated category 1 or category 2 quantity of radioactive material or the devices that contain the material.

“United States” when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

Historical Note

New Section R9-7-1905 recodified from R12-1-1905 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1906. Reserved

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Historical Note

Section R9-7-1906 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1907. Communications

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

1. By mail addressed to: ATTN: Arizona Department of Health Services; Bureau of Radiation Control; Radioactive Materials Program; 4814 South 40th Street, Phoenix, Arizona 85040;
2. By hand delivery to the Department's offices at 4814 South 40th Street, Phoenix, Arizona 85040; or
3. Where practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Electronic submissions shall be made in a manner that enables the Department to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Electronic submissions can be made by email to ram@azdhs.gov.

Historical Note

New Section R9-7-1907 recodified from R12-1-1907 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1908. Reserved**Historical Note**

Section R9-7-1908 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1909. Interpretations

Except as specifically authorized by the Department in writing, no interpretations of the meaning of the rules in this Article by any officer or employee of the Department other than a written interpretation by the Arizona Assistant Attorney General counsel assigned to the Department will be recognized as binding upon the Department.

Historical Note

New Section R9-7-1909 recodified from R12-1-1909 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1910. Reserved**Historical Note**

Section R9-7-1910 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1911. Specific Exemptions

- A. The Department may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the rules in this Article as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.
- B. Any licensee's NRC-licensed activities are exempt from the requirements of R9-7-1921 through R9-7-1957 of this Article to the extent that its activities are included in a security plan required by 10 CFR part 73 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material is exempt from the requirements of R9-7-1921 through R9-7-1981 of this Article, except that any radioactive waste that

contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs.) is not exempt from the requirements of this Article. The licensee shall implement the following requirements to secure the radioactive waste:

1. Use continuous physical barriers that allow access to the radioactive waste only through established access control points;
2. Use a locked door or gate with monitored alarm at the access control point;
3. Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and
4. Immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains category 1 or category 2 quantities of radioactive material.

Historical Note

New Section R9-7-1911 recodified from R12-1-1911 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1912. Reserved**Historical Note**

Section R9-7-1912 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1913. Reserved**Historical Note**

Section R9-7-1913 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1914. Reserved**Historical Note**

Section R9-7-1914 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1915. Reserved**Historical Note**

Section R9-7-1915 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1916. Reserved**Historical Note**

Section R9-7-1916 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1917. Reserved**Historical Note**

Section R9-7-1917 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1918. Reserved**Historical Note**

Section R9-7-1918 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1919. Reserved**Historical Note**

Section R9-7-1919 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1920. Reserved

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Historical Note

Section R9-7-1920 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1921. Personnel Access Authorization Requirements for Category 1 or Category 2 Quantities of Radioactive Material**A. General:**

1. Each licensee that possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this Article.
2. An applicant for a new license and each licensee that would become newly subject to the requirements of this Article upon application for modification of its license shall implement the requirements of this Article, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.
3. Any licensee that has not previously implemented the Security Orders or been subject to the provisions of R9-7-1921 through R9-7-1933 shall implement the provisions of R9-7-1921 through R9-7-1933 before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

B. General performance objective: The licensee's access authorization program shall ensure that the individuals specified in subsection (C)(1) are trustworthy and reliable.**C. Applicability:**

1. Licensees shall subject the following individuals to an access authorization program:
 - a. Any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and
 - b. Reviewing officials.
2. Licensees need not subject the categories of individuals listed in R9-7-1929(A) to the investigation elements of the access authorization program.
3. Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.
4. Licensees may include individuals in the access authorization program under R9-7-1921 through R9-7-1933 and needing access to safeguards information-modified handling under 10 CFR part 73 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1921 recodified from R12-1-1921 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1922. Reserved**Historical Note**

Section R9-7-1922 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1923. Access Authorization Program Requirements**A. Granting unescorted access authorization:**

1. Licensees shall implement the requirements of this Article for granting initial or reinstated unescorted access authorization.

2. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by R9-7-1943(C) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.

B. Reviewing officials:

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

C. Informed consent:

1. Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of R9-7-1925(B). A signed consent shall be obtained prior to any reinvestigation.
2. The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:

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- a. If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and
- b. The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.
- D. Personal history disclosure:** Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this Article is sufficient cause for denial or termination of unescorted access.
- E. Determination basis:**
1. The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this Article.
 2. The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this Article and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.
 3. The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.
 4. The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.
 5. Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.
- F. Procedures:** Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures shall include provisions for the notification of individuals who are denied unescorted access. The procedures shall include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures shall contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.
- G. Right to correct and complete information:**
1. Prior to any final adverse determination, licensees shall provide each individual subject to this Article with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification shall be maintained by the licensee for a period of 1 year from the date of the notification.
 2. If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees shall provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.
- H. Records:**
1. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.
 2. The licensee shall retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.
 3. The licensee shall retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.

Historical Note

New Section R9-7-1923 recodified from R12-1-1923 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1924. Reserved**Historical Note**

Section R9-7-1924 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1925. Background Investigations

- A. Initial investigation:** Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation shall encompass at least the 7 years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation shall include at a minimum:
1. Fingerprinting and an FBI identification and criminal history records check in accordance with R9-7-1927;

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2. Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who he or she claims to be. A licensee shall review official identification documents (e.g., driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with R9-7-1931. Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;
 3. Employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent 7 years before the date of application;
 4. Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;
 5. Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this Section shall be limited to whether the individual has been and continues to be trustworthy and reliable;
 6. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual); and
 7. If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.
- B. Grandfathering:**
1. Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the Fingerprint Orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.
 2. Individuals who have been determined to be trustworthy and reliable under the provisions of 10 CFR part 73 revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 CFR part 73 revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.
- C. Re-investigations:** Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with R9-7-1927. The re-investigations shall be completed within 10 years of the date on which these elements were last completed.
- Historical Note**
- New Section R9-7-1925 recodified from R12-1-1925 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-1926. Reserved**
- Historical Note**
- Section R9-7-1926 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).
- R9-7-1927. Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material**
- A. General performance objective and requirements:**
1. Except for those individuals listed in R9-7-1929 and those individuals grandfathered under R9-7-1925(B), each licensee subject to the provisions of this Article shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.
 2. The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.
 3. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:
 - a. The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and
 - b. The previous access was terminated under favorable conditions.
 4. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling.

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fied handling by another licensee, based upon a background investigation conducted under this Article, the Fingerprint Orders, or 10 CFR part 73, revised December 12, 2018, incorporated by reference, available under R9-7-101, and containing no future editions or amendments. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of R9-7-1931(C).

5. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.
- B. Prohibitions:**
1. Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:
 - a. An arrest more than 1 year old for which there is no information of the disposition of the case; or
 - b. An arrest that resulted in dismissal of the charge or an acquittal.
 2. Licensees may not use information received from a criminal history records check obtained under this Section in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.
- C. Procedures for processing of fingerprint checks:**
1. For the purpose of complying with this Article, licensees shall use an appropriate method listed in 10 CFR 37.7, revised November 29, 2019, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; to submit to the U.S. Nuclear Regulatory Commission, Division of Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-8B20, Rockville, MD 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNR000Z), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by emailing MAILSVS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <https://www.nrc.gov/security/chp.html>.
 2. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Division of Physical and Cyber Security Policy by e-mailing Crimhist.Resource@NRC.gov.) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public website. (To find the current fee amount, go to the Licensee Criminal History Records Checks & Firearms Background Check information page at <https://www.nrc.gov/security/chp.html> and see the link for "How do I determine how much to pay for the request?")

3. The U.S. Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application or applications for criminal history records checks.

Historical Note

New Section R9-7-1927 recodified from R12-1-1927 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1928. Reserved**Historical Note**

Section R9-7-1928 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1929. Relief From Fingerprinting, Identification, and Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

- A.** Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:
1. An employee of the U.S. Nuclear Regulatory Commission or of the Executive Branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;
 2. A Member of Congress;
 3. An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;
 4. The Governor of a State or his or her designated State employee representative;
 5. Federal, State, or local law enforcement personnel;
 6. State Radiation Control Program Directors and State Homeland Security Advisors or their designated State employee representatives;
 7. Agreement State employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act;
 8. Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;
 9. Emergency response personnel who are responding to an emergency;
 10. Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;
 11. Package handlers at transportation facilities such as freight terminals and railroad yards;
 12. Any individual who has an active Federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that granted the Federal security clearance or reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and
 13. Any individual employed by a service provider licensee for which the service provider licensee has conducted the

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background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider shall be provided to the licensee. The licensee shall retain the documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

- B.** Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last 5 years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:
1. National Agency Check;
 2. Transportation Worker Identification Credentials (TWIC) under 49 CFR part 1572;
 3. Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR part 555;
 4. Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR part 73;
 5. Hazardous Material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR part 1572; and
 6. Customs and Border Protection's Free and Secure Trade (FAST) Program.

Historical Note

New Section R9-7-1929 recodified from R12-1-1929 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1930. Reserved**Historical Note**

Section R9-7-1930 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1931. Protection of Information

- A.** Each licensee who obtains background information on an individual under this Article shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.
- B.** The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.
- C.** The personal information obtained on an individual from a background investigation may be provided to another licensee:
1. Upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and

2. The recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.

- D.** The licensee shall make background investigation records obtained under this Article available for examination by an authorized representative of the Department to determine compliance with the rules and laws.
- E.** The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

Historical Note

New Section R9-7-1931 recodified from R12-1-1931 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1932. Reserved**Historical Note**

Section R9-7-1932 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1933. Access Authorization Program Review

- A.** Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this Article and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically (at least annually) review the access program content and implementation.
- B.** The results of the reviews, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.
- C.** Review records shall be maintained for 3 years.

Historical Note

New Section R9-7-1933 recodified from R12-1-1933 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1934. Reserved**Historical Note**

Section R9-7-1934 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1935. Reserved**Historical Note**

Section R9-7-1935 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1936. Reserved**Historical Note**

Section R9-7-1936 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1937. Reserved

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Historical Note

Section R9-7-1937 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1938. Reserved**Historical Note**

Section R9-7-1938 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1939. Reserved**Historical Note**

Section R9-7-1939 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1940. Reserved**Historical Note**

Section R9-7-1940 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1941. Security Program**A. Applicability:**

1. Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of this Article.
2. An applicant for a new license and each licensee that would become newly subject to the requirements of this Article upon application for modification of its license shall implement the requirements of this Article, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.
3. Any licensee that has not previously implemented the Security Orders or been subject to the provisions of R9-7-1941 through R9-7-1957 shall provide written notification to the Department, as specified in R9-7-1907, at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

B. General performance objective: Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.

C. Program features: Each licensee's security program shall include the program features, as appropriate, described in R9-7-1943, R9-7-1945, R9-7-1947, R9-7-1949, R9-7-1951, R9-7-1953, and R9-7-1955.

Historical Note

New Section R9-7-1941 recodified from R12-1-1941 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1942. Reserved**Historical Note**

Section R9-7-1942 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1943. General Security Program Requirements**A. Security plan:**

1. Each licensee identified in R9-7-1941(A) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this Article. The security plan shall, at a minimum:
 - a. Describe the measures and strategies used to implement the requirements of this Article; and

b. Identify the security resources, equipment, and technology used to satisfy the requirements of this Article.

2. The security plan shall be reviewed and approved by the individual with overall responsibility for the security program.

3. A licensee shall revise its security plan as necessary to ensure the effective implementation of Department requirements. The licensee shall ensure that:

a. The revision has been reviewed and approved by the individual with overall responsibility for the security program; and

b. The affected individuals are instructed on the revised plan before the changes are implemented.

4. The licensee shall retain a copy of the current security plan as a record for 3 years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.

B. Implementing procedures:

1. The licensee shall develop and maintain written procedures that document how the requirements of this Article and the security plan will be met.

2. The implementing procedures and revisions to these procedures shall be approved in writing by the individual with overall responsibility for the security program.

3. The licensee shall retain a copy of the current procedure as a record for 3 years after the procedure is no longer needed. Superseded portions of the procedure shall be retained for 3 years after the record is superseded.

C. Training:

1. Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training shall include instruction in:

a. The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;

b. The responsibility to report promptly to the licensee any condition that causes or may cause a violation of Department requirements;

c. The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and

d. The appropriate response to security alarms.

2. In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training shall be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.

3. Refresher training shall be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training shall include:

a. Review of the training requirements of subsection (c) and any changes made to the security program since the last training;

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- b. Reports on any relevant security issues, problems, and lessons learned;
 - c. Relevant results of Department inspections; and
 - d. Relevant results of the licensee's program review and testing and maintenance.
4. The licensee shall maintain records of the initial and refresher training for 3 years from the date of the training. The training records shall include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.

D. Protection of information:

1. Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.
2. Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.
3. Before granting an individual access to the security plan or implementing procedures, licensees shall:
 - a. Evaluate an individual's need to know the security plan or implementing procedures; and
 - b. If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee shall complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in R9-7-1925(A)(2) through (A)(7).
4. Licensees need not subject the following individuals to the background investigation elements for protection of information:
 - a. The categories of individuals listed in R9-7-1929(A); or
 - b. Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in R9-7-1925(A)(2) through (A)(7), has been provided by the security service provider.
5. The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.
6. Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.
7. When not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in non-removable electronic form shall be password protected.
8. The licensee shall retain as a record for 3 years after the document is no longer needed:

- a. A copy of the information protection procedures; and
 - b. The list of individuals approved for access to the security plan or implementing procedures.
9. State officials, State employees, and other individuals, whether or not licensees of the Commission or an Agreement State, who receive schedule information of the kind specified in subsection (D)(1) shall protect that information against unauthorized disclosure as specified in subsection (D)(2).

Historical Note

New Section R9-7-1943 recodified from R12-1-1943 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-1944. Reserved**Historical Note**

Section R9-7-1944 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1945. Local Law Enforcement Agency (LLEA) Coordination

- A.** A licensee subject to this Article shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA shall include:
1. A description of the facilities and the category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with this Article; and
 2. A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.
- B.** The licensee shall notify the Department as listed in R9-7-1907 of this Article within 3 business days if:
1. The LLEA has not responded to the request for coordination within 60 days of the coordination request; or
 2. The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.
- C.** The licensee shall document its efforts to coordinate with the LLEA. The documentation shall be kept for 3 years.
- D.** The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

Historical Note

New Section R9-7-1945 recodified from R12-1-1945 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1946. Reserved**Historical Note**

Section R9-7-1946 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1947. Security Zones

- A.** Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee established security zones. Security zones may be permanent or temporary.
- B.** Temporary security zones shall be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.

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- C. Security zones shall, at a minimum, allow unescorted access only to approved individuals through:
1. Isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone; or
 2. Direct control of the security zone by approved individuals at all times; or
 3. A combination of continuous physical barriers and direct control.
- D. For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.
- E. Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material shall be escorted by an approved individual when in a security zone.
- b. For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.
- B. Assessment: Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.
- C. Personnel communications and data transmission: For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:
1. Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and
 2. Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.
- D. Response: Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

Historical Note

New Section R9-7-1947 recodified from R12-1-1947 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1948. Reserved**Historical Note**

Section R9-7-1948 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1949. Monitoring, Detection, and Assessment

- A. Monitoring and detection:
1. Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.
 2. Monitoring and detection shall be performed by:
 - a. A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility; or
 - b. Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or
 - c. A monitored video surveillance system; or
 - d. Direct visual surveillance by approved individuals located within the security zone; or
 - e. Direct visual surveillance by a licensee designated individual located outside the security zone.
 3. A licensee subject to this Article shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability shall provide:
 - a. For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability shall be provided by:
 - i. Electronic sensors linked to an alarm; or
 - ii. Continuous monitored video surveillance; or
 - iii. Direct visual surveillance.

Historical Note

New Section R9-7-1949 recodified from R12-1-1949 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1950. Reserved**Historical Note**

Section R9-7-1950 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1951. Maintenance and Testing

- A. Each licensee subject to this R9-7-1941 through R9-7-1957 shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this part shall be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing shall be performed at least annually, not to exceed 12 months.
- B. The licensee shall maintain records on the maintenance and testing activities for 3 years. The record shall include:
1. The date of activity;
 2. Type of activity performed;
 3. A list of the equipment involved;
 4. The results of the activity;
 5. The name of the individual that conducted the activity;
 6. The repair or maintenance (if applicable) that was performed.

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Historical Note

New Section R9-7-1951 recodified from R12-1-1951 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1952. Reserved**Historical Note**

Section R9-7-1952 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1953. Requirements for Mobile Devices

Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material shall:

- A. Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and
- B. For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

Historical Note

New Section R9-7-1953 recodified from R12-1-1953 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1954. Reserved**Historical Note**

Section R9-7-1954 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1955. Security Program Review

- A. Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this Article and that comprehensive actions are taken to correct any noncompliance that is identified. The review shall include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.
- B. The results of the review, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.
- C. The licensee shall maintain the review documentation for 3 years.

Historical Note

New Section R9-7-1955 recodified from R12-1-1955 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1956. Reserved**Historical Note**

Section R9-7-1956 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1957. Reporting of Events

- A. The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible

after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Department. Notification shall be to a live person, a voice mail is not considered adequate notification. In no case shall the notification to the Department be later than 4 hours after the discovery of any attempted or actual theft, sabotage, or diversion.

- B. The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the Department.
- C. The initial telephonic notification required by subsection (A) shall be followed within a period of 30 days by a written report submitted to the Department by an appropriate method listed in R9-7-1907. The report shall include sufficient information for Department analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

Historical Note

New Section R9-7-1957 recodified from R12-1-1957 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1958. Reserved**Historical Note**

Section R9-7-1958 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1959. Reserved**Historical Note**

Section R9-7-1959 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1960. Reserved**Historical Note**

Section R9-7-1960 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1961. Reserved**Historical Note**

Section R9-7-1961 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1962. Reserved**Historical Note**

Section R9-7-1962 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1963. Reserved**Historical Note**

Section R9-7-1963 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1964. Reserved**Historical Note**

Section R9-7-1964 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1965. Reserved**Historical Note**

Section R9-7-1965 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1966. Reserved

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Historical Note

Section R9-7-1966 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1967. Reserved**Historical Note**

Section R9-7-1967 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1968. Reserved**Historical Note**

Section R9-7-1968 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1969. Reserved**Historical Note**

Section R9-7-1969 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1970. Reserved**Historical Note**

Section R9-7-1970 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1971. Additional Requirements for Transfer of Category 1 and Category 2 Quantities of Radioactive Material

A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the Department, the NRC, or an Agreement State shall meet the license verification provisions listed below instead of those listed in sections of this chapter:

1. Any licensee transferring category 1 quantities of radioactive material to a licensee of the Department, the NRC, or an Agreement State, prior to conducting such transfer, shall verify with the Department's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.
2. Any licensee transferring category 2 quantities of radioactive material to a licensee of the Department, the NRC, or an Agreement State, prior to conducting such transfer, shall verify with the Department's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.
3. In an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification shall include the license number, current revision number, issuing agency, expiration date, and for a category 1 shipment the authorized address. The licensee shall keep a copy of the certification. The certification shall be confirmed by use of the NRC's license verification system or by con-

tacting the license issuing authority by the end of the next business day.

4. The transferor shall keep a copy of the verification documentation as a record for 3 years.

Historical Note

New Section R9-7-1971 recodified from R12-1-1971 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1972. Reserved**Historical Note**

Section R9-7-1972 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1973. Applicability of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Transit

- A. For shipments of category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in Sections R9-7-1975(A) and (E); R9-7-1977; R9-7-1979(A)(1), (B)(1), and (C); and R9-7-1981(A), (C), (E), (G) and (H).
- B. For shipments of category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in R9-7-1975(B) through (E); R9-7-1979(A)(2), (A)(3), (B)(2), and (C); and R9-7-1981(B), (D), (F), (G), and (H). For those shipments of category 2 quantities of radioactive material that meet the criteria of Article 15 of this Chapter, the shipping licensee shall also comply with the advance notification provisions of R9-7-1508 or R9-7-1512 as appropriate.
- C. The shipping licensee shall be responsible for meeting the requirements of R9-7-1971 through R9-7-1981 unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under R9-7-1971 through R9-7-1981.
- D. Each licensee that imports or exports category 1 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in R9-7-1975(A)(2) and (E); R9-7-1977; R9-7-1979(A)(1), (B)(1), and (C); and R9-7-1981(A), (C), (E), (G), and (H) for the domestic portion of the shipment.
- E. Each licensee that imports or exports category 2 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in R9-7-1979(A)(2), (A)(3), and (B)(2); and R9-7-1981(B), (D), (F), (G), and (H) for the domestic portion of the shipment.

Historical Note

New Section R9-7-1973 recodified from R12-1-1973 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1974. Reserved**Historical Note**

Section R9-7-1974 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1975. Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material

- A. Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:
 1. Preplan and coordinate shipment arrival and departure times with the receiving licensee;
 2. Preplan and coordinate shipment information with the governor or the governor's designee of any State through which the shipment will pass to:

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- a. Discuss the State's intention to provide law enforcement escorts; and
 - b. Identify safe havens; and
3. Document the preplanning and coordination activities.
- B.** Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.
- C.** Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.
- D.** Each licensee, who transports or plans to transport a shipment of a category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to paragraph (B), shall promptly notify the receiving licensee of the new no-later-than arrival time.
- E.** The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for 3 years.
2. Information to be furnished in advance notification of shipment: Each advance notification of shipment of category 1 quantities of radioactive material shall contain the following information, if available at the time of notification:
 - a. The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;
 - b. The license numbers of the shipper and receiver;
 - c. A description of the radioactive material contained in the shipment, including the radionuclides and quantity;
 - d. The point of origin of the shipment and the estimated time and date that shipment will commence;
 - e. The estimated time and date that the shipment is expected to enter each State along the route;
 - f. The estimated time and date of arrival of the shipment at the destination; and
 - g. A point of contact, with a telephone number, for current shipment information.
 3. Revision notice:
 - a. The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the State or the governor's designee and to the Department at the contact information available in R9-7-1907.
 - b. A licensee shall promptly notify the governor of the state or the governor's designee of any changes to the information provided in accordance with subsections (B) and (C)(1). The licensee shall also immediately notify the Department at the contact information available in R9-7-1907 of any such changes.
 4. Cancellation notice: Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each State or to the governor's designee previously notified and to the Department Director at the contact information available in R9-7-1907. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.
 5. Records: The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.
 6. Protection of information: State officials, State employees, and other individuals, whether or not licensees of the Department, the NRC, or an Agreement State, who receive schedule information of the kind specified in this Section shall protect that information against unauthorized disclosure as specified in R9-7-1943(D) of this Article.

Historical Note

New Section R9-7-1975 recodified from R12-1-1975 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1976. Reserved**Historical Note**

Section R9-7-1976 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

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

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

1. Procedures for submitting advance notification:
 - a. The notification shall be made to the Department and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees and participating Tribes is available on the NRC's website at <https://scp.nrc.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Material Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the Department may be made by email to ram@azdhs.gov or by fax to (602) 437-0705.
 - b. A notification delivered by mail shall be postmarked at least 7 days before transport of the shipment commences at the shipping facility.
 - c. A notification delivered by any means other than mail shall reach the Department at least 4 days before the transport of the shipment commences and shall reach the office of the governor or the gover-

nor's designee at least 4 days before transport of a shipment within or through the State.

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

Historical Note

New Section R9-7-1977 recodified from R12-1-1977 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1978. Reserved

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Historical Note

Section R9-7-1978 reserved when the Chapter was reclassified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1979. Requirements for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Shipment

A. Shipments by road:

1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:
 - a. Ensure that movement control centers are established that maintain position information from a remote location. These control centers shall monitor shipments 24 hours a day, 7 days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.
 - b. Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.
 - c. Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center shall provide positive confirmation of the location, status, and control over the shipment. The movement control center shall be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.
 - d. Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.
 - e. Develop written normal and contingency procedures to address:
 - i. Notifications to the communication center and law enforcement agencies;
 - ii. Communication protocols. Communication protocols shall include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;
 - iii. Loss of communications; and
 - iv. Responses to an actual or attempted theft or diversion of a shipment.
 - f. Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.
2. Each licensee that transports category 2 quantities of radioactive material shall maintain constant control and/or surveillance during transit and have the capability for

immediate communication to summon appropriate response or assistance.

3. Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:
 - a. Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.
 - b. Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
 - c. Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.
- B. Shipments by rail:**
 1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:
 - a. Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.
 - b. Ensure that periodic reports to the communications center are made at preset intervals.
 2. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:
 - a. Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.
 - b. Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
 - c. Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.
- C. Investigations:** Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investi-

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gation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

Historical Note

New Section R9-7-1979 recodified from R12-1-1979 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1980. Reserved**Historical Note**

Section R9-7-1980 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1981. Reporting of Events

- A.** Within one hour of its determination that a shipment of category 1 quantities of radioactive material is lost or missing, a shipping licensee shall notify the appropriate LLEA and the Department. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212. The appropriate LLEA is the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by R9-7-1979(C), the shipping licensee shall provide agreed upon updates to the Department on the status of the investigation.
- B.** Within four (4) hours of its determination that a shipment of category 2 quantities of radioactive material is lost or missing, a shipping licensee shall notify the appropriate LLEA and the Department. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212. If, after 24 hours of its determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify the Department.
- C.** The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the Department upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of category 1 radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- D.** The shipping licensee shall notify the Department as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- E.** The shipping licensee shall notify the Department and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material. The Agency shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- F.** The shipping licensee shall notify the Department as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.

- G.** The initial telephonic notification required by subsections (A) through (D) shall be followed within a period of 30 days by a written report submitted to the Department by an appropriate method listed in R9-7-1907. A written report is not required for notifications on suspicious activities required by subsections (C) and (D). The report shall set forth the following information:

1. A description of the licensed material involved, including kind, quantity, and chemical and physical form;
2. A description of the circumstances under which the loss or theft occurred;
3. A statement of disposition, or probable disposition, of the licensed material involved;
4. Actions that have been taken, or will be taken, to recover the material; and
5. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

- H.** Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

Historical Note

New Section R9-7-1981 recodified from R12-1-1981 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1982. Reserved**Historical Note**

Section R9-7-1982 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1983. Reserved**Historical Note**

Section R9-7-1983 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1984. Reserved**Historical Note**

Section R9-7-1984 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1985. Reserved**Historical Note**

Section R9-7-1985 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1986. Reserved**Historical Note**

Section R9-7-1986 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1987. Reserved**Historical Note**

Section R9-7-1987 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1988. Reserved**Historical Note**

Section R9-7-1988 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1989. Reserved

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Historical Note

Section R9-7-1989 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1990. Reserved**Historical Note**

Section R9-7-1990 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1991. Reserved**Historical Note**

Section R9-7-1991 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1992. Reserved**Historical Note**

Section R9-7-1992 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1993. Reserved**Historical Note**

Section R9-7-1993 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1994. Reserved**Historical Note**

Section R9-7-1994 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1995. Reserved**Historical Note**

Section R9-7-1995 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1996. Reserved**Historical Note**

Section R9-7-1996 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1997. Reserved**Historical Note**

Section R9-7-1997 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1998. Reserved**Historical Note**

Section R9-7-1998 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1999. Reserved**Historical Note**

Section R9-7-1999 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19100. Reserved**Historical Note**

Section R9-7-19100 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19101. Form of Records

- A. Each record required by this Article shall be legible throughout the retention period specified by each Department rule. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention

period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, shall include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

- B. The licensee who transferred the material shall retain each record of the transfer of source or byproduct material until the Department terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

Historical Note

New Section R9-7-19101 recodified from R12-1-19101 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-19102. Reserved**Historical Note**

Section R9-7-19102 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19103. Record Retention

Licensees shall maintain the records that are required by the rules in this Article for the period specified by the appropriate rule. If a retention period is not otherwise specified, these records shall be retained until the Department terminates the facility's license. All records related to this Article may be destroyed upon Department termination of the facility's license.

Historical Note

New Section R9-7-19103 recodified from R12-1-19103 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-19104. Reserved**Historical Note**

Section R9-7-19104 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19105. Inspections

- A. Each licensee shall afford to the Department, at all reasonable times, opportunity to inspect category 1 or category 2 quantities of radioactive material and the premises and facilities wherein the nuclear material is used, produced, or stored.
- B. Each licensee shall make available to the Department for inspection, upon reasonable notice, records kept by the licensee pertaining to its receipt, possession, use, acquisition, import, export, or transfer of category 1 or category 2 quantities of radioactive material.

Historical Note

New Section R9-7-19105 recodified from R12-1-19105 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-19106. Reserved**Historical Note**

Section R9-7-19106 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19107. Violations

- A. The Department may obtain an injunction or other court order to prevent a violation of the provisions of:
1. A.R.S. § 30-685, as amended;
 2. A.A.C. Title 9, Chapter 7; or
 3. A rule or order issued by the Department pursuant to Statute or the rules under A.A.C. Title 9, Chapter 7.
- B. The Department may obtain a court order for the payment of a civil penalty imposed under A.R.S. § 30-687, as amended:

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1. For violations of:
 - a. The rules in A.A.C. Title 9, Chapter 7, as amended;
 - b. Nonpayment of fees listed in A.A.C. Title 9, Chapter 7, Article 13;
 - c. Any rule, or order issued pursuant to the sections specified in subsection (B)(1)(a);
 - d. Any term, condition, or limitation of any license issued under the sections specified in subsection (B)(1)(a).
2. For any violation for which a license may be revoked.

Historical Note

New Section R9-7-19107 recodified from R12-1-19107 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-19108. Reserved**Historical Note**

Section R9-7-19108 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19109. Criminal Penalties

Arizona Revised Statutes § 30-673, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any rule issued under A.A.C. Title 9, Chapter 7. For purposes of this Section, all the rules in this Article are issued under A.R.S. § 30-673 or the rules of the Department.

Historical Note

New Section R9-7-19109 recodified from R12-1-19109 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Appendix A. - Table 1 - Category 1 and Category 2 Threshold

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

Note: Calculations Concerning Multiple Sources or Multiple Radionuclides

The “sum of fractions” methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this part.

1. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides shall be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this part apply.
2. First determine the total activity for each radionuclide from Table 1. This is done by roadding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation.

Calculations shall be performed in metric values (i.e., TBq) and the numerator and denominator values shall be in the same units.

- R1 = total activity for radionuclide 1
- R2 = total activity for radionuclide 2
- RN = total activity for radionuclide n
- AR1 = activity threshold for radionuclide 1
- AR2 = activity threshold for radionuclide 2
- ARN = activity threshold for radionuclide n

$$\sum_{i=1}^n \left[\frac{R1}{AR1} + \frac{R2}{AR2} + \frac{Rn}{ARN} \right] \geq 1.0$$

Historical Note

New Article 19, Appendix A, Table 1 recodified from 12 A.A.C. 1, Article 19, Appendix A, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Statutory Authority for Rules in 9 A.A.C. 7

30-654. Powers and duties of the department

A. The department may:

1. Accept grants or other contributions from the federal government or other sources, public or private, to be used by the department to carry out any of the purposes of this chapter.
2. Do all things necessary, within the limitations of this chapter, to carry out the powers and duties of the department.
3. Conduct an information program, including:
 - (a) Providing information on the control and regulation of sources of radiation and related health and safety matters, on request, to members of the legislature, the executive offices, state departments and agencies and county and municipal governments.
 - (b) Providing such published information, audiovisual presentations, exhibits and speakers on the control and regulation of sources of radiation and related health and safety matters to the state's educational system at all educational levels as may be arranged.
 - (c) Furnishing to citizen groups, on request, speakers and such audiovisual presentations or published materials on the control and regulation of sources of radiation and related health and safety matters as may be available.
 - (d) Conducting, sponsoring or cosponsoring and actively participating in the professional meetings, symposia, workshops, forums and other group informational activities concerned with the control and regulation of sources of radiation and related health and safety matters when representation from this state at such meetings is determined to be important by the department.

B. The department shall:

1. Regulate the use, storage and disposal of sources of radiation.
2. Establish procedures for purposes of selecting any proposed permanent disposal site located within this state for low-level radioactive waste.
3. Coordinate with the department of transportation and the corporation commission in regulating the transportation of sources of radiation.
4. Assume primary responsibility for and provide necessary technical assistance to handle any incidents, accidents and emergencies involving radiation or sources of radiation occurring within this state.
5. Adopt rules deemed necessary to administer this chapter in accordance with title 41, chapter 6.
6. Adopt uniform radiation protection and radiation dose standards to be as nearly as possible in conformity with, and in no case inconsistent with, the standards contained in the regulations of the United States nuclear regulatory commission and the standards of the United States public health service. In the adoption of the standards, the department shall consider the total occupational radiation exposure of individuals, including that from sources that are not regulated by the department.
7. Adopt rules for personnel monitoring under the close supervision of technically competent people in order to determine compliance with safety rules adopted under this chapter.
8. Adopt a uniform system of labels, signs and symbols and the posting of the labels, signs and symbols to be affixed to radioactive products, especially those transferred from person to person.
9. By rule, require adequate training and experience of persons utilizing sources of radiation with respect to the hazards of excessive exposure to radiation in order to protect health and safety.
10. Adopt standards for the storage of radioactive material and for security against unauthorized removal.
11. Adopt standards for the disposal of radioactive materials into the air, water and sewers and burial in the soil in accordance with 10 Code of Federal Regulations part 20.

12. Adopt rules that are applicable to the shipment of radioactive materials in conformity with and compatible with those established by the United States nuclear regulatory commission, the department of transportation, the United States treasury department and the United States postal service.

13. In individual cases, impose additional requirements to protect health and safety or grant necessary exemptions that will not jeopardize health or safety, or both.

14. Make recommendations to the governor and furnish such technical advice as required on matters relating to the utilization and regulation of sources of radiation.

15. Conduct or cause to be conducted off-site radiological environmental monitoring of the air, water and soil surrounding any fixed nuclear facility, any uranium milling and tailing site and any uranium leaching operation, and maintain and report the data or results obtained by the monitoring as deemed appropriate by the department.

16. Develop and utilize information resources concerning radiation and radioactive sources.

17. Prescribe by rule a schedule of fees to be charged to categories of licensees and registrants of radiation sources, including academic, medical, industrial, waste, distribution and imaging categories. The fees shall cover a significant portion of the reasonable costs associated with processing the application for license or registration, renewal or amendment of the license or registration and the costs of inspecting the licensee or registrant activities and facilities, including the cost to the department of employing clerical help, consultants and persons possessing technical expertise and using analytical instrumentation and information processing systems.

18. Adopt rules establishing radiological standards, personnel standards and quality assurance programs to ensure the accuracy and safety of screening and diagnostic mammography.

C. All fees collected under subsection B, paragraph 17 of this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

30-656. Authority for governor to enter into agreements with federal government: effect on federal licenses

A. The governor, on behalf of this state, may enter into agreements with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to sources of radiation and the assumption of the responsibilities by this state.

B. Any person that, on the effective date of an agreement entered into under subsection A of this section, possesses a license issued by the federal government shall be deemed to possess a like license issued under this chapter, which shall expire either ninety days after receipt from the department of a notice of expiration of the license or on the date of expiration specified in the federal license, whichever is earlier.

30-657. Records

A. Each person that possesses or uses a source of radiation shall maintain records relating to its receipt, storage, transfer or disposal and such other records as the department requires by rule.

B. The department shall require each person that possesses or uses a source of radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by rules adopted by the department. Copies of records required by this section shall be submitted to the department on request by the department.

C. Any person that possesses or uses a source of radiation shall furnish to each employee for whom personnel monitoring is required a copy of the employee's personal exposure record at such times as prescribed by rules adopted by the department.

D. Any person that possesses or uses a source of radiation, when requested, shall submit to the department copies of records or reports submitted to the United States nuclear regulatory commission regardless of whether the person is subject to regulation by the department. The department, by rule, shall specify the records or reports required to be submitted to the department under this subsection.

30-671. Radiation protection standards

A. Radiation protection standards in rules adopted by the department under this chapter do not limit the kind or amount of radiation that may be intentionally applied to a person or animal for diagnostic or therapeutic purposes by or under the direction of a licensed practitioner of the healing arts.

B. Radiation sources shall be registered, licensed or exempted at the discretion of the department.

30-672. Licensing and registration of sources of radiation; exemptions

A. The department by rule shall provide for general or specific licensing of by-product, source, special nuclear materials or devices or equipment using those materials. The department shall require from the applicant satisfactory evidence that the applicant is using methods and techniques that are demonstrated to be safe and that the applicant is familiar with the rules adopted by the department under section 30-654, subsection B, paragraph 5 relative to uniform radiation standards, total occupational radiation exposure norms, labels, signs and symbols, storage, waste disposal and shipment of radioactive materials. The department may require that, before it issues a license, the employees or other personnel of an applicant who may deal with sources of radiation receive a course of instruction approved by the department concerning department rules. The department shall require that the applicant's proposed equipment and facilities be adequate to protect health and safety and that the applicant's proposed administrative controls over the use of the sources of radiation requested be adequate to protect health and safety.

B. The department may require registration or licensing of other sources of radiation if deemed necessary to protect public health or safety.

C. The department may exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements set forth in this section if it finds that exempting such sources of radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

D. The director may suspend or revoke, in whole or in part, any license issued under subsection A of this section if the licensee or an officer, agent or employee of the licensee:

1. Violates this chapter or rules of the department adopted pursuant to this chapter.

2. Has been, is or may continue to be in substantial violation of the requirements for licensure of the radiation source and as a result the health or safety of the general public is in immediate danger.

E. If the licensee, or an officer, agent or employee of the licensee, refuses to allow the department or its employees or agents to inspect the licensee's premises, such an action shall be deemed reasonable cause to believe that a substantial violation under subsection D, paragraph 2 of this section exists.

F. A license may not be suspended or revoked under this chapter without affording the licensee notice and an opportunity for a hearing as provided in title 41, chapter 6, article 10.

G. The department shall not require persons who are licensed in this state to practice as a dentist, physician assistant, chiropractor or veterinarian or licensed in this state to practice medicine, surgery, osteopathic medicine, chiropractic or naturopathic medicine to obtain any other license to use a diagnostic x-ray machine, but these persons are governed by their own licensing acts.

H. Persons who are licensed by the federal communications commission with respect to the activities for which they are licensed by that commission are exempt from this chapter.

I. Rules adopted pursuant to this chapter may provide for recognition of other state or federal licenses as the department deems desirable, subject to such registration requirements as the department prescribes.

J. Any licenses issued by the department shall state the nature, use and extent of use of the source of radiation. If at any time after a license is issued the licensee desires any change in the nature, use or extent, the licensee shall seek an amendment or a new license under this section.

K. The department shall prescribe by rule requirements for financial security as a condition for licensure under this article. The department shall deposit all amounts posted, paid or forfeited as financial security in the radiation regulatory and perpetual care fund established by section 30-694.

L. Persons applying for licensure shall provide notice to the city or town where the applicant proposes to operate as part of the application process.

M. Any facility that provides diagnostic or screening mammography examinations by or under the direction of a person who is exempt from further licensure under subsection G of this section shall obtain certification by the

department. The department shall prescribe by rule the requirements of certification in order to ensure the accuracy and safety of diagnostic and screening mammography.

30-672.01. Registration of persons who install or service radiation machines; exception; roster of registrants

A. A person who is in the business of installing or servicing radiation machines that are required to be registered by the department shall register with the department on a form provided by the department.

B. Notwithstanding subsection A of this section, a person who is subject to the jurisdiction of the department and who operates a radiation machine is not required to register with the department.

C. The registration form required pursuant to subsection A of this section shall be limited to the following information:

1. The full business name of the registrant.
2. The names of the owners if the registrant is a corporation or partnership.
3. The names of employees who carry out installation or service work for the registrant.
4. The business address of the registrant.

D. The department shall maintain a roster of all registrants, including the date of initial registration. The roster shall be available for public inspection.

E. A registrant must reregister with the department if there is a change in the information provided under subsection C of this section.

30-681. Inspections

A. The department or its duly authorized representatives may enter at all reasonable times on any private or public property for the purpose of determining whether there is compliance with or a violation of this chapter and rules adopted under this chapter, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

B. If the director determines that there is reasonable cause to believe that a radiation source is not in compliance with the licensing requirements of this chapter, the director or the director's designee or agent may enter on and into the premises of any radiation source that is licensed or required to be licensed pursuant to this chapter at any reasonable time to determine compliance with this chapter and rules adopted pursuant to this chapter. An application for licensure under this chapter constitutes permission for and complete acquiescence in any entry or inspection of the premises during the pendency of the application and, if licensed, during the term of the license. If the inspection shows that the radiation source is not adhering to the licensing requirements of this chapter, the director may take action authorized by this chapter. A radiation source whose license has been suspended or revoked in accordance with this subsection is subject to inspection when applying for relicensure or reinstatement of the license.

30-683. Intergovernmental agreements; inspections; training programs; mammography facilities

A. The department, subject to the approval of the governor, may enter into agreements with the federal government, other states or interstate agencies to perform on a cooperative basis with the federal government, other states or interstate agencies inspections or other functions relating to control of sources of radiation.

B. The department may institute training programs for the purpose of qualifying personnel to carry out this chapter and make such personnel available for participation in any program of the federal government, other states or interstate agencies in furtherance of the purposes of this chapter.

C. The department shall annually inspect facilities that provide diagnostic or screening mammography examinations.

30-684. Conflicting ordinances by municipality or county

Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a municipality or county or board of health relating to sources of radiation shall not be superseded by this chapter, provided, such

ordinances or regulations are and continue to be consistent with the provisions of this chapter, amendments thereto and rules and regulations thereunder.

30-686. Appeal; hearing

A person who is denied licensure or registration under article 2 of this chapter or who is denied an exception from licensure or registration under article 2 of this chapter may appeal the denial by making a written request for a hearing pursuant to title 41, chapter 6, article 10. The department shall give notice of such an action pursuant to title 41, chapter 6, article 10, and the notice shall state the person's right to make a written request for a hearing.

30-687. Assessment; civil penalty; enforcement; appeals; collection

A. The director may assess a civil penalty against a person that violates this chapter or a rule adopted pursuant to this chapter in an amount not to exceed five thousand dollars for each violation. Each day a violation occurs constitutes a separate violation. The maximum amount of any assessment is twenty-five thousand dollars for any thirty-day period.

B. The director may issue a notice of assessment that includes the proposed amount of the assessment. In determining the amount of a civil penalty assessed against a person under subsection A of this section, the department shall consider all of the following:

1. Repeated violations of statutes and rules.
2. Patterns of noncompliance.
3. Types of violations.
4. The severity of the violations.
5. The potential for and occurrences of actual harm.
6. Threats to health and safety.
7. The number of persons affected by the violations.
8. The number of violations.
9. The length of time the violations have been occurring.

C. A person may appeal the assessment by requesting a hearing pursuant to title 41, chapter 6, article 10. If the assessment is appealed, the director may not take further action to enforce and collect the assessment until after the hearing.

D. Actions to enforce the collection of civil penalties assessed pursuant to subsection A of this section shall be brought by the attorney general or the county attorney in the name of the state in the justice court or the superior court in the county in which the violation occurred.

E. The department shall deposit, pursuant to sections 35-146 and 35-147, civil penalties collected pursuant to this section in the state general fund.

30-688. Emergency action

A. If the director finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in an order, the director may:

1. Order the summary suspension of a license pending proceedings for revocation or another action. These proceedings shall be promptly instituted and determined.
2. Order the impoundment of sources of radiation in the possession of any person that is not equipped to comply with or that fails to comply with this chapter or any rule adopted pursuant to this chapter.

B. The director may apply to the superior court for an injunction to restrain a person from violating a provision of this chapter or a rule adopted pursuant to this chapter. The court shall grant a temporary restraining order, a preliminary injunction or a permanent injunction without bond. The person 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.

30-689. Violation; classification

A. Any person who violates any provision of this chapter or any rule, regulation or order placed in effect pursuant thereto by the commission is guilty of a class 2 misdemeanor.

B. The provisions of subsection A shall not apply to any emergency regulation or order unless or until the person so violating such regulation or order has had actual knowledge of the regulation or order.

30-721. Adoption and text of compact

The southwestern low-level radioactive waste disposal compact is adopted and enacted into law as follows:

Article 1. Compact Policy and Formation

The party states hereby find and declare all of the following:

(A) The United States Congress, by enacting the low-level radioactive waste policy act, Public Law 96-573, as amended by the low-level radioactive waste policy amendments act of 1985 (42 U.S.C. sec. 2021b to 2021j, incl.), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

(B) It is the purpose of this compact to provide the means for such a cooperative effort between or among party states to protect the citizens of the states and the states' environments.

(C) It is the policy of party states to this compact to encourage the reduction of the volume of low-level radioactive waste requiring disposal within the compact region.

(D) It is the policy of the party states that the protection of the health and safety of their citizens and the most ecological and economical management of low-level radioactive wastes can be accomplished through cooperation of the states by minimizing the amount of handling and transportation required to dispose of these wastes and by providing facilities that serve the compact region.

(E) Each party state, if an agreement state pursuant to section 2021 of title 42 of the United States Code, or the nuclear regulatory commission if not an agreement state, is responsible for the primary regulation of radioactive materials within its jurisdiction.

Article 2. Definitions

As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

(A) "Commission" means the southwestern low-level radioactive waste commission established in article 3 of this compact.

(B) "Compact region" or "region" means the combined geographical area within the boundaries of the party states.

(C) "Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the nuclear regulatory commission and the environmental protection agency under applicable laws, or by a party state if that state hosts a disposal facility.

(D) "Generate," when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(E) "Generator" means a person whose activity, excluding the management of low-level radioactive waste, results in the production of low-level radioactive waste.

(F) "Host county" means a county, or other similar political subdivision of a party state, in which a regional disposal facility is located or being developed.

(G) "Host state" means a party state in which a regional disposal facility is located or being developed. The state of California is the host state under this compact for the first thirty years from the date the California regional disposal facility commences operations.

(H) "Institutional control period" means that period of time in which the facility license is transferred to the disposal site owner in compliance with the appropriate regulations for long-term observation and maintenance following the postclosure period.

(I) "Low-level radioactive waste" means regulated radioactive material that meets all of the following requirements:

(1) The waste is not high-level radioactive waste, spent nuclear fuel, or by-product material (as defined in section 11e(2) of the atomic energy act of 1954 (42 U.S.C. sec. 2014(e) (2))).

(2) The waste is not uranium mining or mill tailings.

(3) The waste is not any waste for which the federal government is responsible pursuant to subdivision (b) of section 3 of the low-level radioactive waste policy amendments act of 1985 (42 U.S.C. sec. 2021c(b)).

(4) The waste is not an alpha emitting transuranic nuclide with a half-life greater than five years and with a concentration greater than one hundred nanocuries per gram, or plutonium-241 with a concentration greater than three thousand five hundred nanocuries per gram, or curium-242 with a concentration greater than twenty thousand nanocuries per gram.

(J) "Management" means collection, consolidation, storage, packaging, or treatment.

(K) "Major generator state" means a party state which generates ten per cent of the total amount of low-level radioactive waste produced within the compact region and disposed of at the regional disposal facility. If no party state other than California generates at least ten per cent of the total amount, "major generator state" means the party state which is second to California in the amount of waste produced within the compact region and disposed of at the regional disposal facility.

(L) "Operator" means a person who operates a regional disposal facility.

(M) "Party state" means any state that has become a party in accordance with article 7 of this compact.

(N) "Person" means an individual, corporation, partnership, or other legal entity, whether public or private.

(O) "Postclosure period" means that period of time after completion of closure of a disposal facility during which the licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal facility to assure that the disposal facility will remain stable and will not need ongoing active maintenance. This period ends with the beginning of the institutional control period.

(P) "Regional disposal facility" means a nonfederal low-level radioactive waste disposal facility established and operated under this compact.

(Q) "Site closure and stabilization" means the activities of the disposal facility operator taken at the end of the disposal facility's operating life to assure the continued protection of the public from any residual radioactive or other potential hazards present at the disposal facility.

(R) "Transporter" means a person who transports low-level radioactive waste.

(S) "Uranium mine and mill tailings" means waste resulting from mining and processing of ores containing uranium.

Article 3. The Commission

(A) There is hereby established the southwestern low-level radioactive waste commission.

(1) The commission shall consist of one voting member from each party state to be appointed by the governor, confirmed by the senate of that party state, and to serve at the pleasure of the governor of each party state, and one voting member from the host county. The appointing authority of each party state shall notify the commission in writing of the identity of the member and of any alternates. An alternate may act in the member's absence.

(2) The host state shall also appoint that number of additional voting members of the commission which is necessary for the host state's members to compose at least fifty-one per cent of the membership on the commission. The host state's additional members shall be appointed by the host state governor and confirmed by the host state senate. If there is more than one host state, only the state in which is located the regional disposal facility actively accepting low-level radioactive waste pursuant to this compact may appoint these additional members.

(3) If the host county has not been selected at the time the commission is appointed, the governor of the host state shall appoint an interim local government member, who shall be an elected representative of a local government. After a host county is selected, the interim local government member shall resign and the governor shall appoint the host county member pursuant to paragraph (4).

(4) The governor shall appoint the host county member from a list of at least seven candidates compiled by the board of supervisors of the host county.

(5) In recommending and appointing the host county member pursuant to paragraph (4), the board of supervisors and the governor shall give first consideration to recommending and appointing the member of the board of supervisors in whose district the regional disposal facility is located or being developed. If the board of supervisors of the host county does not provide a list to the governor of at least seven candidates from which to choose, the governor shall appoint a resident of the host county as the host county member.

(6) The host county member is subject to confirmation by the senate of that party state and shall serve at the pleasure of the governor of the host state.

(B) The commission is a legal entity separate and distinct from the party states and shall be so liable for its actions. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

(C) The commission shall conduct its business affairs pursuant to the laws of the host state and disputes arising out of commission action shall be governed by the laws of the host state. The commission shall be located in the capital city of the host state in which the regional disposal facility is located.

(D) The commission's records shall be subject to the host state's public records law, and the meetings of the commission shall be open and public in accordance with the host state's open meeting law.

(E) The commission members are public officials of the appointing state and shall be subject to the conflict of interest laws, as well as any other law, of the appointing state. The commission members shall be compensated according to the appointing state's law.

(F) Each commission member is entitled to one vote. A majority of the commission constitutes a quorum. Unless otherwise provided in this compact, a majority of the total number of votes on the commission is necessary for the commission to take any action.

(G) The commission has all of the following duties and authority:

(1) The commission shall do, pursuant to the authority granted by this compact, whatever is reasonably necessary to ensure that low-level radioactive wastes are safely disposed of and managed within the region.

(2) The commission shall meet at least once a year and otherwise as business requires.

(3) The commission shall establish a compact surcharge to be imposed upon party state generators. The surcharge shall be based upon the cubic feet of low-level radioactive waste and the radioactivity of the low-level radioactive waste and shall be collected by the operator of the disposal facility. The host state shall set, and the commission shall impose, the surcharge after congressional approval of the compact. The amount of the surcharge shall be sufficient to establish and maintain at a reasonable level funds for all of the following purposes:

(a) The activities of the commission and commission staff.

(b) At the discretion of the host state, a third-party liability fund to provide compensation for injury to persons or property during the operational, closure, stabilization, and postclosure and institutional control periods of the regional disposal facility. This subparagraph does not limit the responsibility or liability of the operator, who shall comply with any federal or host state statutes or regulations regarding third-party liability claims.

(c) A local government reimbursement fund, for the purpose of reimbursing the local government entity or entities hosting the regional disposal facility for any costs or increased burdens on the local governmental entity for services, including, but not limited to, general fund expenses, the improvement and maintenance of roads and bridges, fire protection, law enforcement, monitoring by local health officials, and emergency preparation and response related to the hosting of the regional disposal facility.

(4) The surcharges imposed by the commission for purposes of subparagraphs (b) and (c) of paragraph (3) and surcharges pursuant to paragraph (3) of subdivision (E) of article 4 shall be transmitted on a monthly basis to the host state for distribution to the proper accounts.

(5) The commission shall establish a fiscal year which conforms to the fiscal years of the party states to the extent possible.

(6) The commission shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.

- (7) The commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the subsequent fiscal year.
- (8) The commission may accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant, or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission. However, the host state shall receive, for the uses specified in subparagraph (E) of paragraph (2) of subsection (d) of section 2021e of title 42 of the United States Code, any payments paid from the special escrow account for which the secretary of energy is trustee pursuant to subparagraph (A) of paragraph (2) of subsection (d) of section 2021e of title 42 of the United States Code.
- (9) The commission shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report to be submitted on or before January 15 of each year. The commission shall include in the annual report a review of, and recommendations for, low-level radioactive waste disposal methods which are alternative technologies to the shallow land burial of low-level radioactive waste.
- (10) The commission shall assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.
- (11) The commission shall keep a current inventory of all generators within the region, based upon information provided by the party states.
- (12) The commission shall keep a current inventory of all regional disposal facilities, including information on the size, capacity, location, specific low-level radioactive wastes capable of being managed, and the projected useful life of each regional disposal facility.
- (13) The commission may establish advisory committees for the purpose of advising the commission on the disposal and management of low-level radioactive waste.
- (14) The commission may enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.
- (15) The commission shall prepare contingency plans, with the cooperation and approval of the host state, for the disposal and management of low-level radioactive waste in the event that any regional disposal facility should be closed.
- (16) The commission may sue and be sued and, when authorized by a majority vote of the members, may seek to intervene in an administrative or judicial proceeding related to this compact.
- (17) The commission shall be managed by an appropriate staff, including an executive director. Notwithstanding any other provision of law, the commission may hire or retain, or both, legal counsel.
- (18) The commission may, subject to applicable federal and state laws, recommend to the appropriate host state authority suitable land and rail transportation routes for low-level radioactive waste carriers.
- (19) The commission may enter into an agreement to import low-level radioactive waste into the region only if both of the following requirements are met:
- (a) The commission approves the importation agreement by a two-thirds vote of the commission.
 - (b) The commission and the host state assess the affected regional disposal facilities' capability to handle imported low-level radioactive wastes and any relevant environmental or economic factors, as defined by the host state's appropriate regulatory authorities.
- (20) The commission may, upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive wastes to a low-level radioactive waste disposal facility located outside the region. The commission may approve the petition only by a two-thirds vote of the commission. The permission to export low-level radioactive wastes shall be effective for that period of time and for the amount of low-level radioactive waste, and subject to any other term or condition, which may be determined by the commission.
- (21) The commission may approve, only by a two-thirds vote of the commission, the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, if the sole purpose of the exportation is to process the material for recycling.

(22) The commission shall, not later than ten years before the closure of the initial or subsequent regional disposal facility, prepare a plan for the establishment of the next regional disposal facility.

Article 4. Rights, Responsibilities, and Obligations of Party States

(A) There shall be regional disposal facilities sufficient to dispose of the low-level radioactive waste generated within the region.

(B) Low-level radioactive waste generated within the region shall be disposed of at regional disposal facilities and each party state shall have access to any regional disposal facility without discrimination.

(C) (1) Upon the effective date of this compact, the state of California shall serve as the host state and shall comply with the requirements of subdivision (E) for at least thirty years from the date the regional disposal facility begins to accept low-level radioactive waste for disposal. The extension of the obligation and duration shall be at the option of the state of California. If the state of California does not extend this obligation, the party state, other than the state of California, which is the largest major generator state shall then serve as the host state for the second regional disposal facility. The obligation of a host state which hosts the second regional disposal facility shall also run for thirty years from the date the second regional disposal facility begins operations.

(2) The host state may close its regional disposal facility when necessary for public health or safety.

(D) The party states of this compact cannot be members of another regional low-level radioactive waste compact entered into pursuant to the low-level radioactive waste policy act, as amended by the low-level radioactive waste policy amendments act of 1985 (42 U.S.C. secs. 2021b to 2021j, incl.).

(E) A host state shall do all of the following:

(1) Cause a regional disposal facility to be developed on a timely basis.

(2) Ensure by law, consistent with any applicable federal laws, the protection and preservation of public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the regional disposal facilities within the state.

(3) Ensure that charges for disposal of low-level radioactive waste at the regional disposal facility are reasonably sufficient to do all of the following:

(a) Ensure the safe disposal of low-level radioactive waste and long-term care of the regional disposal facility.

(b) Pay for the cost of inspection, enforcement, and surveillance activities at the regional disposal facility.

(c) Assure that charges are assessed without discrimination as to the party state of origin.

(4) Submit an annual report to the commission on the status of the regional disposal facility including projections of the facility's anticipated future capacity.

(5) The host state and the operator shall notify the commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of a regional disposal facility.

(F) Each party state is subject to the following duties and authority:

(1) To the extent authorized by federal law, each party state shall develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for a regional disposal facility to conform to packaging and transportation requirements and regulations. These procedures shall include, but are not limited to, all of the following requirements:

(a) Periodic inspections of packaging and shipping practices.

(b) Periodic inspections of low-level radioactive waste containers while in the custody of transporters.

(c) Appropriate enforcement actions with respect to violations.

(2) A party state may impose a surcharge on the low-level radioactive waste generators within the state to pay for activities required by paragraph (1).

(3) To the extent authorized by federal law, each party state shall, after receiving notification from a host state that a person in a party state has violated packaging, shipping, or transportation requirements or regulations, take appropriate actions to ensure that these violations do not continue. Appropriate actions may include, but are not

limited to, requiring that a bond be posted by the violator to pay the cost of repackaging at the regional disposal facility and prohibit future shipments to the regional disposal facility.

(4) Each party state shall maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a regional disposal facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

(5) Each party state shall encourage generators within its borders to minimize the volume of low-level radioactive waste requiring disposal.

(6) Each party state may rely on the good faith performance of the other party states to perform those acts which are required by this compact to provide regional disposal facilities, including the use of the regional disposal facilities in a manner consistent with this compact.

(7) Each party state shall provide the commission with any data and information necessary for the implementation of the commission's responsibilities, including taking those actions necessary to obtain this data or information.

(8) Each party state shall agree that only low-level radioactive waste generated within the jurisdiction of the party states shall be disposed of in the regional disposal facility, except as provided in paragraph (19) of subdivision (G) of article 3.

(9) Each party state shall agree that if there is any injury to persons or property resulting from the operation of a regional disposal facility, the damages resulting from the injury may be paid from the third-party liability fund pursuant to subparagraph (b) of paragraph (3) of subdivision (G) of article 3, only to the extent that the damages exceed the limits of liability insurance carried by the operator. No party state, by joining this compact, assumes any liability resulting from the siting, operation, maintenance, long-term care, or other activity relating to a regional facility, and no party state shall be liable for any harm or damage resulting from a regional facility not located within the state.

Article 5. Approval of Regional Facilities

A regional disposal facility shall be approved by the host state in accordance with its laws. This compact does not confer any authority on the commission regarding the siting, design, development, licensure, or other regulation, or the operation, closure, decommissioning, or long-term care of, any regional disposal facility within a party state.

Article 6. Prohibited Acts and Penalties

(A) No person shall dispose of low-level radioactive waste within the region unless the disposal is at a regional disposal facility, except as otherwise provided in paragraphs (20) and (21) of subdivision (G) of article 3.

(B) No person shall dispose of or manage any low-level radioactive waste within the region unless the low-level radioactive waste was generated within the region, except as provided in paragraphs (19), (20), and (21) of subdivision (G) of article 3.

(C) Violations of this section shall be reported to the appropriate law enforcement agency within the party state's jurisdiction.

(D) Violations of this section may result in prohibiting the violator from disposing of low-level radioactive waste in the regional disposal facility, as determined by the commission or the host state.

Article 7. Eligibility, Entry into Effect, Congressional Consent, Withdrawal, Exclusion

(A) The states of Arizona, North Dakota, South Dakota, and California are eligible to become parties to this compact. Any other state may be made eligible by a majority vote of the commission and ratification by the legislatures of all of the party states by statute, and upon compliance with those terms and conditions for eligibility which the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this subparagraph, as a member of this compact.

(B) Upon compliance with the other provisions of this compact, an eligible state may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment the legislature enacts this compact.

(C) A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing

legislation. If a party state which is a major generator of low-level radioactive waste voluntarily withdraws from the compact pursuant to this subdivision, that state shall make arrangements for the disposal of the other party states' low-level radioactive waste for a time period equal the period of time it was a member of this compact. If the host state withdraws from the compact, the withdrawal shall not become effective until five years after the effective date of the repealing legislation.

(D) A party state may be excluded from this compact by a two-thirds vote of the commission members, acting in a meeting, if the state to be excluded has failed to carry out any obligations required by compact.

(E) This compact shall take effect upon the enactment by statute by the legislatures of the state of California and at least one other eligible state and upon the consent of Congress and shall remain in effect until otherwise provided by federal law. This compact is subject to review by Congress and the withdrawal of the consent of Congress every five years after its effective date, pursuant to federal law.

Article 8. Construction and Severability

(A) The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not be infringed unnecessarily.

(B) This compact does not affect any judicial proceeding pending on the effective date of this compact.

(C) If any provision of this compact or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the compact which can be given effect without the invalid provision or application, and to this end the provisions of this compact are severable.

(D) Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

(1) The nuclear regulatory commission pursuant to the atomic energy act of 1954, as amended (42 U.S.C. sec. 2011 et seq.).

(2) An agreement state under section 274 of the atomic energy act of 1954, as amended (42 U.S.C. sec. 2021).

(E) Nothing in this compact confers any new authority on the states or commission to do any of the following:

(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the nuclear regulatory commission or the United States department of transportation.

(2) Regulate health, safety, or environmental hazards from source, by-product, or special nuclear material.

(3) Inspect the activities of licensees of the agreement states or of the nuclear regulatory commission.

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. 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.

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 no 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 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) 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.

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. 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. 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.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. 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.

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 no 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 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) 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.

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. 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. 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.

DEPARTMENT OF HEALTH SERVICES

Title 9, Chapter 10

Amend: R9-10-120



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

MEETING DATE:

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

FROM: Council Staff

DATE: October 11, 2022

SUBJECT: DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 10

Amend: R9-10-120

Summary:

This expedited rulemaking from the Department of Health Services (Department) relates to Title 9 Chapter 10 Rule 120 regarding Opioid Prescribing Treatment.

For Title 9, Chapter 10, rule 120, the Department is amending these rules to be in compliance with ARS § 32-3248.01 and reduce the regulatory burden on regulated entities. The Department has become aware that certain requirements for opioid prescribing and treatment in A.A.C. R9-10-120 may be unnecessary and impose an undue burden on health care institutions related to the ordering of opioids in an in-patient setting.

For clarification purposes, council staff asked the Department to elaborate in the NFER why subsection 8 and subsection 12b were not applicable and the Department declined. Council staff encourages the Council to follow up with the Department representative if additional details are needed regarding these items.

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

Yes. The Department states that the rules satisfy the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)(1), (5), and (6).

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

Yes, the Department cites to both general and specific statutory authority.

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 indicates they did not receive any comments on the proposed rules.

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 between the proposed expedited rulemaking and the 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 states that this question is not applicable.

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

Although licensing of health care institutions is not addressed in this rulemaking, 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. Therefore, a general permit is not applicable and is not used.

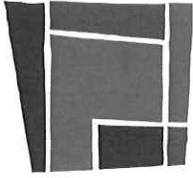
8. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

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

9. Conclusion

As mentioned above, the Department is seeking to amend the rules to comply with ARS § 32-3248.01. This expedited rulemaking does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated, but reduces a burden due to outdated requirements without compromising health and safety. These rules will reduce the economic burden on all applicants, as well as the Department.

If approved, this rulemaking would be effective immediately upon the Department filing the Notice of Final Expedited Rulemaking and Certificate of Approval with the Secretary of State. The Department meets the criteria for Expedited Rulemaking pursuant to A.R.S. § 41-1027(A)(1), (5), and (6). Council staff recommends approval of this expedited rulemaking.



ARIZONA DEPARTMENT OF HEALTH SERVICES

POLICY & INTERGOVERNMENTAL AFFAIRS

September 14, 2022

VIA EMAIL: 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. 10, Article 1, Expedited Rulemaking

Dear Ms. Sornsin:

1. The close of record date: September 12, 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. In the rulemaking, the Department is amending the rules to reduce the burden on regulated entities due to unnecessary and outdated requirements, as well as reducing processes and procedures, without compromising health and safety. In addition, the Department is making changes consistent with A.R.S. § 32-3248.01, as revised by Laws 2022, Ch. 134. This rulemaking conforms to requirements in A.R.S. § 41-1027(A)(1), (5), and (6).
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, Article 1, 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
 - c. Current rule
 - d. Laws 2022, Ch. 134

The Department is requesting that the rules be heard at the Council meeting on November 1, 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.

Sincerely,

A handwritten signature in black ink, appearing to be 'Stephanie Elzenga', written in a cursive style.

Stephanie Elzenga
Director's Designee

SE:rms

Enclosures

NOTICE OF FINAL EXPEDITED RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSING

PREAMBLE

1. Articles, Part, and Sections Affected (as applicable) Rulemaking Action

R9-10-120 Amend

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

Authorizing statute: A.R.S. §§ 36-132(A)(1) and 36-136(G)

Implementing statutes: A.R.S. §§ 36-405, 36-406, and 32-3248.01, as revised by Laws 2022,
Ch. 134

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 rule:

Notice of Rulemaking Docket Opening: 28 A.A.R. 1984, August 5, 2022

Notice of Proposed Expedited Rulemaking: 28 A.A.R. 2202, September 2, 2022

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

Name: Thomas Salow, Assistant Director

Address: Arizona Department of Health Services
Public Health Licensing | Policy and Intergovernmental Affairs
150 N. 18th Ave., Suite 400
Phoenix, AZ 85007

Telephone: (602) 364-1935

Fax: (602) 364-3808

E-mail: Thomas.Salow@azdhs.gov

or

Name: Stephanie Elzenga, Interim Chief

Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules

150 N. 18th Avenue, Suite 200
Phoenix, AZ 85007

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

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, 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.A.C. Title 9, Chapter 10, Article 1, contains the rules that apply to more than one class of health care institutions. The Department has become aware that certain requirements for opioid prescribing and treatment in A.A.C. R9-10-120 may be unnecessary and impose an undue burden on health care institutions related to the ordering of opioids in an in-patient setting. In addition, the rule should be revised to comply with changes to A.R.S. § 32-3248.01, as revised by Laws 2022, Ch. 134. After receiving an exception from the rulemaking moratorium established by Executive Order 2022-01, the Department is revising R9-10-120 to reduce the burden on regulated entities, while preserving the health and safety of patients. The Department believes that these changes are consistent with the purpose for A.R.S. § 41-1027 in that this rulemaking does not increase the cost of regulatory compliance, does not increase a fee, or reduce a procedural right of regulated persons. In fact, the rulemaking will not only make the rules compliant with Legislative requirements, but also reduce the regulatory burden on regulated entities. The new rules will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

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

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

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

Not applicable

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

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

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

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

11. Agency's summary of the 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:

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

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

Although licensing of health care institutions is not addressed in this rulemaking, 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 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:

Not applicable

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

No business competitiveness analysis was received by 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:

Not applicable

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

The rule was not previously made as an emergency rule.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES
CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSING

ARTICLE 1. GENERAL

Section

R9-10-120. Opioid Prescribing and Treatment

ARTICLE 1. GENERAL

R9-10-120. Opioid Prescribing and Treatment

- A. This Section does not apply to a health care institution licensed under Article 20 of this Chapter.
- B. In addition to the definitions in A.R.S. § §§ 32-3248.01 and 36-401(A) and R9-10-101, the following definitions apply in this Section:
1. “Episode of care” means medical services, nursing services, or health-related services provided by a health care institution to a patient for a specific period of time, ending in discharge, ~~or~~ the completion of the patient’s treatment plan, or 90 days from the start of service provision to the patient, whichever is later.
 2. “Order” means to issue written, verbal, or electronic instructions for a specific dose of a specific medication in a specific quantity and route of administration to be obtained and administered to a patient in a health care institution.
- C. An administrator of a health care institution where opioids are prescribed or ordered as part of treatment shall:
1. Establish, document, and implement policies and procedures for prescribing or ordering an opioid as part of treatment, to protect the health and safety of a patient, that:
 - a. Cover which personnel members may prescribe or order an opioid in treating a patient and the required knowledge and qualifications of these personnel members;
 - b. As applicable and except when contrary to medical judgment for a patient, are consistent with A.R.S. § 32-3248.01 and the Arizona Opioid Prescribing Guidelines or national opioid-prescribing guidelines, such as guidelines developed by the:
 - i. Centers for Disease Control and Prevention, or
 - ii. U.S. Department of Veterans Affairs and the U.S. Department of Defense;
 - c. ~~Include~~ As applicable, include how, when, and by whom:
 - i. A patient’s profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database is reviewed;
 - ii. An assessment is conducted of a patient’s substance use risk;
 - iii. The potential risks, adverse outcomes, and complications, including death, associated with the use of opioids are explained to a patient or the patient’s representative;
 - iv. Alternatives to a prescribed or ordered opioid are explained to a patient or the

- patient's representative;
 - v. Informed consent is obtained from a patient or the patient's representative and, if applicable, in what situations, described in subsection (G), ~~or~~ (H), or (I), informed consent would not be obtained before an opioid is prescribed or ordered for a patient;
 - vi. A patient receiving an opioid is monitored; and
 - vii. The actions taken according to subsections (C)(1)(c)(i) through (vi) are documented;
 - d. Address conditions that may impose a higher risk to a patient when prescribing or ordering an opioid as part of treatment, including:
 - i. Concurrent use of a benzodiazepine or other sedative-hypnotic medication,
 - ii. History of substance use disorder,
 - iii. Co-occurring behavioral health issue, or
 - iv. Pregnancy;
 - e. Cover the criteria for co-prescribing a short-acting opioid antagonist for a patient who is not an inpatient, as defined in R9-10-201;
 - f. Include that, if continuing control of a patient's pain after discharge is medically indicated due to the patient's medical condition, a method for continuing pain control will be addressed as part of discharge planning;
 - g. Include the frequency of the following for a patient being prescribed ~~or ordered~~ an opioid for longer than a 30-calendar-day period:
 - i. Face-to-face interactions with the patient,
 - ii. Conducting an assessment of a patient's substance use risk,
 - iii. Renewal of a prescription ~~or order~~ for an opioid without a face-to-face interaction with the patient, and
 - iv. Monitoring the effectiveness of the treatment;
 - h. If applicable according to A.R.S. § 36-2608, include documenting a dispensed opioid in the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - i. ~~Cover~~ As applicable and consistent with A.R.S. § 32-3248.01, cover the criteria and procedures for tapering opioid prescription or ordering as part of treatment; and
 - j. Cover the criteria and procedures for offering or referring a patient for treatment for substance use disorder;
2. Include in the plan for the health care institution's quality management program a process for:

- a. Review of known incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths, and
 - b. Surveillance and monitoring of adherence to the policies and procedures in subsection (C)(1);
- 3. Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2, or as provided in subsection (H)(1), ensure that, if a patient's death may be related to an opioid prescribed or ordered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient's death within one working day after the health care institution learns of the patient's death; and
- 4. Ensure that informed consent, if required from a patient or the patient's representative, includes:
 - a. The patient's:
 - i. Name,
 - ii. Date of birth or other patient identifier, and
 - iii. Condition for which opioids are being prescribed;
 - b. That an opioid is being prescribed or ordered;
 - c. The potential risks, adverse reactions, complications, and medication interactions associated with the use of an opioid;
 - d. If applicable, the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication;
 - e. Alternatives to a prescribed or ordered opioid;
 - f. The name and signature of the individual explaining the use of an opioid to the patient; and
 - g. The signature of the patient or the patient's representative and the date signed.
- D.** Except as provided in subsection (H) or (I), an administrator of a health care institution where opioids are prescribed as part of treatment shall ensure that a medical practitioner authorized by policies and procedures to prescribe an opioid in treating a patient:
 - 1. Before prescribing an opioid for a patient of the health care institution:
 - a. Conducts a physical examination of the patient or reviews the documentation from a physical examination conducted during the patient's same episode of care;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;

- c. Conducts an assessment of the patient's substance use risk or reviews the documentation from an assessment of the patient's substance use risk conducted during the same episode of care by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to conduct an assessment of the patient's substance use risk;
 - d. Explains to the patient or the patient's representative the risks and benefits associated with the use of opioids or ensures that the patient or the patient's representative understands the risks and benefits associated with the use of opioids, as explained to the patient or the patient's representative by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to explain to the patient or the patient's representative the risks and benefits associated with the use of opioids;
 - e. ~~Explains~~ If applicable, explains alternatives to a prescribed opioid; and
 - f. Obtains informed consent from the patient or the patient's representative that meets the requirements in subsection (C)(4), including the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication, if the patient:
 - i. Is also prescribed or ordered a sedative-hypnotic medication, or
 - ii. Has been prescribed a sedative-hypnotic medication by another medical practitioner;
2. Includes the following information in the patient's medical record, an existing treatment plan, or a new treatment plan developed for the patient:
- a. The patient's diagnosis;
 - b. The patient's medical history, including co-occurring disorders;
 - c. The opioid to be prescribed;
 - d. Other medications or herbal supplements being taken by the patient;
 - e. If applicable:
 - i. The effectiveness of the patient's current treatment,
 - ii. The duration of the current treatment, and
 - iii. Alternative treatments tried by or planned for the patient;
 - f. The expected benefit of the treatment and, if applicable, the benefit of the new treatment compared with continuing the current treatment; and
 - g. Other factors relevant to the patient's being prescribed an opioid; and
3. If applicable, specifies in the patient's discharge plan how medically indicated pain control

will occur after discharge to meet the patient's needs.

- E. Except as provided in subsection (G) or (H), an administrator of a health care institution where opioids are ordered for administration to a patient in the health care institution as part of treatment shall ensure that a medical practitioner authorized by policies and procedures to order an opioid in treating a patient:
1. Before ordering an opioid for a patient of the health care institution:
 - a. Conducts a physical examination of the patient or reviews the documentation from a physical examination conducted:
 - i. During the patient's same episode of care; or
 - ii. Within the previous 30 calendar days, at a health care institution transferring the patient to the health care institution or by the medical practitioner who referred the patient for admission to the health care institution;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - c. ~~Conducts an assessment of~~ If medically appropriate based on the physical examination in subsection (E)(1)(a) and the patient's medical history, assesses the patient's substance use risk or reviews the documentation from an assessment of the patient's substance use risk conducted within the previous 30 calendar days by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to conduct an assessment of the patient's substance use risk;
 - d. ~~Explains to the patient or the patient's representative the risks and benefits associated with the use of opioids or ensures~~ Ensures that the patient or the patient's representative understands the risks and benefits associated with the use of opioids, as explained to the patient or the patient's representative ~~by an individual licensed under A.R.S. Title 32 and authorized by~~ according to policies and procedures ~~to explain to the patient or the patient's representative the risks and benefits associated with the use of opioids; and~~
 - e. If applicable, explains alternatives to an ordered opioid; and
 - f. ~~Obtains informed consent from the patient or the patient's representative, according to subsection (D)(1)(f); and~~
 2. Includes the following information in the patient's medical record, an existing treatment plan, or a new treatment plan developed for the patient:
 - a. The patient's diagnosis;

- b. The patient's medical history, including co-occurring disorders;
- c. The opioid being ordered and the reason for the order;
- d. Other medications or herbal supplements being taken by the patient; and
- e. If applicable:
 - i. The effectiveness of the patient's current treatment,
 - ii. The duration of the current treatment,
 - iii. Alternative treatments tried by or planned for the patient,
 - iv. The expected benefit of a new treatment compared with continuing the current treatment, and
 - v. Other factors relevant to the patient's being ordered an opioid.

F. For a health care institution where opioids are administered as part of treatment or where a patient is provided assistance in the self-administration of medication for a prescribed opioid, including a health care institution in which an opioid may be prescribed or ordered as part of treatment, an administrator, a manager as defined in R9-10-801, or a provider, as applicable to the health care institution, shall:

1. Establish, document, and implement policies and procedures for administering an opioid as part of treatment or providing assistance in the self-administration of medication for a prescribed opioid, to protect the health and safety of a patient, that:
 - a. Cover which personnel members may administer an opioid in treating a patient and the required knowledge and qualifications of these personnel members;
 - b. Cover which personnel members may provide assistance in the self-administration of medication for a prescribed opioid and the required knowledge and qualifications of these personnel members;
 - c. Include how, when, and by whom a patient's need for opioid administration is assessed;
 - d. Include how, when, and by whom a patient receiving an opioid is monitored; and
 - e. Cover how, when, and by whom the actions taken according to subsections (F)(1)(c) and (d) are documented;
2. Include in the plan for the health care institution's quality management program a process for:
 - a. Review of incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths, and
 - b. Surveillance and monitoring of adherence to the policies and procedures in subsection (F)(1);
3. Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part

2, or as provided in subsection (H)(1), ensure that, if a patient's death may be related to an opioid administered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient's death within one working day after the patient's death; and

4. Except as provided in subsection (H), ensure that an individual authorized by policies and procedures to administer an opioid in treating a patient or to provide assistance in the self-administration of medication for a prescribed opioid:
 - a. Before administering an opioid or providing assistance in the self-administration of medication for a prescribed opioid in compliance with an order as part of the treatment for a patient, identifies the patient's need for the opioid;
 - b. Monitors the patient's response to the opioid; and
 - c. Documents in the patient's medical record:
 - i. An identification of the patient's need for the opioid before the opioid was administered or assistance in the self-administration of medication for a prescribed opioid was provided, and
 - ii. The effect of the opioid administered or for which assistance in the self-administration of medication for a prescribed opioid was provided.

G. A medical practitioner authorized by a health care institution's policies and procedures to order an opioid in treating a patient is exempt from the requirements in subsection (E), if:

1. The health care institution's policies and procedures, required in subsection (C)(1) or the applicable Article in 9 A.A.C. 10, contain procedures for:
 - a. Providing treatment without obtaining the consent of a patient or the patient's representative,
 - b. Ordering and administering opioids in an emergency situation, and
 - c. Complying with the requirements in subsection (E) after the emergency is resolved;
2. The order for the administration of an opioid is:
 - a. Part of the treatment for a patient in an emergency, and
 - b. Issued in accordance with policies and procedures; and
3. The emergency situation is documented in the patient's medical record.

H. The requirements in subsections (D), (E), and (F)(4), as applicable, do not apply to a health care institution's:

1. Prescribing, ordering, or administration of an opioid as part of treatment for a patient with an end-of-life condition or pain associated with an active malignancy;
2. Prescribing an opioid as part of treatment for a patient when changing the type or dosage of

an opioid, which had previously been prescribed by a medical practitioner of the health care institution for the patient according to the requirements in subsection (D):

- a. Before a pharmacist dispenses the opioid for the patient; or
 - b. If changing the opioid because of an adverse reaction to the opioid experienced by the patient, within 72 hours after the opioid was dispensed for the patient by a pharmacist;
3. Ordering an opioid as part of treatment for no longer than three calendar days for a patient remaining in the health care institution and receiving continuous medical services or nursing services from the health care institution; or
 4. Ordering an opioid as part of treatment:
 - a. For a patient receiving a surgical procedure or other invasive procedure; or
 - b. When changing the type, dosage, or route of administration of an opioid, which had previously been ordered by a medical practitioner of the health care institution for a patient according to the requirements in subsection (E), to meet the patient's needs.

I. The requirements in subsections (D)(1)(c) through (f) do not apply to a health care institution's prescribing an opioid as part of treatment for a patient with chronic, intractable pain who has had an established health professional-patient relationship with the prescribing medical practitioner for at least 90 days before the opioid is prescribed.

TITLE 9. HEALTH SERVICES
CHAPTER 10. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE INSTITUTIONS: LICENSING

ARTICLE 1. GENERAL

R9-10-120. Opioid Prescribing and Treatment

- A.** This Section does not apply to a health care institution licensed under Article 20 of this Chapter.
- B.** In addition to the definitions in A.R.S. § 36-401(A) and R9-10-101, the following definitions apply in this Section:
1. “Episode of care” means medical services, nursing services, or health-related services provided by a health care institution to a patient for a specific period of time, ending in discharge or the completion of the patient’s treatment plan, whichever is later.
 2. “Order” means to issue written, verbal, or electronic instructions for a specific dose of a specific medication in a specific quantity and route of administration to be obtained and administered to a patient in a health care institution.
- C.** An administrator of a health care institution where opioids are prescribed or ordered as part of treatment shall:
1. Establish, document, and implement policies and procedures for prescribing or ordering an opioid as part of treatment, to protect the health and safety of a patient, that:
 - a. Cover which personnel members may prescribe or order an opioid in treating a patient and the required knowledge and qualifications of these personnel members;
 - b. As applicable and except when contrary to medical judgment for a patient, are consistent with the Arizona Opioid Prescribing Guidelines or national opioid-prescribing guidelines, such as guidelines developed by the:
 - i. Centers for Disease Control and Prevention, or
 - ii. U.S. Department of Veterans Affairs and the U.S. Department of Defense;
 - c. Include how, when, and by whom:
 - i. A patient’s profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database is reviewed;
 - ii. An assessment is conducted of a patient’s substance use risk;
 - iii. The potential risks, adverse outcomes, and complications, including death, associated with the use of opioids are explained to a patient or the patient’s representative;

- iv. Alternatives to a prescribed or ordered opioid are explained to a patient or the patient's representative;
 - v. Informed consent is obtained from a patient or the patient's representative and, if applicable, in what situations, described in subsection (G) or (H), informed consent would not be obtained before an opioid is prescribed or ordered for a patient;
 - vi. A patient receiving an opioid is monitored; and
 - vii. The actions taken according to subsections (C)(1)(c)(i) through (vi) are documented;
- d. Address conditions that may impose a higher risk to a patient when prescribing or ordering an opioid as part of treatment, including:
 - i. Concurrent use of a benzodiazepine or other sedative-hypnotic medication,
 - ii. History of substance use disorder,
 - iii. Co-occurring behavioral health issue, or
 - iv. Pregnancy;
 - e. Cover the criteria for co-prescribing a short-acting opioid antagonist for a patient;
 - f. Include that, if continuing control of a patient's pain after discharge is medically indicated due to the patient's medical condition, a method for continuing pain control will be addressed as part of discharge planning;
 - g. Include the frequency of the following for a patient being prescribed or ordered an opioid for longer than a 30-calendar-day period:
 - i. Face-to-face interactions with the patient,
 - ii. Conducting an assessment of a patient's substance use risk,
 - iii. Renewal of a prescription or order for an opioid without a face-to-face interaction with the patient, and
 - iv. Monitoring the effectiveness of the treatment;
 - h. If applicable according to A.R.S. § 36-2608, include documenting a dispensed opioid in the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - i. Cover the criteria and procedures for tapering opioid prescription or ordering as part of treatment; and
 - j. Cover the criteria and procedures for offering or referring a patient for treatment for substance use disorder;
- 2. Include in the plan for the health care institution's quality management program a process for:
 - a. Review of known incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths, and

- b. Surveillance and monitoring of adherence to the policies and procedures in subsection (C)(1);
- 3. Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2, or as provided in subsection (H)(1), ensure that, if a patient's death may be related to an opioid prescribed or ordered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient's death within one working day after the health care institution learns of the patient's death; and
- 4. Ensure that informed consent required from a patient or the patient's representative includes:
 - a. The patient's:
 - i. Name,
 - ii. Date of birth or other patient identifier, and
 - iii. Condition for which opioids are being prescribed;
 - b. That an opioid is being prescribed or ordered;
 - c. The potential risks, adverse reactions, complications, and medication interactions associated with the use of an opioid;
 - d. If applicable, the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication;
 - e. Alternatives to a prescribed or ordered opioid;
 - f. The name and signature of the individual explaining the use of an opioid to the patient; and
 - g. The signature of the patient or the patient's representative and the date signed.
- D.** Except as provided in subsection (H), an administrator of a health care institution where opioids are prescribed as part of treatment shall ensure that a medical practitioner authorized by policies and procedures to prescribe an opioid in treating a patient:
 - 1. Before prescribing an opioid for a patient of the health care institution:
 - a. Conducts a physical examination of the patient or reviews the documentation from a physical examination conducted during the patient's same episode of care;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - c. Conducts an assessment of the patient's substance use risk or reviews the documentation from an assessment of the patient's substance use risk conducted during the same episode of care by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to conduct an assessment of the patient's substance use risk;
 - d. Explains to the patient or the patient's representative the risks and benefits associated with the use of opioids or ensures that the patient or the patient's representative understands the risks and benefits associated with the use of opioids, as explained to the patient or the patient's

- representative by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to explain to the patient or the patient's representative the risks and benefits associated with the use of opioids;
- e. Explains alternatives to a prescribed opioid; and
 - f. Obtains informed consent from the patient or the patient's representative that meets the requirements in subsection (C)(4), including the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication, if the patient:
 - i. Is also prescribed or ordered a sedative-hypnotic medication, or
 - ii. Has been prescribed a sedative-hypnotic medication by another medical practitioner;
2. Includes the following information in the patient's medical record, an existing treatment plan, or a new treatment plan developed for the patient:
 - a. The patient's diagnosis;
 - b. The patient's medical history, including co-occurring disorders;
 - c. The opioid to be prescribed;
 - d. Other medications or herbal supplements being taken by the patient;
 - e. If applicable:
 - i. The effectiveness of the patient's current treatment,
 - ii. The duration of the current treatment, and
 - iii. Alternative treatments tried by or planned for the patient;
 - f. The expected benefit of the treatment and, if applicable, the benefit of the new treatment compared with continuing the current treatment; and
 - g. Other factors relevant to the patient's being prescribed an opioid; and
 3. If applicable, specifies in the patient's discharge plan how medically indicated pain control will occur after discharge to meet the patient's needs.
- E.** Except as provided in subsection (G) or (H), an administrator of a health care institution where opioids are ordered for administration to a patient in the health care institution as part of treatment shall ensure that a medical practitioner authorized by policies and procedures to order an opioid in treating a patient:
1. Before ordering an opioid for a patient of the health care institution:
 - a. Conducts a physical examination of the patient or reviews the documentation from a physical examination conducted:
 - i. During the patient's same episode of care; or

- ii. Within the previous 30 calendar days, at a health care institution transferring the patient to the health care institution or by the medical practitioner who referred the patient for admission to the health care institution;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - c. Conducts an assessment of the patient's substance use risk or reviews the documentation from an assessment of the patient's substance use risk conducted within the previous 30 calendar days by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to conduct an assessment of the patient's substance use risk;
 - d. Explains to the patient or the patient's representative the risks and benefits associated with the use of opioids or ensures that the patient or the patient's representative understands the risks and benefits associated with the use of opioids, as explained to the patient or the patient's representative by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to explain to the patient or the patient's representative the risks and benefits associated with the use of opioids;
 - e. If applicable, explains alternatives to an ordered opioid; and
 - f. Obtains informed consent from the patient or the patient's representative, according to subsection (D)(1)(f); and
 - 2. Includes the following information in the patient's medical record, an existing treatment plan, or a new treatment plan developed for the patient:
 - a. The patient's diagnosis;
 - b. The patient's medical history, including co-occurring disorders;
 - c. The opioid being ordered and the reason for the order;
 - d. Other medications or herbal supplements being taken by the patient; and
 - e. If applicable:
 - i. The effectiveness of the patient's current treatment,
 - ii. The duration of the current treatment,
 - iii. Alternative treatments tried by or planned for the patient,
 - iv. The expected benefit of a new treatment compared with continuing the current treatment, and
 - v. Other factors relevant to the patient's being ordered an opioid.
- F.** For a health care institution where opioids are administered as part of treatment or where a patient is provided assistance in the self-administration of medication for a prescribed opioid, including a health

care institution in which an opioid may be prescribed or ordered as part of treatment, an administrator, a manager as defined in R9-10-801, or a provider, as applicable to the health care institution, shall:

1. Establish, document, and implement policies and procedures for administering an opioid as part of treatment or providing assistance in the self-administration of medication for a prescribed opioid, to protect the health and safety of a patient, that:
 - a. Cover which personnel members may administer an opioid in treating a patient and the required knowledge and qualifications of these personnel members;
 - b. Cover which personnel members may provide assistance in the self-administration of medication for a prescribed opioid and the required knowledge and qualifications of these personnel members;
 - c. Include how, when, and by whom a patient's need for opioid administration is assessed;
 - d. Include how, when, and by whom a patient receiving an opioid is monitored; and
 - e. Cover how, when, and by whom the actions taken according to subsections (F)(1)(c) and (d) are documented;
2. Include in the plan for the health care institution's quality management program a process for:
 - a. Review of incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths, and
 - b. Surveillance and monitoring of adherence to the policies and procedures in subsection (F)(1);
3. Except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2, or as provided in subsection (H)(1), ensure that, if a patient's death may be related to an opioid administered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient's death within one working day after the patient's death; and
4. Except as provided in subsection (H), ensure that an individual authorized by policies and procedures to administer an opioid in treating a patient or to provide assistance in the self-administration of medication for a prescribed opioid:
 - a. Before administering an opioid or providing assistance in the self-administration of medication for a prescribed opioid in compliance with an order as part of the treatment for a patient, identifies the patient's need for the opioid;
 - b. Monitors the patient's response to the opioid; and
 - c. Documents in the patient's medical record:
 - i. An identification of the patient's need for the opioid before the opioid was administered or assistance in the self-administration of medication for a prescribed opioid was provided, and

- ii. The effect of the opioid administered or for which assistance in the self-administration of medication for a prescribed opioid was provided.
- G.** A medical practitioner authorized by a health care institution's policies and procedures to order an opioid in treating a patient is exempt from the requirements in subsection (E), if:
 - 1. The health care institution's policies and procedures, required in subsection (C)(1) or the applicable Article in 9 A.A.C. 10, contain procedures for:
 - a. Providing treatment without obtaining the consent of a patient or the patient's representative,
 - b. Ordering and administering opioids in an emergency situation, and
 - c. Complying with the requirements in subsection (E) after the emergency is resolved;
 - 2. The order for the administration of an opioid is:
 - a. Part of the treatment for a patient in an emergency, and
 - b. Issued in accordance with policies and procedures; and
 - 3. The emergency situation is documented in the patient's medical record.
- H.** The requirements in subsections (D), (E), and (F)(4), as applicable, do not apply to a health care institution's:
 - 1. Prescribing, ordering, or administration of an opioid as part of treatment for a patient with an end-of-life condition or pain associated with an active malignancy;
 - 2. Prescribing an opioid as part of treatment for a patient when changing the type or dosage of an opioid, which had previously been prescribed by a medical practitioner of the health care institution for the patient according to the requirements in subsection (D):
 - a. Before a pharmacist dispenses the opioid for the patient; or
 - b. If changing the opioid because of an adverse reaction to the opioid experienced by the patient, within 72 hours after the opioid was dispensed for the patient by a pharmacist;
 - 3. Ordering an opioid as part of treatment for no longer than three calendar days for a patient remaining in the health care institution and receiving continuous medical services or nursing services from the health care institution; or
 - 4. Ordering an opioid as part of treatment:
 - a. For a patient receiving a surgical procedure or other invasive procedure; or
 - b. When changing the type, dosage, or route of administration of an opioid, which had previously been ordered by a medical practitioner of the health care institution for a patient according to the requirements in subsection (E), to meet the patient's needs.

§ 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.

History:

Amended by L. 2017, ch. 288,s. 1, eff. 8/9/2017. Amended by L. 2014, ch. 215,s. 91, eff. 7/24/2014.

**§ 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

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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

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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

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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

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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

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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

**ARS 36-136 Powers and duties of director; compensation of
personnel; rules; definitions (Arizona Revised Statutes (2022
Edition))**

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.

**ARS 36-136 Powers and duties of director; compensation of
personnel; rules; definitions (Arizona Revised Statutes (2022
Edition))**

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.

**ARS 36-136 Powers and duties of director; compensation of
personnel; rules; definitions (Arizona Revised Statutes (2022
Edition))**

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.

History:

Amended by L. 2021, ch. 118,s. 3, eff. 9/29/2021. Amended by L. 2018, ch. 48,s. 44, eff. 8/3/2018. Amended by L. 2018, ch. 45,s. 1, eff. 8/3/2018. Amended by L. 2017, ch. 288,s. 2, eff. 8/9/2017. Amended by L. 2017, ch. 108,s. 1, eff. 8/9/2017. Amended by L. 2017, ch. 91,s. 6, eff. 8/9/2017. Amended by L. 2016, ch. 200,s. 1, eff. 8/5/2016. Amended by L. 2016, ch. 243,s. 1, eff. 8/5/2016. Amended by L. 2016, ch. 54,s. 1, eff. 8/5/2016. Amended by L. 2014, ch. 215,s. 92, eff. 7/24/2014. Amended by L. 2013, ch. 6,s. 1, eff. 9/13/2013.

**ARS 36-136 Powers and duties of director; compensation of
personnel; rules; definitions (Arizona Revised Statutes (2022
Edition))**

§ 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 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 .
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.

History:

Amended by L. 2022, ch. 34,s. 2, eff. 9/23/2022. Amended by L. 2021, ch. 405,s. 10, eff. 9/29/2021. Amended by L. 2017, ch. 122,s. 1, eff. 8/9/2017. Amended by L. 2015, ch. 158,s. 1, eff. 4/1/2015. Amended by L. 2014, ch. 233,s. 3, eff. 7/24/2014.

§ 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.

§ 32-3248.01. Schedule II controlled substances; dosage limit; exceptions; morphine; opioid antagonist; definitions

A. A health professional who is authorized under this title to prescribe controlled substances may not issue a new prescription to be filled or dispensed for a patient outside of a health care institution for a schedule II controlled substance that is an opioid that exceeds ninety morphine milligram equivalents per day.

B. The limit prescribed by subsection A of this section does not apply to:

1. A continuation of a prior prescription that was issued within the previous sixty days.

2. An opioid with a maximum approved total daily dose in the labeling as approved by the United States food and drug administration.

3. A prescription that is issued following a surgical procedure and that is limited to not more than a fourteen-day supply.

4. A patient who:

(a) Has an active oncology diagnosis.

(b) Has a traumatic injury .

(c) Is receiving hospice care.

(d) Is receiving end-of-life care.

(e) Is receiving palliative care.

(f) Is receiving skilled nursing facility care.

(g) Is receiving treatment for burns.

(h) Is receiving medication-assisted treatment for a substance use disorder.

(i) Is hospitalized.

(j) Has chronic intractable pain.

(k) Is receiving opioid treatment for perioperative care following an inpatient surgical procedure.

C. If a health professional believes that a patient requires more than ninety morphine milligram equivalents per day and the patient is not exempt from

ARS 32-3248.01 Schedule II controlled substances; dosage limit; exceptions; morphine; opioid antagonist; definitions (Arizona Revised Statutes (2022 Edition))

the limit pursuant to subsection B of this section, the health professional shall first consult with a physician who is licensed pursuant to chapter 13 or 17 of this title and who is board-certified in pain, or an opioid assistance and referral call service, if available, that is designated by the department of health services. The consultation may be done by telephone or through telehealth. If the opioid assistance and referral call service agrees with the higher dose, the health professional may issue a prescription for more than ninety morphine milligram equivalents per day. If the consulting physician agrees with the higher dose, the health professional may issue a prescription for more than ninety morphine milligram equivalents per day. If the consulting physician is not available to consult within forty-eight hours after the request, the health professional may prescribe the amount that the health professional believes the patient requires and subsequently have the consultation. If the health professional is a physician who is licensed pursuant to chapter 13 or 17 of this title and is board-certified in pain, the health professional may issue a prescription for more than ninety morphine milligram equivalents per day without a consultation under this subsection.

D. If a patient is prescribed more than ninety morphine milligram equivalents per day pursuant to subsection B or C of this section, the prescribing health professional shall also prescribe for the patient naloxone hydrochloride or any other opioid antagonist that is approved by the United States food and drug administration to treat opioid-related overdoses.

E. The ninety morphine milligram equivalents per day limit prescribed in this section does not apply to a patient with chronic intractable pain once the patient has an established health professional-patient relationship and the patient has tried doses of less than ninety morphine milligram equivalents that have been ineffective at addressing the patient's pain.

F. A prescription for a schedule II controlled substance that is an opioid that is written for more than ninety morphine milligram equivalents per day is deemed to meet the requirements of an exemption under this section when the prescription is presented to the dispenser. A pharmacist is not required to verify with the prescriber whether the prescription complies with this section.

G. For the purposes of this section:

1. "Chronic intractable pain" means pain that meets both of the following:

(a) Is excruciating, constant, incurable and of such severity that it dominates virtually every conscious moment.

(b) Produces mental and physical debilitation.

ARS 32-3248.01 Schedule II controlled substances; dosage limit; exceptions; morphine; opioid antagonist; definitions (Arizona Revised Statutes (2022 Edition))

2. "Established health professional-patient relationship" means that all of the following have occurred:

(a) A patient has physically presented to a health professional with a medical complaint.

(b) The health professional has taken a medical history of the patient.

(c) The health professional has performed a physical examination of the patient.

(d) Some logical connection exists between the medical complaint, the medical history, the physical examination and the drug prescribed.

History:

Amended by L. 2022, ch. 134,s. 1, eff. 9/23/2022. Amended by L. 2021, ch. 320,s. 10, eff. 5/5/2021. Amended by L. 2018, ch. 243,s. 10, eff. 8/3/2018. Amended by L. 2018, ch. 87,s. 2, eff. 8/3/2018. Added by L. 2018, ch. 1,s. 29, eff. 8/3/2018.

DEPARTMENT OF HEALTH SERVICES

Title 9, Chapter 16

Amend: R9-16-602, R9-16-603, R9-16-604, R9-16-605, R9-16-606, R9-16-608, R9-16-610,
R9-16-613, R9-16-616, R9-16-620



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

MEETING DATE:

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

FROM: Council Staff

DATE: October 11, 2022

SUBJECT: DEPARTMENT OF HEALTH SERVICES
Title 9, Chapter 16

Amend: R9-16-602, R9-16-603, R9-16-604, R9-16-605, R9-16-606, R9-16-608,
R9-16-610, R9-16-613, R9-16-616, R9-16-620

Summary:

This expedited rulemaking from the Department of Health Services (Department) relates to certain rules in Title 9, Chapter 16, Article 6 regarding Radiation Technologist.

For Title 9, Chapter 16, Article 6, the Department is amending these rules to update incorporations by reference to the current national standards, make the rules consistent with statutes, and correct typographical errors.

The Department is revising the rules in 9 A.A.C. 16, Article 6, to reduce the burden on regulated entities and conform to statutory requirements, while preserving the health and safety of those individuals who are exposed to radiation by radiation technologists as part of diagnosis or treatment.

For clarification purposes, council staff asked the Department to elaborate in the NFER why subsection 8 and subsection 12b were not applicable and to address whether the rule was previously amended or repealed as an emergency rule in subsection 14 and the Department declined. Council staff encourages the Council to follow up with the Department representative if additional details are needed regarding these items.

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

Yes. The Department states that the rules satisfy the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)(3), (4), and (6).

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

Yes, the Department cites to both general and specific statutory authority.

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 indicates they did not receive any comments on the proposed rules.

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 between the proposed expedited rulemaking and the 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 states that this question is not applicable.

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

The Department believes the certification issued to an individual is a general permit in that certification specifies the individual and the tasks/services the individual is authorized by certification to provide, but a certified individual is not limited to providing the tasks/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 any study for this expedited rulemaking.

9. Conclusion

As stated above, the Department is updating the rules to comply with national standards and make the rules consistent with statute. This expedited rulemaking does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated, but reduces a burden due to outdated requirements without compromising health and safety. These rules will reduce the economic burden on all applicants, as well as the Department.

If approved, this rulemaking would be effective immediately upon the Department filing the Notice of Final Expedited Rulemaking and Certificate of Approval with the Secretary of State. The Department meets the criteria for Expedited Rulemaking pursuant to A.R.S. § 41-1027(A)(3), (4), and (6). Council staff recommends approval of this expedited rulemaking.



ARIZONA DEPARTMENT OF HEALTH SERVICES

POLICY & INTERGOVERNMENTAL AFFAIRS

September 16, 2022

VIA EMAIL: 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. 16, Article 6, Expedited Rulemaking

Dear Ms. Sornsins:

1. The close of record date: September 15, 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. In the rulemaking, the Department is amending the rules to reduce the burden on regulated entities without compromising health and safety by updating incorporations by reference to the current national standards, making the rules consistent with statutes, and correcting a typographical error. This rulemaking conforms to requirements in A.R.S. § 41-1027(A)(3), (4), and (6).
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, Article 6, 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
 - c. Current rule

The Department is requesting that the rules be heard at the Council meeting on November 1, 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.

Sincerely,

A handwritten signature in black ink, appearing to be 'Stephanie Elzenga', written over a horizontal line.

Stephanie Elzenga
Director's Designee

SE:rms

Enclosures

NOTICE OF FINAL EXPEDITED RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 16. DEPARTMENT OF HEALTH SERVICES
OCCUPATIONAL LICENSING

PREAMBLE

<u>1. Articles, Part, and Sections Affected (as applicable)</u>	<u>Rulemaking Action</u>
R9-16-602	Amend
R9-16-603	Amend
R9-16-604	Amend
R9-16-605	Amend
R9-16-606	Amend
R9-16-608	Amend
R9-16-610	Amend
R9-16-613	Amend
R9-16-616	Amend
R9-16-620	Amend

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

Authorizing Statutes: A.R.S. §§ 32-2803, 36-136(G)

Implementing Statutes: A.R.S. §§ 32-2803, 32-2804, 32-2811 through 32-2819, 32-2821, 32-2824 and 36-2841 through 32-2843

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 rule:

Notice of Rulemaking Docket Opening: 28 A.A.R. 2126, August 26, 2022

Notice of Proposed Expedited Rulemaking: 28 A.A.R. 2293, September 9, 2022

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: Stephanie Elzenga, Interim Chief
Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Avenue, Suite 200
Phoenix, AZ 85007

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

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

Arizona Revised Statutes (A.R.S.) Title 9, Chapter 28, Article 2 provides for the certification of different classifications of radiation technologists. Upon assuming responsibility for the regulation of radiation technologists, the Arizona Department of Health Services (Department) adopted rules for certification of radiation technologists in Arizona Administrative Code (A.A.C.) Title 9, Chapter 16, Article 6. The Department has identified several rules that require changes to update incorporations by reference to the current national standards, make the rules consistent with statutes, and correct a typographical error. After receiving an exception from the rulemaking moratorium established by Executive Order 2022-01, the Department is revising the rules in 9 A.A.C. 16, Article 6, to reduce the burden on regulated entities and conform to statutory requirements, while preserving the health and safety of those individuals who are exposed to radiation by radiation technologists as part of diagnosis or treatment. The Department believes that these changes are consistent with the purpose for A.R.S. § 41-1027 in that this rulemaking does not increase the cost of regulatory compliance, does not increase a fee, or reduce a procedural right of regulated persons. The new rules will conform to rulemaking format and style requirements of the Governor's Regulatory Review Council and the Office of the Secretary of State.

7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public

may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

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

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

Not applicable

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

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

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

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

11. Agency's summary of the 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:

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

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

The Department believes the certification issued to an individual is a general permit in that certification specifies the individual and the tasks/services the individual is authorized by certification to provide, but a certified individual is not limited to providing the tasks/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:

Not applicable

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

other states:

No business competitiveness analysis was received by 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:

Materials incorporated by reference in this rulemaking are:

- In R9-16-603(B)(1) - 2019 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards
- In R9-16-604(B)(1) - 2019 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards
- In R9-16-605(B)(1) - 2019 American Society of Radiologic Technologists Bone Densitometry Practice Standards
- In R9-16-608(B) - 2019 American Society of Radiologic Technologists Radiography Practice Standards
- In R9-16-608(C)(1) - 2019 American Society of Radiologic Technologists Nuclear Medicine Practice Standards
- In R9-16-608(D) - 2019 American Society of Radiologic Technologists Radiation Therapy Practice Standards
- In R9-16-610(B)(1) - 2019 American Society of Radiologic Technologists Mammography Practice Standards
- In R9-16-613(B)(1) - 2019 American Society of Radiologic Technologists Computed Tomography Practice Standards
- In R9-16-616(B)(1) - 2019 American Society of Radiologic Technologists Radiologist Assistant Practice Standards

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 rules follows:

TITLE 9. HEALTH SERVICES
CHAPTER 16. DEPARTMENT OF HEALTH SERVICES
OCCUPATIONAL LICENSING
ARTICLE 6. RADIATION TECHNOLOGISTS

Section

- R9-16-602. Training Programs
- R9-16-603. Practical Radiological Technologist - Eligibility and Scope of Practice
- R9-16-604. Practical Technologist in Podiatry - Eligibility and Scope of Practice
- R9-16-605. Practical Technologist in Bone Densitometry - Eligibility and Scope of Practice
- R9-16-606. Application for Examination
- R9-16-608. Radiological Technologist, Nuclear Medicine Technologist, and Radiation Therapy Technologist - Eligibility and Scope of Practice
- R9-16-610. Mammographic Technologist - Eligibility and Scope of Practice
- R9-16-613. Computed Tomography Technologist - Eligibility and Scope of Practice
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- R9-16-620. Renewal of Certification

ARTICLE 6. RADIATION TECHNOLOGISTS

R9-16-602. Training Programs

- A.** The Department shall maintain a list of Department-approved educational programs according to A.R.S. § 32-2804 on the Department's website at <https://www.azdhs.gov/licensing/special/index.php#mrt-provider-info> <https://www.azdhs.gov/licensing/special/index.php#mrt-approved-schools>.
- B.** An applicant may request Department approval of a curriculum of courses and learning activities as a training program by submitting an application packet that contains:
1. An application, in a Department-provided format, that includes:
 - a. The name and address of the school providing the training program;
 - b. The name, title, telephone number, and e-mail address of the administrator or designee of the school; and
 - c. A list of each training program for which approval is being requested, including the number of hours of instruction provided for each;
 2. A copy of the curriculum that includes course titles and course descriptions; and
 3. A list of instructors providing the instruction and the credentials of each.
- C.** The Department shall:
1. Review each application packet according to R9-16-621; and
 2. If approved, add the applicant's school to the list of Department-approved educational programs in subsection (A).
- D.** If an applicant for certification or permit did not complete a Department-approved educational program, the applicant may submit to the Department a copy of the curriculum for the training program completed by the applicant with the applicant's application packet in R9-16-606(B), R9-16-607(A), or R9-16-609(A).

R9-16-603. Practical Technologist in Radiology - Eligibility and Scope of Practice

- A.** An individual is eligible for certification as a practical technologist in radiology if the individual:
1. Is at least 18 years of age; and
 2. Either:
 - a. Has completed a training program in radiologic technology through a Department-approved educational program and achieved a score of at least 67% on a Department-approved examination; or
 - b. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a practical technologist in radiology shall:

1. Follow the standards specified in the ~~2017~~ 2019 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_lxmo.pdf?sfvrsn=29e176d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments;
2. Perform only:
 - a. Chest radiography, and
 - b. Radiography of the extremities; and
3. Not use fluoroscopy or contrast media.

R9-16-604. Practical Technologist in Podiatry - Eligibility and Scope of Practice

- A.** An individual is eligible for certification as a practical technologist in podiatry if the individual:
1. Is at least 18 years of age; and
 2. Either:
 - a. Has:
 - i. Completed a training program in podiatry radiology through a Department-approved educational program;
 - ii. Received a signed and dated attestation from a podiatrist licensed according to A.R.S. Title 32, Chapter 7, verifying that the applicant:
 - (1) Completed training under the direction of the licensed podiatrist, and
 - (2) Is proficient in independently taking radiographs; and
 - iii. Achieved a score of at least 70% on a Department-approved examination; or
 - b. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a practical technologist in podiatry shall:
1. Follow the standards specified in the ~~2017~~ 2019 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_lxmo.pdf?sfvrsn=29e176d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 2. Only perform radiographic examinations of the lower leg, ankle, and foot, without the use of fluoroscopy or contrast media.

R9-16-605. Practical Technologist in Bone Densitometry - Eligibility and Scope of Practice

- A. An individual is eligible for certification as a practical technologist in bone densitometry if the individual:
 - 1. Is at least 18 years of age; and
 - 2. Either:
 - a. Has completed a training program in bone densitometry through a Department-approved educational program and achieved a score of at least 70% on a Department-approved examination, or
 - b. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a practical technologist in bone densitometry shall:
 - 1. Follow the standards specified in the ~~2017~~ 2019 American Society of Radiologic Technologists Bone Densitometry Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_bd.pdf?sfvrsn=11e176d0_22, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 - 2. Apply ionizing radiation only to a person's hips, spine, and extremities through the use of a bone density machine without the use of fluoroscopy or contrast media.

R9-16-606. Application for Examination

- A. An individual may apply for examination if the individual meets eligibility criteria for a:
 - 1. Practical technologist in radiology listed in R9-16-603(A);
 - 2. Practical technologist in podiatry listed in R9-16-604(A); or
 - 3. Practical technologist in bone densitometry listed in R9-16-605(A).
- B. An applicant for examination shall submit an application packet to the Department that includes:
 - 1. The information and documents required in R9-16-619;
 - 2. Except as provided in R9-16-602(D), documentation of completion of a Department-approved educational program; and
 - 3. For an applicant for examination as a practical technologist in podiatry, the attestation specified in R9-16-604(A)(2)(a)(ii).
- C. The Department shall approve or deny an individual's application for examination according to R9-16-621.
- D. If the Department determines that the application packet submitted under subsection (B) is complete and in compliance, the Department shall notify the applicant that the applicant is approved to test.
- E. Upon notification by the Department according to subsection (D), and applicant:
 - 1. Shall arrange testing through ~~AART~~ ARRT, and

2. Has six months to complete testing before the applicant is required to re-apply for examination.

R9-16-608. Radiologic Technologist, Nuclear Medicine Technologist, and Radiation Therapy Technologist - Eligibility and Scope of Practice

- A.** An individual is eligible to apply for initial certification as a radiologic technologist, nuclear medicine technologist, or radiation therapy technologist if the individual:
1. Is at least 18 years of age; and
 2. Satisfies one of the following:
 - a. Holds current applicable ARRT or NMTCB certification,
 - b. Has completed a Department-approved educational program in radiation technology and has a passing score on a Department-approved examination, or
 - c. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a radiologic technologist shall follow the standards specified in the ~~2017~~ 2019 American Society of Radiologic Technologists Radiography Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_rad.pdf?sfvrsn=13e176d0_18 , incorporated by reference, on file with the Department, and including no future editions or amendments.
- C.** An individual certified as a nuclear medicine technologist shall:
1. Follow the standards specified in the ~~2017~~ 2019 American Society of Radiologic Technologists Nuclear Medicine Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_nm.pdf?sfvrsn=1ee176d0_14, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 2. Use radiopharmaceutical agents on humans for diagnostic or therapeutic purposes only.
- D.** An individual certified as a radiation therapy technologist shall follow the standards specified in the ~~2017~~ 2019 American Society of Radiologic Technologists Radiation Therapy Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_rt.pdf?sfvrsn=18e076d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments.

R9-16-610. Mammographic Technologist - Eligibility and Scope of Practice

- A.** An individual is eligible to apply for initial certification as a mammographic technologist if the individual:

1. Is at least 18 years of age;
2. Possesses a current Department-issued certification in radiologic technology; and
3. Satisfies one of the following:
 - a. Holds a current ARRT certification in mammography;
 - b. Meets the initial training and education requirements in 21 CFR 900.12 and has a passing score on a Department-approved examination in mammography, or
 - c. Meets the criteria in A.R.S. § 32-4302(A).

B. An individual certified as a mammographic technologist:

1. Shall follow the standards specified in the ~~2017~~ 2019 American Society of Radiologic Technologists Mammography Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_mamm.pdf?sfvrsn=10e076d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments; and
2. May perform diagnostic mammography or screening mammography, as defined in A.R.S. § 30-651.

R9-16-613. Computed Tomography Technologist - Eligibility and Scope of Practice

A. An individual is eligible to apply for initial certification as a computed tomography technologist if the individual:

1. Is at least 18 years of age;
2. Possesses a current Department-issued certification as a radiologic technologist or nuclear medicine technologist; and
3. Satisfies one of the following:
 - a. Holds a current ARRT or NMTCB certification in computed tomography,
 - b. Has completed two years of training in computed tomography and twelve hours of computed tomography-specific education, or
 - c. Meets the criteria in A.R.S. § 32-4302(A).

B. An individual certified as a computed tomography technologist:

1. Shall follow the standards specified in the ~~2017~~ 2019 American Society of Radiologic Technologists Computed Tomography Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_ct.pdf?sfvrsn=9e076d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments; and
2. May apply ionizing radiation to a human using a computed tomography machine for diagnostic purposes.

R9-16-616. Radiologist Assistant - Eligibility and Scope of Practice

- A.** An individual is eligible to apply for initial certification as a radiologist assistant if the individual:
1. Is at least 18 years of age; and
 2. Satisfies one of the following:
 - a. Holds a current ARRT or CBRPA certification as a radiologist assistant;
 - b. Has:
 - i. Completed a baccalaureate degree or post-baccalaureate certificate from an accredited educational institution that encompasses a radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship, and
 - ii. Achieved a passing score on an ARRT or a CBRPA examination for radiologist assistants; or
 - c. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a radiologist assistant:
1. Shall follow the standards specified the ~~2017~~ 2019 American Society of Radiologic Technologists Radiologist Assistant Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_raa.pdf?sfvrsn=1ae076d0_16, incorporated by reference on file with the Department, and including no future editions or amendments; and
 2. May perform the following procedures under the direction of a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology:
 - a. Fluoroscopy;
 - b. Assessment and evaluation of the physiological and psychological responsiveness of individuals undergoing radiologic procedures;
 - c. Evaluation of image quality, making initial image observations and communicating observations to the supervising radiologist; and
 - d. Administration of contrast media or other medications prescribed by the supervising radiologist.
- C.** A radiologist assistant shall not interpret images, make diagnoses, or prescribe medications or therapies.

R9-16-620. Renewal of Certification

- A.** Certifications issued under R9-16-607, R9-16-609, R9-16-612, R9-16-615, and R9-16-617 are valid for two years after issuance, unless revoked.

- B.** A certificate holder may apply to renew a certification:
1. Within 90 days before the expiration date of the certificate holder's current certification;
 2. Within the 30-day period after the expiration date of the certificate holder's certification, if the certificate holder pays the late renewal penalty fee in R9-16-623; or
 3. Within the extension time period granted under A.R.S. § 32-4301.
- C.** An applicant for renewal of a certification shall submit to the Department an application packet, including:
1. The following in a Department-provided format:
 - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
 - b. The applicant's current certification number and type;
 - c. The applicant's current employment in the radiation technology field, if applicable, including:
 - i. The employer's name,
 - ii. The applicant's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's email address, and
 - vii. The supervisor's telephone number;
 - d. Whether the applicant has, within the two years before the date of the application, had:
 - i. A certificate issued under this Article suspended or revoked; or
 - ii. A professional license or certificate revoked by another state, jurisdiction, or nationally recognized accreditation body;
 - e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-621;
 - f. Attestation that all the information submitted as part of the application packet is true and accurate; and
 - g. The applicant's signature and date of signature;
 2. ~~Either~~ As applicable:
 - a. For renewal of certification as a mammographic technologist, documentation that meets the requirements in A.R.S. § 32-2841(E); or
 - b. For renewal of all other certifications issued under this Article, either:

- ~~a.i.~~ An attestation that the applicant completed continuing education required under A.R.S. § 32-2815(D) and that documentation of completion is available upon request, signed and dated by the applicant; or
 - ~~b.ii.~~ A copy of the applicant's current certification from a nationally recognized accreditation body; and
 - 3. The applicable renewal fee and, if applicable, the late renewal penalty fee required in R9-16-623.
- D.** The Department shall approve or deny an application for recertification according to R9-16-621.

TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES OCCUPATIONAL LICENSING

ARTICLE 6. RADIATION TECHNOLOGISTS

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- R9-16-602. Training Programs
- R9-16-603. Practical Radiological Technologist - Eligibility and Scope of Practice
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ARTICLE 6. RADIATION TECHNOLOGISTS

R9-16-601. Definitions

In addition to the definitions in A.R.S. § 32-2801, the following definitions apply in this Article unless otherwise specified:

1. “Applicant” means:
 - a. An individual who submits an application packet, or
 - b. A person who submits a request for approval of a radiation technologist training program.
2. “Application packet” means the information, documents, and fees required by the Department for a certificate or permit.
3. “ARRT” means the American Registry of Radiologic Technologists.
4. “Authorized user” means the same as in A.A.C. R9-7-102.
5. “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.
6. “CBRPA” means the Certification Board for Radiology Practitioner Assistants.
7. “Certification” means the issuing of a certificate.
8. “Chest radiography” means radiography performed to visualize the heart and lungs only.
9. “Continuing education” means a course or learning activity that provides instruction and training designed to develop or improve the professional competence of a certificate holder related to the certificate holder’s scope of practice.
10. “Contrast media” means material intentionally administered to a human body to define a part or parts of the human body that are not normally radiographically visible.
11. “Department-approved educational program” means a curriculum of courses and learning activities that is accredited by a nationally recognized accreditation body or granted approval through the Department.
12. “Department-approved examination” means a test administered through ARRT, NMTCB, ISCD, or CBRPA.
13. "Extremity" means the same as in A.A.C. R9-7-102.
14. "Fluoroscopy" means the use of radiography to directly visualize internal structures of the human body, the motion of internal structures, and fluids in real time, or near real-time, to

aid in the treatment or diagnosis of disease or the performance of other medical procedures.

15. "ISCD" means the International Society for Clinical Densitometry.
16. "Nationally recognized accreditation body" means ARRT, NMTCB, ISCD, or CBRPA.
17. "NMTCB" means the Nuclear Medicine Technology Certification Board.
18. "Radiograph" means the record of an image, representing anatomical details of a part of a human body examined through the use of ionizing radiation, formed by the differential absorption of ionizing radiation within the part of the human body.
19. "Radiography" means the use of ionizing radiation in making radiographs.
20. "Radiopharmaceutical agent" means a radionuclide or radionuclide compound designed and prepared for administration to human beings.

R9-16-602. Training Programs

- A. The Department shall maintain a list of Department-approved educational programs according to A.R.S. § 32-2804 on the Department's website at <https://www.azdhs.gov/licensing/special/index.php#mrt-provider-info>.
- B. An applicant may request Department approval of a curriculum of courses and learning activities as a training program by submitting an application packet that contains:
 1. An application, in a Department-provided format, that includes:
 - a. The name and address of the school providing the training program;
 - b. The name, title, telephone number, and e-mail address of the administrator or designee of the school; and
 - c. A list of each training program for which approval is being requested, including the number of hours of instruction provided for each;
 2. A copy of the curriculum that includes course titles and course descriptions; and
 3. A list of instructors providing the instruction and the credentials of each.
- C. The Department shall:
 1. Review each application packet according to R9-16-621; and
 2. If approved, add the applicant's school to the list of Department-approved educational programs in subsection (A).
- D. If an applicant for certification or permit did not complete a Department-approved educational program, the applicant may submit to the Department a copy of the curriculum for the training program completed by the applicant with the applicant's application packet in R9-16-606(B), R9-16-607(A), or R9-16-609(A).

R9-16-603. Practical Technologist in Radiology - Eligibility and Scope of Practice

- A. An individual is eligible for certification as a practical technologist in radiology if the individual:
 - 1. Is at least 18 years of age; and
 - 2. Either:
 - a. Has completed a training program in radiologic technology through a Department-approved educational program and achieved a score of at least 67% on a Department-approved examination; or
 - b. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a practical technologist in radiology shall:
 - 1. Follow the standards specified in the 2017 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_lxmo.pdf?sfvrsn=29e176d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments;
 - 2. Perform only:
 - a. Chest radiography, and
 - b. Radiography of the extremities; and
 - 3. Not use fluoroscopy or contrast media.

R9-16-604. Practical Technologist in Podiatry - Eligibility and Scope of Practice

- A. An individual is eligible for certification as a practical technologist in podiatry if the individual:
 - 1. Is at least 18 years of age; and
 - 2. Either:
 - a. Has:
 - i. Completed a training program in podiatry radiology through a Department-approved educational program;
 - ii. Received a signed and dated attestation from a podiatrist licensed according to A.R.S. Title 32, Chapter 7, verifying that the applicant:
 - (1) Completed training under the direction of the licensed podiatrist, and
 - (2) Is proficient in independently taking radiographs; and
 - iii. Achieved a score of at least 70% on a Department-approved examination; or
 - b. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a practical technologist in podiatry shall:

1. Follow the standards specified in the 2017 American Society of Radiologic Technologists Limited X-Ray Machine Operator Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_lxmo.pdf?sfvrsn=29e176d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments; and
2. Only perform radiographic examinations of the lower leg, ankle, and foot, without the use of fluoroscopy or contrast media.

R9-16-605. Practical Technologist in Bone Densitometry - Eligibility and Scope of Practice

- A.** An individual is eligible for certification as a practical technologist in bone densitometry if the individual:
1. Is at least 18 years of age; and
 2. Either:
 - a. Has completed a training program in bone densitometry through a Department-approved educational program and achieved a score of at least 70% on a Department-approved examination, or
 - b. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a practical technologist in bone densitometry shall:
1. Follow the standards specified in the 2017 American Society of Radiologic Technologists Bone Densitometry Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_bd.pdf?sfvrsn=11e176d0_22, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 2. Apply ionizing radiation only to a person's hips, spine, and extremities through the use of a bone density machine without the use of fluoroscopy or contrast media.

R9-16-606. Application for Examination

- A.** An individual may apply for examination if the individual meets eligibility criteria for a:
1. Practical technologist in radiology listed in R9-16-603(A);
 2. Practical technologist in podiatry listed in R9-16-604(A); or
 3. Practical technologist in bone densitometry listed in R9-16-605(A).
- B.** An applicant for examination shall submit an application packet to the Department that includes:
1. The information and documents required in R9-16-619;
 2. Except as provided in R9-16-602(D), documentation of completion of a Department-approved educational program; and

3. For an applicant for examination as a practical technologist in podiatry, the attestation specified in R9-16-604(A)(2)(a)(ii).
- C.** The Department shall approve or deny an individual's application for examination according to R9-16-621.
- D.** If the Department determines that the application packet submitted under subsection (B) is complete and in compliance, the Department shall notify the applicant that the applicant is approved to test.
- E.** Upon notification by the Department according to subsection (D), and applicant:
1. Shall arrange testing through AART, and
 2. Has six months to complete testing before the applicant is required to re-apply for examination.

R9-16-607. Application for Initial Certification as a Practical Technologist in Radiology, Practical Technologist in Podiatry, or Practical Technologist in Bone Densitometry

- A.** Except as provided in subsection (B), an applicant for initial certification as a practical technologist in radiology, practical technologist in podiatry, or practical technologist in bone densitometry shall submit an application packet to the Department that includes:
1. The information and documents required in R9-16-619;
 2. Except as provided in R9-16-602(D), documentation of completion of a Department-approved educational program;
 3. Documentation of achieving the applicable minimum score on a Department-approved examination;
 4. For an application for a practical technologist in podiatry, the signed attestation in R9-16-604(A)(2)(a)(ii) containing:
 - a. The name and date of birth of the applicant,
 - b. The name and license number of the licensed podiatrist,
 - c. A statement by the licensed podiatrist verifying completion of the applicant's clinical training and approval of radiographic images taken by the applicant, and
 - d. The licensed podiatrist's signature and date; and
 5. The applicable fee in R9-16-623.
- B.** If an applicant for initial certification as a practical technologist in radiology, practical technologist in podiatry, or practical technologist in bone densitometry may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
1. The information and documentation required in R9-16-619;

2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
 3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which certification is being requested;
 - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
 4. The applicable fee in R9-16-623.
- C.** The Department shall approve or deny an individual's application for initial certification according to R9-16-621.

R9-16-608. Radiologic Technologist, Nuclear Medicine Technologist, and Radiation Therapy Technologist - Eligibility and Scope of Practice

- A.** An individual is eligible to apply for initial certification as a radiologic technologist, nuclear medicine technologist, or radiation therapy technologist if the individual:
1. Is at least 18 years of age; and
 2. Satisfies one of the following:
 - a. Holds current applicable ARRT or NMTCB certification,
 - b. Has completed a Department-approved educational program in radiation technology and has a passing score on a Department-approved examination, or
 - c. Meets the criteria in A.R.S. § 32-4302(A).
- B.** An individual certified as a radiologic technologist shall follow the standards specified in the 2017 American Society of Radiologic Technologists Radiography Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_rad.pdf?sfvrsn=13e176d0_18, incorporated by reference, on file with the Department, and including no future editions or amendments.
- C.** An individual certified as a nuclear medicine technologist shall:
1. Follow the standards specified in the 2017 American Society of Radiologic Technologists Nuclear Medicine Practice Standards, available at

https://www.asrt.org/docs/default-source/practice-standards-published/ps_nm.pdf?sfvrsn=1ee176d0_14, incorporated by reference, on file with the Department, and including no future editions or amendments; and

2. Use radiopharmaceutical agents on humans for diagnostic or therapeutic purposes only.

D. An individual certified as a radiation therapy technologist shall follow the standards specified in the 2017 American Society of Radiologic Technologists Radiation Therapy Practice Standards, available at

https://www.asrt.org/docs/default-source/practice-standards-published/ps_rt.pdf?sfvrsn=18e076d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments.

R9-16-609. Application for Initial Certification as a Radiation Technologist, Nuclear Medicine Technologist, or Radiation Therapy Technologist

A. Except as provided in subsection (B), an applicant for initial certification as a radiation technologist, nuclear medicine technologist, or radiation therapy technologist shall submit an application packet to the Department that includes:

1. The information and documents required in R9-16-619;
2. Either:
 - a. A copy of the applicant's current ARRT or NMTCB certification; or
 - b. Documentation of:
 - i. Completing a Department-approved educational program, except as provided in R9-16-602(D); and
 - ii. Having a passing score on a Department-approved examination; and
3. The applicable fee in R9-16-623.

B. If an applicant for initial certification as a radiation technologist, nuclear medicine technologist, or radiation therapy technologist may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:

1. The information and documentation required in R9-16-619;
2. Documentation of the professional license or certification issued to the applicant by each state in which the applicant holds a professional license or certification;
3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified in another state for at least one year, with a scope of practice consistent with the scope of practice for which certification is being requested;

- b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have an complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
4. The applicable fee in R9-16-623.
- C. The Department shall approve or deny an individual's application for initial certification according to R9-16-621.

R9-16-610. Mammographic Technologist - Eligibility and Scope of Practice

- A. An individual is eligible to apply for initial certification as a mammographic technologist if the individual:
- 1. Is at least 18 years of age;
 - 2. Possesses a current Department-issued certification in radiologic technology; and
 - 3. Satisfies one of the following:
 - a. Holds a current ARRT certification in mammography;
 - b. Meets the initial training and education requirements in 21 CFR 900.12 and has a passing score on a Department-approved examination in mammography, or
 - c. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a mammographic technologist:
- 1. Shall follow the standards specified in the 2017 American Society of Radiologic Technologists Mammography Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_mamm.pdf?sfvrsn=10e076d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 - 2. May perform diagnostic mammography or screening mammography, as defined in A.R.S. § 30-651.

R9-16-611. Student Mammography Permits

- A. Before beginning the initial training in 21 CFR 900.12 under R9-16-610(A)(3)(b), an individual shall obtain a student mammography permit from the Department.
- B. An applicant for a student mammography permit shall submit an application packet to the Department that includes:
- 1. The information and documents required under R9-16-619; and

2. A Department-provided agreement form that includes the following:
 - a. The name and date of birth of the applicant;
 - b. The name, license number, e-mail address, and telephone number of a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology;
 - c. A statement that the licensed radiologist is accepting responsibility for the applicant's supervision and training; and
 - d. The licensed radiologist's signature and date of signing.
- C. The Department shall approve or deny an individual's application for a student mammography permit according to R9-16-621.
- D. A student mammography permit is valid for one year from the date issued and may not be renewed.

R9-16-612. Application for Initial Certification as a Mammographic Technologist

- A. Except as provided in subsection (B), an applicant for initial certification as a mammographic technologist shall submit an application packet to the Department that includes:
 1. The information and documents required in R9-16-619;
 2. The applicant's current radiology technologist certificate number;
 3. The applicant's current student mammography permit number, if applicable;
 4. Either:
 - a. A copy of current ARRT certification in mammography; or
 - b. Documentation of:
 - i. Completing of initial education and training that meets the requirements specified in 21 CFR 900.12, and
 - ii. Having a passing score on a Department-approved examination in mammography; and
 5. The applicable fee in R9-16-623.
- B. If an applicant for initial certification as a mammographic technologist may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
 1. The information and documentation required in R9-16-619;
 2. Documentation of the license or certification as a mammographic technologist issued to the applicant by each state in which the applicant holds the license or certification;
 3. A statement, signed and dated by the applicant, attesting that the applicant:

- a. Has been licensed or certified as a mammographic technologist in another state for at least one year;
 - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have an complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
4. The applicable fee in R9-16-623.
- C. The Department shall approve or deny an individual's application for initial certification as a mammographic technologist according to R9-16-621.

R9-16-613. Computed Tomography Technologist - Eligibility and Scope of Practice

A. An individual is eligible to apply for initial certification as a computed tomography technologist if the individual:

- 1. Is at least 18 years of age;
- 2. Possesses a current Department-issued certification as a radiologic technologist or nuclear medicine technologist; and
- 3. Satisfies one of the following:
 - a. Holds a current ARRT or NMTCB certification in computed tomography,
 - b. Has completed two years of training in computed tomography and twelve hours of computed tomography-specific education, or
 - c. Meets the criteria in A.R.S. § 32-4302(A).

B. An individual certified as a computed tomography technologist:

- 1. Shall follow the standards specified in the 2017 American Society of Radiologic Technologists Computed Tomography Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_ct.pdf?sfvrsn=9e076d0_16, incorporated by reference, on file with the Department, and including no future editions or amendments; and
- 2. May apply ionizing radiation to a human using a computed tomography machine for diagnostic purposes.

R9-16-614. Application for Computed Tomography Preceptorship and Temporary Certification

A. Before beginning training under R9-16-613(A)(3)(b), an individual shall obtain a computed tomography preceptorship certificate from the Department.

- B.** An applicant for a computed tomography preceptorship certificate shall submit an application packet to the Department that includes:
1. The information and documents required under R9-16-619;
 2. A Department-provided agreement form from a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology, that includes the following:
 - a. The name and date of birth of the applicant;
 - b. The name, license number, e-mail address, and telephone number of the licensed radiologist;
 - c. A statement that the licensed radiologist is accepting responsibility for the applicant's supervision and training; and
 - d. The licensed radiologist's signature and date of signing; and
 3. The applicable fee in R9-16-623.
- C.** The Department shall approve or deny an individual's application for a computed tomography preceptorship certificate according to R9-16-621.
- D.** A computed tomography preceptorship certificate is valid for one year from the date issued and may not be renewed.
- E.** At least 30 days before the expiration of an individual's computed tomography preceptorship certificate, the individual may apply for a computed tomography temporary certificate by submitting an application packet to the Department that includes:
1. The information and documents required under R9-16-619;
 2. A Department-provided agreement form from a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology, that includes the following:
 - a. The name and date of birth of the applicant;
 - b. The name, license number, e-mail address, and telephone number of the licensed radiologist;
 - c. A statement that the licensed radiologist is accepting responsibility for the applicant's supervision and training; and
 - d. The licensed radiologist's signature and date of signing; and
 3. The applicable fee in R9-16-623.
- F.** The Department shall approve or deny an individual's application for a computed tomography temporary certificate according to R9-16-621.
- G.** A computed tomography temporary certificate is valid for one year and may not be renewed.

R9-16-615. Application for Initial Certification for a Computed Tomography Technologist

- A.** Except as provided in subsection (B), an applicant for initial certification as a computed tomography technologist shall submit an application packet to the Department that includes:
1. The information and documents required in R9-16-619;
 2. The applicant's current radiation technologist or nuclear medicine technologist certificate number;
 3. The applicant's computed tomography preceptorship number or temporary certificate number, if applicable;
 4. Either:
 - a. A copy of the applicant's current ARRT or NMTCB certification in computed tomography; or
 - b. Documentation of completion of:
 - i. Two years of training in computed tomography, and
 - ii. Twelve hours of computed tomography-specific education; and
 5. The applicable fee in R9-16-623.
- B.** If an applicant for initial certification as a computed tomography technologist may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
1. The information and documentation required in R9-16-619;
 2. Documentation of the license or certification as a computed tomography technologist issued to the applicant by each state in which the applicant holds the license or certification;
 3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified as a computed tomography technologist in another state for at least one year;
 - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
 4. The applicable fee in R9-16-623.

- C. The Department shall approve or deny an individual's application for initial certification as a computed tomography technologist according to R9-16-621.

R9-16-616. Radiologist Assistant - Eligibility and Scope of Practice

- A. An individual is eligible to apply for initial certification as a radiologist assistant if the individual:
1. Is at least 18 years of age; and
 2. Satisfies one of the following:
 - a. Holds a current ARRT or CBRPA certification as a radiologist assistant;
 - b. Has:
 - i. Completed a baccalaureate degree or post-baccalaureate certificate from an accredited educational institution that encompasses a radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship, and
 - ii. Achieved a passing score on an ARRT or a CBRPA examination for radiologist assistants; or
 - c. Meets the criteria in A.R.S. § 32-4302(A).
- B. An individual certified as a radiologist assistant:
1. Shall follow the standards specified the 2017 American Society of Radiologic Technologists Radiologist Assistant Practice Standards, available at https://www.asrt.org/docs/default-source/practice-standards-published/ps_raa.pdf?sfvrsn=1ae076d0_16, incorporated by reference on file with the Department, and including no future editions or amendments; and
 2. May perform the following procedures under the direction of a radiologist, licensed under A.R.S. Title 32, Chapter 13 or 17 and certified in radiology by the American Board of Radiology:
 - a. Fluoroscopy;
 - b. Assessment and evaluation of the physiological and psychological responsiveness of individuals undergoing radiologic procedures;
 - c. Evaluation of image quality, making initial image observations and communicating observations to the supervising radiologist; and
 - d. Administration of contrast media or other medications prescribed by the supervising radiologist.
- C. A radiologist assistant shall not interpret images, make diagnoses, or prescribe medications or therapies.

R9-16-617. Application for Initial Certification as a Radiologist Assistant

- A.** Except as provided in subsection (B), an applicant for initial certification as a radiologist assistant shall submit an application packet to the Department that includes:
1. The information and documents required in R9-16-619;
 2. Either:
 - a. The applicant's current ARRT or CBRPA certification as a radiologist assistant;
or
 - b. Documentation of:
 - i. Completing a baccalaureate degree or post-baccalaureate certificate from an accredited educational institution that encompasses a radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship, and
 - ii. Having a passing score on an ARRT or a CBRPA examination for radiologist assistants; and
 3. The applicable fee in R9-16-623.
- B.** If an applicant for initial certification as a radiologist assistant may be eligible for certification under A.R.S. § 32-4302(A), the applicant shall submit an application packet to the Department that includes:
1. The information and documentation required in R9-16-619;
 2. Documentation of the license or certification as a radiologist assistant issued to the applicant by each state in which the applicant holds the license or certification;
 3. A statement, signed and dated by the applicant, attesting that the applicant:
 - a. Has been licensed or certified as a radiologist assistant in another state for at least one year;
 - b. Has met minimum education requirements and, if applicable, work experience and clinical supervision requirements, according to A.R.S. § 32-4302(A)(3);
 - c. Has not voluntarily surrendered a license or certification in any other state or country while under investigation for unprofessional conduct; and
 - d. Does not have a complaint, allegation, or investigation pending before another regulatory entity in another state or country related to unprofessional conduct; and
 4. The applicable fee in R9-16-623.
- C.** The Department shall approve or deny an individual's application for initial certification as a radiologist assistant according to R9-16-621.

R9-16-618. Special Permits

- A. An applicant for a special permit under A.R.S. § 32-2814(B) shall submit an application packet to the Department containing:
1. The information and documents required in R9-16-619;
 2. An attestation, in a Department-provided format, from the health care institution in which the applicant proposes to practice:
 - a. Stating that the requesting health care institution is located in an Arizona medically underserved area, as defined in A.A.C. R9-15-101(4), or a health professional shortage area, as defined in A.A.C. R9-15-101(25);
 - b. Verifying that the health care institution developed and is implementing a program of continuing education for the applicant to protect the health and safety of individuals undergoing radiologic procedures; and
 - c. Signed and dated by the health care institution's administrator or designee; and
 3. A letter signed by the health care institution's administrator or designee that provides justification for the issuance of a special permit.
- B. The Department shall approve or deny an application for a special permit according to R9-16-621.
- C. A special permit is valid for no more than one year, but may be renewed as provided in subsection (A) if the circumstances justifying the issuance of a special permit have not changed.

R9-16-619. Application Information

An applicant for certification shall submit to the Department:

1. The following information in a Department-provided format:
 - a. The applicant's name;
 - b. The applicant's residential address and, if different, mailing address;
 - c. The applicant's telephone number;
 - d. The applicant's e-mail address;
 - e. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
 - f. The applicant's date of birth;
 - g. The applicant's current employment in the radiation technology field, if applicable, including:
 - i. The employer's name,
 - ii. The applicant's position,
 - iii. Dates of employment,
 - iv. The address of the employer,

- v. The supervisor's name,
- vi. The supervisor's email address, and
- vii. The supervisor's telephone number;
- h. The applicant's educational history related to radiation technology, including:
 - i. The name and address of each educational institution,
 - ii. The degree or certification received, and
 - iii. The applicant's date of graduation;
- i. The type of certificate being applied for;
- j. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state;
- k. If the applicant has been convicted of a felony or a 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;
- l. Whether the applicant holds other professional licenses or certifications and, if so:
 - i. The professional license or certification, and
 - ii. The state in which the professional license or certification was issued;
- m. Whether the applicant has had a professional license or certificate suspended, revoked, or had disciplinary action taken against the professional license or certificate;
- n. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-621;
- o. An attestation that the information submitted as part of an application packet is true and accurate; and
- p. The applicant's signature and date of signing;
- 2. If the applicant has had a professional license or certificate suspended, revoked, or had disciplinary action taken against the professional license or certificate within the previous five years, documentation that includes:
 - a. The date of the disciplinary action, revocation, or suspension;
 - b. The state or nationally accredited certifying body that issued the disciplinary action, revocation, or suspension; and
 - c. An explanation of the disciplinary action, revocation, or suspension;

3. If the applicant is currently ineligible for licensing or certification in any state because of a license revocation or suspension, documentation that includes:
 - a. The date of the ineligibility for licensing or certification,
 - b. The state or jurisdiction of the ineligibility for licensing or certification, and
 - c. An explanation of the ineligibility for licensing or certification; and
4. Documentation for the applicant that complies with A.R.S. § 41-1080.

R9-16-620. Renewal of Certification

- A. Certifications issued under R9-16-607, R9-16-609, R9-16-612, R9-16-615, and R9-16-617 are valid for two years after issuance, unless revoked.
- B. A certificate holder may apply to renew a certification:
 1. Within 90 days before the expiration date of the certificate holder's current certification;
 2. Within the 30-day period after the expiration date of the certificate holder's certification, if the certificate holder pays the late renewal penalty fee in R9-16-623; or
 3. Within the extension time period granted under A.R.S. § 32-4301.
- C. An applicant for renewal of a certification shall submit to the Department an application packet, including:
 1. The following in a Department-provided format:
 - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
 - b. The applicant's current certification number and type;
 - c. The applicant's current employment in the radiation technology field, if applicable, including:
 - i. The employer's name,
 - ii. The applicant's position,
 - iii. Dates of employment,
 - iv. The address of the employer,
 - v. The supervisor's name,
 - vi. The supervisor's email address, and
 - vii. The supervisor's telephone number;
 - d. Whether the applicant has, within the two years before the date of the application, had:
 - i. A certificate issued under this Article suspended or revoked; or
 - ii. A professional license or certificate revoked by another state, jurisdiction, or nationally recognized accreditation body;

- e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-621;
 - f. Attestation that all the information submitted as part of the application packet is true and accurate; and
 - g. The applicant's signature and date of signature;
2. Either:
- a. An attestation that the applicant completed continuing education required under A.R.S. § 32-2815(D) and that documentation of completion is available upon request, signed and dated by the applicant; or
 - b. A copy of the applicant's current certification from a nationally recognized accreditation body; and
3. The applicable renewal fee and, if applicable, the late renewal penalty fee required in R9-16-623.

D. The Department shall approve or deny an application for recertification according to R9-16-621.

R9-16-621. Review Timeframes

A. For each type of certificate or permit issued by the Department under this Article, Table 6.1 specifies the overall timeframe described in A.R.S. § 41-1072(2).

- 1. An applicant and the Department may agree in writing to extend the substantive review timeframe and the overall timeframe.
- 2. The extension of the substantive review timeframe and overall timeframe may not exceed 25% of the overall timeframe.

B. For each type of certificate or permit issued by the Department under this Article, Table 6.1 specifies the administrative completeness review timeframe described in A.R.S. § 41-1072(1).

- 1. The administrative completeness review timeframe begins on the date the Department receives an application packet required in this Article.
- 2. Except as provided in subsection (B)(3), the Department shall provide written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review timeframe.
 - a. If an application packet is not complete, the notice of deficiencies shall list each deficiency and the information or documentation needed to complete the application packet.
 - b. A notice of deficiencies suspends the administrative completeness review timeframe and the overall timeframe from the date of the notice until the date the Department receives the missing information or documentation.

- c. If the applicant does not submit to the Department all the information or documentation listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application packet withdrawn.
 - 3. If the Department issues a certificate during the administrative completeness review timeframe, the Department shall not issue a separate written notice of administrative completeness.
- C. For each type of certificate or permit issued by the Department under this Article, Table 6.1 specifies the substantive review timeframe described in A.R.S. § 41-1072(3), which begins on the date the Department sends a written notice of administrative completeness.
 - 1. Within the substantive review timeframe, the Department shall provide written notice to the applicant that the Department approved or denied the application.
 - 2. During the substantive review timeframe:
 - a. The Department may make one comprehensive written request for additional information or documentation; and
 - b. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information of documentation.
 - 3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review timeframe and the overall timeframe from the date of the request until the date the Department receives all the information or documentation requested.
 - 4. If the applicant does not submit to the Department all the information or documentation listed in a comprehensive written request or supplemental request for additional information or documentation within 30 calendar days after the date of the request, the Department shall deny the certificate or permit.
- D. An applicant who is denied a certificate or permit may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

Table 6.1. Time-frames

Type of Application	Administrative Completeness Review Timeframe (in Calendar Days)	Substantive Review Timeframe (in Calendar Days)	Overall Timeframe (in Calendar Days)
Application for Examination	30	30	60

Initial Certificate	30	30	60
Renewal Certificate	30	30	60
Student Mammography Permit	30	30	60
Computed Tomography Preceptorship Certificate or Computed Tomography Temporary Certificate	30	30	60
Special Permit	30	30	60
School Approval	60	60	120

R9-16-622. Changes Affecting a Certificate or Certificate Holder; Request for a Duplicate Certificate

- A.** A certificate holder shall notify the Department in writing, within 30 calendar days after the effective date of a change in:
1. The certificate holder's residential address, mailing address, or e-mail address, including the new residential address, mailing address, or e-mail address;
 2. The certificate holder's name, including a copy of the legal document establishing the certificate holder's new name; or
 3. The certificate holder's employer, including the name and address of the new employer.
- B.** A certificate holder may obtain a duplicate certificate by submitting to the Department:
1. A written request for a duplicate certificate, in a Department-provided format, that includes:
 - a. The certificate holder's name and address,
 - b. The certificate holder's certificate number and expiration date, and
 - c. The certificate holder's signature and date of signature; and
 2. The duplicate certificate fee in R9-16-623.
- C.** A certificate holder may submit to the Department, either as a separate written document or as part of the renewal application, a signed and dated request to transfer to inactive status or retirement status under A.R.S. § 32-2816(F).

R9-16-623. Fees

- A.** Except as provided in subsection (C) or (D), an applicant shall submit to the Department the following nonrefundable fees for:
1. An initial application or renewal application for certification as a practical technologist in radiology, practical technologist in podiatry, or practical technologist in bone densitometry, \$100;

2. An initial application or renewal application for certification as a radiation technologist, nuclear medicine technologist, or radiation therapy technologist, \$100;
3. An initial application or renewal application for certification as a mammographic technologist, \$20;
4. A computed tomography preceptorship certificate or computed tomography temporary certificate, \$10;
5. An initial application or renewal application for certification as a computed tomography technologist, \$20;
6. An initial application or renewal application for certification as a radiologist assistant, \$100; and
7. A late renewal penalty fee according to A.R.S. § 32-2816(C), \$50.

B. The fee for a duplicate certificate is \$10.

R9-16-624. Enforcement

A. The Department may, as applicable:

1. Deny, revoke, or suspend a certificate or permit under A.R.S. § 36-2821;
2. Request an injunction under A.R.S. § 36-2825; or
3. Assess a civil money penalty under A.R.S. § 36-2821.

B. In determining which disciplinary action specified in subsection (A) is appropriate, the Department shall consider:

1. The type of violation,
2. The severity of the violation,
3. The danger to public health and safety,
4. The number of violations,
5. The number of individuals affected by the violations,
6. The degree of harm to an individual,
7. A pattern of noncompliance, and
8. Any mitigating or aggravating circumstances.

C. A certificate holder or permittee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

Statutes Pertaining to 9 A.A.C. 16, Article 6

32-2801. Definitions

In this chapter, unless the context otherwise requires:

1. "Certificate" means a certificate that is granted and issued by the department.
2. "Certified technologist" means a person holding a certificate that is granted and issued by the department.
3. "Computed tomography technologist" means a person who applies ionizing radiation to a human using a computed tomography machine for diagnostic purposes.
4. "Department" means the department of health services.
5. "Direction" means responsibility for and control of the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.
6. "Director" means the director of the department of health services.
7. "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, protons and other nuclear particles or rays.
8. "Leg" means that part of the lower limb between the knee and the foot.
9. "Licensed practitioner" means a person who is licensed or otherwise authorized by law to practice medicine, dentistry, osteopathic medicine, podiatry, chiropractic or naturopathic medicine in this state.
10. "Mammographic technologist" means a person who applies ionizing radiation to the breasts of a human being for diagnostic purposes.
11. "Nuclear medicine technologist" means a person who uses radiopharmaceutical agents on humans for diagnostic or therapeutic purposes as set forth in rules adopted pursuant to section 32-2815.
12. "Practical technologist in bone densitometry" means a technologist who holds a certificate to apply ionizing radiation to a person's hips, spine and extremities through the use of a bone density machine.
13. "Practical technologist in podiatry" means a person holding a practical technologist in podiatry certificate that is granted and issued by the department.
14. "Practical technologist in podiatry certificate" means a certificate that is issued to a person, other than a licensed practitioner, who applies ionizing radiation to the foot and leg for diagnostic purposes while under the specific direction of a licensed practitioner.
15. "Practical technologist in radiology" means a person holding a practical technologist in radiology certificate that is granted and issued by the department.
16. "Practical technologist in radiology certificate" means a certificate that is issued to a person, other than a licensed practitioner, who applies ionizing radiation to specific parts of the human body for diagnostic purposes while under the specific direction of a licensed practitioner.
17. "Radiation therapy technologist" means a person who uses radiation on humans for therapeutic purposes.
18. "Radiologic technologist" means a person who holds a certificate that is issued by the department and that allows that person to apply ionizing radiation to individuals at the direction of a licensed practitioner for general diagnostic or therapeutic purposes.
19. "Radiologic technology" means the science and art of applying ionizing radiation to human beings for general diagnostic or therapeutic purposes.
20. "Radiologic technology certificate" means a certificate that is issued in radiologic technology to a person with at least twenty-four months of full-time study or its equivalent through an approved program and who has successfully completed an examination by a national certifying body.

21. "Radiologist" means a licensed practitioner of medicine or osteopathic medicine who has undertaken a course of training that meets the requirements for admission to the examination of the American board of radiology or the American osteopathic board of radiology.

22. "Radiologist assistant" means a person who holds a certificate pursuant to section 32-2819 and who performs independent advanced procedures in medical imaging and interventional radiology under the guidance, directions, supervision and discretion of a licensed practitioner of medicine or osteopathic medicine specializing in radiology as set forth in section 32-2819 and the rules adopted pursuant to that section.

23. "Unethical professional conduct" means the following acts, whether occurring in this state or elsewhere:

(a) Intentionally betraying a professional confidence or intentional violation of a privileged communication except as required by law. This subdivision does not prevent the department from exchanging information with the radiologic licensing and disciplinary boards of other states, territories or districts of the United States or foreign countries.

(b) Using controlled substances as defined in section 36-2501, narcotic drugs, dangerous drugs or marijuana as defined in section 13-3401 or hypnotic drugs, derivatives or any compounds, mixtures or preparations that may be used for producing hypnotic effects or the use of alcohol to the extent that it affects the ability of the certificate or permit holder to practice his profession.

(c) Using drugs for other than accepted therapeutic purposes.

(d) Committing gross malpractice.

(e) Procuring or attempting to procure a certificate or license by fraud or misrepresentation.

(f) Having professional connection with or lending one's name to an illegal practitioner of radiologic technology or any other health profession.

(g) Offering, undertaking or agreeing to correct, cure or treat a condition, disease, injury, ailment or infirmity by a secret means, method, device or instrumentality.

(h) Refusing to divulge to the department, on reasonable notice and demand, the means, method, device or instrumentality used in the treatment of a condition, disease, injury, ailment or infirmity. This subdivision does not apply to communication between a technologist or permit holder and a patient with reference to a disease, injury, ailment or infirmity, or as to any knowledge obtained by personal examination of the patient.

(i) Giving or receiving, or aiding or abetting the giving or receiving, of rebates, either directly or indirectly.

(j) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of radiologic technology.

(k) Having a certificate or license refused, revoked or suspended by any other state, territory, district or country for reasons that relate to the person's ability to safely and skillfully practice radiologic technology or to any act of unprofessional conduct.

(l) Engaging in any conduct or practice that does or would constitute a danger to the health of the patient or the public.

(m) Obtaining a fee by fraud or misrepresentation or wilfully or intentionally filing a fraudulent claim with a third party for services rendered or to be rendered to a patient.

(n) Employing uncertified persons to perform or aiding and abetting uncertified persons in the performance of work that can be done legally only by certified persons.

(o) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate this chapter or a rule adopted by the department.

24. "Unlimited practical technologist in radiology" means a person holding an unlimited practical technologist in radiology certificate that is granted and issued by the department.

25. "Unlimited practical technologist in radiology certificate" means a certificate that was issued to a person in 1977 or 1978, other than a licensed practitioner, who applies ionizing radiation to the human body for diagnostic purposes while under the specific direction of a licensed practitioner.

32-2803. Rules

The director may adopt rules as may be needed to carry out the purposes of this chapter. The rules shall include:

1. Minimum standards of training and experience for persons to be certified pursuant to this chapter and procedures for examining applicants for certification.
2. Provisions identifying the types of applications of ionizing radiation for a practical technologist in podiatry, practical technologist in radiology, practical technologist in bone densitometry, radiologic technologist, radiation therapy technologist, mammographic technologist, nuclear medicine technologist, computed tomography technologist and radiologist assistant and any new radiologic modality technologist and those minimum standards of education and training to be met by each type of applicant.

32-2804. School approval; standards; considerations

A. The department may approve a school of radiologic technology as maintaining a satisfactory standard if its course of study:

1. Is for a period of at least twenty-four months of full-time study or its equivalent and is accredited by the committee on allied health accreditation or meets or exceeds the standards of this chapter.
2. Includes at least four hundred hours of classroom work, including radiation protection, x-ray physics, radiographic techniques, processing techniques, nursing procedures, anatomy and physiology, radiographic positioning, radiation therapy and professional ethics.
3. Includes at least one thousand eight hundred hours devoted to clinical experience.
4. Includes demonstrations, discussions, seminars and supervised practice.
5. Includes at least eighty hours of regularly scheduled supervised film critiques.

B. An approved school of radiologic technology may be operated by a medical or educational institution or other public or private agency or institution and, for the purpose of providing the requisite clinical experience, shall be affiliated with one or more hospitals that the department determines are likely to provide this experience.

C. In approving a school of radiologic technology, the department shall consider the standards adopted by appropriate professional organizations, including the joint review committee on education in radiologic technology, and may accept the certification of a school of radiologic technology or the accreditation of a hospital to provide requisite clinical experience if the department finds that certification or accreditation was granted on the basis of standards that will afford the same protection to the public as the standards provided by this chapter.

32-2811. Prohibitions and limitations; exceptions

A. No person may use ionizing radiation on a human being unless the person is a licensed practitioner or the holder of a certificate as provided in this chapter.

B. A person holding a certificate may use ionizing radiation on human beings only for diagnostic or therapeutic purposes while operating in each particular case at the direction of a licensed practitioner, except that a person holding a certificate may use ionizing radiation on human beings for diagnostic purposes only while operating in each particular case at the direction of a licensed practitioner who is licensed in any other state, territory or district of the United States. The application of ionizing radiation and the direction to apply ionizing radiation are limited to those persons or parts of the human body

specified in the law under which the practitioner is licensed. The provisions of the technologist's certificate govern the extent of application of ionizing radiation.

C. Nothing in this chapter relating to technologists shall be construed to limit, enlarge or affect in any respect the practice of their respective professions by duly licensed practitioners.

D. The requirement of a certificate shall not apply to:

1. A hospital resident specializing in radiology who is not a licensed practitioner in this state or a student enrolled in and attending a school or college of medicine, osteopathy, podiatry, dentistry, naturopathic medicine, chiropractic or radiologic technology who applies ionizing radiation to a human being while under the specific direction of a licensed practitioner.

2. A person engaged in performing the duties of a technologist in that person's employment by an agency, bureau or division of the government of the United States.

3. Dental hygienists licensed in the state of Arizona and dental assistants holding a valid certificate in dental radiology from a course approved by the state board of dental examiners.

4. Persons providing assistance during an ionizing radiation procedure, apart from such procedures conducted in a health care institution, under the direction of a person licensed for the use of an ionizing radiation machine.

5. A person who is employed by or acting on behalf of the state department of corrections or a county jail and who uses a low-dose ionizing radiation body scanning device to detect contraband, as defined in section 13-2501, in or on an inmate.

E. Subsection B of this section does not apply to ionizing radiation ordered by a licensed practitioner for other than diagnostic or therapeutic purposes pursuant to section 13-2505, subsection E.

32-2812. Applications for certificate; qualifications; fees; examination; denial

A. An applicant for a certificate shall submit an application for certification or an application for examination for certification, accompanied by a nonrefundable fee established by the director. An applicant who has practiced radiography without certification shall pay a prorated fee retroactively to the earliest date of uncertified practice. The fee for a replacement certificate is ten dollars. The application for examination fee is seventy dollars and shall not be prorated. An application shall contain information that the applicant:

1. Is at least eighteen years of age.

2. Is of good moral character.

3. Meets one of the following requirements:

(a) In the case of an application for radiologic technologist, radiation therapy technologist or nuclear medicine technologist certification, has successfully completed a course of study at a school of radiologic technology that is approved by the department or an out-of-state school of radiologic technology that is approved by the joint review committee on education in radiologic technology, the American registry of radiologic technologists or the nuclear medicine technology certification board.

(b) In the case of an application for practical technologist in podiatry certification, practical technologist in bone densitometry certification and practical technologist in radiology certification, satisfactorily meets the basic requisites determined by the department pursuant to section 32-2803.

(c) In the case of an application for radiologist assistant certification, has obtained a baccalaureate degree or postbaccalaureate certificate from an advanced academic program that encompasses a nationally recognized radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship. An applicant for certification before April 1, 2009 is not required to have a baccalaureate degree or postbaccalaureate certificate, but must have completed an advanced academic program that encompasses a nationally recognized radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship.

B. If the application is in proper form and it appears that the applicant meets the eligibility requirements, the applicant shall be notified of the time and place of the next examination.

C. The department may accept, in lieu of its own examination, a certificate issued on the basis of an examination by a certificate-granting body recognized by the department or a certificate, registration or license issued by another state if that state's standards for certification, registration or licensure are satisfactory to the department.

D. The department may deny a certificate to an applicant who has committed an act or engaged in conduct in any jurisdiction that resulted in a disciplinary action against the applicant or that would constitute grounds for disciplinary action under this chapter.

32-2813. Examination: contents: subsequent examinations

A. Examinations for certification shall include the subjects of radiation protection, x-ray physics, radiographic techniques, processing techniques, nursing procedures, anatomy terminology, radiological mathematics, professional ethics and such other subjects as the department may deem appropriate.

B. The department shall prepare lists of examination questions or problems and administer the examinations.

C. Examinations shall include written questions but may also include practical and oral portions. Following each examination, the papers and the practical and oral examinations shall be graded and the standing of each applicant shall be recorded. The department shall either pass or reject each applicant.

D. An applicant who fails to pass an examination may reapply for examination in the manner prescribed by section 32-2812. The department shall require a candidate who fails the examination three times to successfully complete additional training prescribed by the department before accepting the candidate for reexamination.

32-2814. Initial certificates: special permits: temporary certificates

A. The department shall issue an initial certificate that is valid for two years to each candidate who has paid the prescribed fee and who either has successfully passed the examination or has been accepted pursuant to section 32-2812.

B. The department, on application, may issue a special permit to exempt a person from this chapter if the department finds to its satisfaction that there is substantial evidence that the people in the locality of the state in which such an exemption is sought would be denied adequate medical care because of the unavailability of certified licensed practitioners or persons holding certificates pursuant to this chapter. The department shall issue a special permit for a limited period of time, not to exceed one year, to be prescribed by the department in accordance with the purposes of this chapter. The department may renew a special permit if the permittee's circumstances have not changed.

C. The department may issue a temporary certificate to any person whose certification or recertification is pending and in whose case the issuance of a temporary certificate may be justified by reason of special circumstances.

D. A temporary certificate shall be issued only if the department finds that its issuance will not violate the purposes of this chapter or tend to endanger the public health and safety. A temporary certificate expires thirty days after the date of the next examination if the applicant is required to take the examination or, if the applicant does not take the examination, on the date of the examination. In all other cases, a temporary certificate expires when the determination is made either to issue or to deny the issuance of a certificate. A temporary certificate shall not be valid for more than one year and may not be renewed.

E. A person shall submit an application for certification in a form prescribed by the department.

32-2815. Rules; bone densitometry certification; nuclear medicine certification; continuing education

A. The department shall adopt rules regarding the certification of practical technologists in bone densitometry to allow the certificate holder to apply ionizing radiation to a person's extremities through the use of a bone densitometry machine. The rules shall prescribe:

1. The minimum education and training qualifications for certification. The qualifications prescribed by the department shall allow a person who does not meet the education and training requirements of a radiologic technologist or a practical technologist in radiology to obtain a certificate as a practical technologist in bone densitometry.

2. The application and renewal fees.

B. Subsection A of this section does not prohibit a radiologic technologist or a practical technologist in radiology from operating a bone densitometry machine.

C. A person who wishes to practice as a nuclear medicine technologist must apply to the department for certification as prescribed by rule. The department shall adopt rules to establish minimum educational and training requirements for nuclear medicine technologists.

D. The department shall adopt rules to prescribe the following minimum continuing education requirements for the renewal of the following certificates:

1. Practical technologist in podiatry, two hours every two years.

2. Practical technologist in radiology, six hours every two years.

3. Practical technologist in bone densitometry, two hours every two years.

4. Unlimited practical technologist in radiology, twenty-four hours every two years.

5. Nuclear medicine technologist, twenty-four hours every two years.

6. Radiologist assistant, fifty hours every two years.

7. Radiologic technologist, twenty-four hours every two years.

8. Radiation therapy technologist, twenty-four hours every two years.

E. The department may require an applicant for renewal to document compliance with the appropriate continuing education requirements of subsection D of this section.

32-2816. Certificates; fee; terms; registration; renewal; cancellation; waiver

A. Except as provided in section 32-4301, a certificate issued under this section is valid for two years.

B. The department may renew a certificate for two years on payment of a renewal fee established by the director and submission of a renewal application containing information the department requires to show that the applicant for renewal is a technologist in good standing. The applicant for renewal shall also present evidence satisfactory to the department of having completed the required continuing education in radiologic technology within the preceding two years. If a radiologic technologist is certified by the American registry of radiologic technologists or nuclear medicine technology certification board, that person must satisfy the continuing education requirements of this subsection by providing the department with evidence of the technologist's good standing and current certification with that registry.

C. A certificate holder who fails to renew the certificate on or before the certificate's expiration as prescribed in subsection B of this section shall pay a penalty fee of fifty dollars for late renewal.

D. A certificate holder who does not renew a certificate within thirty days after the certificate expires and who continues the active practice of radiologic technology without adequate cause satisfactory to the department is subject to censure, reprimand or denial of right to renew the certificate pursuant to section 32-2821.

E. On the request of a certificate holder in good standing, the department shall cancel a certificate.

F. The department shall waive the renewal fee if a certificate holder submits an affidavit to the department stating that the certificate holder is retired from the practice of radiologic technology or wishes to be placed on inactive status. A retired or inactive technologist who practices is subject to the same penalties imposed pursuant to this chapter on a person who practices radiologic technology without a certificate.

G. The department may reinstate a technologist on retired or inactive status on payment of the renewal fee pursuant to subsection B of this section.

32-2817. Use of title; display of certificate or permit

A. A person holding a certificate may use the title "certified radiologic technologist", "certified nuclear medicine technologist", "certified radiation therapy technologist", "certified computed tomography technologist", "certified mammographic technologist", "certified radiologist assistant", "certified practical technologist in podiatry", "certified practical technologist in bone densitometry" or "certified practical technologist in radiology", as applicable. No other person shall be entitled to use such titles or title or letters after such person's name that indicates or implies that such person is a certified technologist or to represent the person in any way, whether orally or in writing, expressly or by implication, as being so certified.

B. Every technologist or special permit holder shall display a certificate or permit at the technologist's or permit holder's place of employment.

32-2818. Lapsed certification; inactive status; reinstatement

A person who was an unlimited practical technologist in radiology under this chapter from and after December 31, 1992 and whose certificate was not suspended or revoked but who failed to renew the certificate, on application to the department, may be placed on inactive status or reinstated pursuant to section 32-2816.

32-2819. Radiologist assistants; certification; rules; scope of practice

A. A person who wishes to practice as a radiologist assistant must apply to the department for a certificate on a form and in the manner prescribed by the department pursuant to the requirements of section 32-2812.

B. The department shall adopt rules to implement this section. The rules shall include the following:

1. Continuing education requirements.
2. Any other requirements the department considers appropriate to implement this section.

C. Pursuant to rules adopted by the department, a radiologist assistant may do the following under the direct supervision of a radiologist:

1. Perform fluoroscopic procedures.
2. Assess and evaluate the physiologic and psychological responsiveness of patients undergoing radiologic procedures.
3. Evaluate image quality, make initial image observations and communicate observations to the supervising radiologist.
4. Administer contrast media or other medications prescribed by the supervising radiologist.
5. Perform any other procedures consistent with rules adopted by the department.

D. In adopting rules pursuant to subsection C of this section, the department shall consider guidelines established by the American society of radiologic technologists and the American registry of radiologic technologists.

E. A radiologist assistant shall not interpret images, make diagnoses or prescribe medications or therapies.

F. A radiologist who supervises a radiologist assistant may authorize the assistant to perform only those radiologic procedures described in this section.

G. A person shall not do any of the following without a certificate issued pursuant to this section:

1. Perform the radiologic procedures described in subsection C of this section.
2. Claim to be a radiologist assistant, including using any sign, advertisement, card, letterhead, circular or other writing, document or design to induce others to believe the person is authorized to practice as a radiologist assistant.

H. Subsection G of this section does not apply to either of the following:

1. A person engaging in the scope of practice for which the person holds a valid license or certificate.
2. A person performing a task as part of an advanced academic program.

32-2821. Revocation or suspension of certificate or permit; civil penalties; enforcement; appeals; hearings

A. The director may revoke or suspend a certificate or permit issued under this chapter if the holder of the certificate or permit:

1. Is guilty of any fraud or deceit in activities as a technologist or radiologist assistant or has been guilty of any fraud or deceit in procuring or maintaining a certificate.
2. Has been convicted in a court of competent jurisdiction of a crime involving moral turpitude. If the conviction has been reversed and the holder of the certificate or permit has been discharged or acquitted or if the holder of the certificate or permit has been pardoned or the holder's civil rights have been restored, the certificate may be restored.
3. Is an habitual drunkard or is addicted to the use of morphine, cocaine or other drugs having similar effect, is insane or uses hallucinogens.
4. Has knowingly aided or abetted a person, not otherwise authorized, who is not a certified technologist or radiologist assistant or has not been issued a special permit in engaging in the activities of a technologist or radiologist assistant.
5. Has undertaken or engaged in any practice beyond the scope of the authorized activities of a certified technologist, radiologist assistant or permit holder pursuant to this chapter.
6. Has impersonated a duly certified technologist, radiologist assistant or permit holder or former duly certified technologist, radiologist assistant or permit holder or is engaging in the activities of a technologist, radiologist assistant or permit holder under an assumed name.
7. Has been guilty of unethical professional conduct.
8. Has continued to practice without obtaining a certificate renewal or a special permit renewal.
9. Has applied ionizing radiation to a human being when not operating in each particular case under the direction of a duly licensed practitioner or to any person or part of the human body other than specified in the law under which the practitioner is licensed.
10. Has acted or is acting as an owner, co-owner or employer in any enterprise engaged in the application of ionizing radiation to human beings for the purpose of diagnostic interpretation or the treatment of disease, without being under the direction of a licensed practitioner.

11. Has used or is using the prefix "Dr.", the word "doctor" or any prefix or suffix to indicate or imply that the person is a duly licensed practitioner if this is not true.

12. Is or has been guilty of incompetence or negligence in activities as a technologist.

13. Is or has been afflicted with any medical problem, disability or addiction that the department determines impairs the certificate or permit holder's professional competence.

14. Has interpreted a diagnostic image for a physician, a patient, the patient's family or the public.

15. Has violated any provision of this chapter or rule adopted pursuant to this chapter.

B. A person may appeal the revocation or suspension under subsection A of this section by requesting a hearing pursuant to title 41, chapter 6, article 10. If the revocation or suspension is appealed, the director may not take further action to enforce the revocation or suspension until after the hearing.

C. If the certificate of any person has been revoked or suspended, the department, after the expiration of two years, may consider an application for restoration of the certificate.

D. The director may assess a civil penalty against a person in an amount not to exceed two hundred fifty dollars for each violation of this chapter or a rule adopted pursuant to this chapter. Each day a violation occurs constitutes a separate violation.

E. The director shall issue a notice of assessment that includes the proposed amount of the assessment. In determining the amount of a civil penalty assessed against a person under this subsection, the department shall consider all of the following:

1. Repeated violations of statutes and rules.

2. Patterns of noncompliance.

3. Types of violations.

4. The severity of violations.

5. The potential for and occurrences of actual harm.

6. Threats to health and safety.

7. The number of persons affected by the violations.

8. The number of violations.

9. The length of time the violations have been occurring.

F. A person may appeal the civil penalty assessment by requesting a hearing pursuant to title 41, chapter 6, article 10. If an assessment is appealed, the director may not take further action to enforce and collect the assessment until after the hearing.

G. Actions to enforce the collection of civil penalties assessed pursuant to this section shall be brought by the attorney general or the county attorney in the name of the state in the justice court or the superior court in the county in which the violation occurred.

H. The department shall deposit, pursuant to sections 35-146 and 35-147, civil penalties collected pursuant to this section in the state general fund.

I. The department shall conduct any hearing to revoke or suspend a certificate or permit or impose a civil penalty under this section pursuant to title 41, chapter 6, article 10.

J. The department may issue a nondisciplinary order requiring the certificate holder or permit holder to complete a prescribed number of hours of continuing education in an area or areas prescribed by the department to provide the certificate holder or permit holder with the necessary understanding of current developments, skills, procedures or treatment. The department may also file a letter of concern, issue a decree of censure, prescribe a period of probation or restrict or limit the practice of a certificate or permit holder.

32-2824. Inspections

A. The department or its duly authorized representatives may enter during scheduled work hours on private or public property for the purpose of:

1. Ensuring that only certified individuals or individuals who are exempt from certification are operating ionizing radiation machines.
2. Determining whether a certified individual is practicing beyond the scope of the person's certificate.
3. Determining whether a certified individual has violated the provisions of this chapter.
4. Auditing ionizing radiation logbooks.
5. Determining compliance with this chapter and the rules adopted pursuant to this chapter.

B. The department may enter areas under the jurisdiction of the federal government only with its permission.

32-2841. Mammographic technologists; computed tomography technologists; certification; renewal

A. A person who wishes to perform diagnostic mammography or screening mammography as defined in section 30-651 shall obtain a mammographic technologist certificate from the department. A person who wishes to perform computed tomography shall obtain a computed tomography technologist certificate from the department. The department shall issue a certificate to an applicant who:

1. Pays a twenty dollar application fee.
2. Holds a current radiologic technology certificate issued by the department.
3. For a mammographic certification, completes the training and education requirements of subsection B of this section and passes an examination as prescribed in subsection D of this section.
4. For a computed tomography technologist certification, provides documentation of two years of experience in computed tomography and completion of twelve hours of computed tomography specific education or passes an examination as prescribed in subsection D of this section.

B. To satisfy the education requirements of subsection A of this section, an applicant shall meet the initial training and education requirements of the mammography quality standards act regulations for quality standards of mammographic technologists, 21 Code of Federal Regulations section 900.12.

C. The department shall issue a student mammography permit, preceptorship or temporary certificate to a person who is in training and meets the requirement of subsection A, paragraph 2 of this section if the applicant also provides the department with verification of employment and the name of the radiologist who agrees to be responsible for the applicant's supervision and training. A student mammography permit, preceptorship or temporary certificate is valid for one year from the date it is issued and may not be renewed. If the holder completes all of the requirements of subsection A of this section within the permitted period, the department shall issue a mammographic or computed tomography technologist certificate. The mammographic or computed tomography technologist certificate shall be renewed as prescribed under subsection E of this section.

D. To satisfy the examination requirements of this section an applicant shall pass an examination in mammography or computed tomography administered by the department or, in lieu of its own examination, the department may accept a certificate issued on the basis of an examination by a certificate-granting body recognized by the department.

E. Except as provided in section 32-4301, a certificate that is issued under this section is valid for two years. The department shall notify a certificate holder thirty days before the expiration date of the certificate. An applicant for renewal of a mammographic technologist certificate shall meet the continuing education requirements of the mammography quality standards act regulations for quality standards of mammographic technologists, 21 Code of Federal Regulations section 900.12. If a radiologic

technologist is certified by the American registry of radiologic technologists, that person must satisfy the continuing education requirements of this subsection by providing the department with evidence of the technologist's good standing and current certification with that registry. The applicant shall also pay a twenty dollar renewal fee to the department.

F. A person or facility that employs a person certified under this section shall report any suspected violations of section 32-2821 to the department. The department shall investigate the complaint. If in the course of its investigation the department determines that a person regulated by another regulatory agency of this state may have violated that agency's laws, the department shall report the violation to the other agency for disciplinary action.

32-2842. Mammographic images; physicians; requirements

A physician licensed under chapter 13 or 17 of this title who reads or interprets mammographic images shall meet the following requirements:

1. Have completed forty hours of medical education credits in mammography.
2. Be certified by either the American board of radiology in diagnostic radiology or the American osteopathic board of radiology in diagnostic radiology, as applicable, or meet the requirements of the mammography quality standards act regulations for quality standards of interpreting physicians, 21 Code of Federal Regulations section 900.12.

32-2843. Facilities; requirements

A. A facility that wishes to conduct patient self-referral mammographic screening examinations after January 1, 1994 shall submit the following to the department:

1. The physician-approved guide for accepting self-referrals by patients.
2. A copy of the facility's quality assurance program.
3. The medical physicist's evaluation report of the facility.

B. A facility that does not have a darkroom on-site or that does not develop the films within one hour of exposure shall submit the following to the department:

1. A description of how the facility plans to ensure that the equipment is operating properly at the start of each day.
2. Information regarding the darkroom that develops the film that demonstrates to the department's satisfaction that transportation conditions will not adversely affect a person's ability to interpret the films.

C. The director shall prescribe requirements for the documents required to be submitted to the department under subsections A and B of this section.

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. 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.

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 no 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 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) 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.

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. 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. 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.

C-4

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

Title 4, Chapter 46

Repeal: Article 3.1, R4-46-301.01, R4-46-302.01, R4-46-303.01, R4-46-304.01, R4-46-305.01,
R4-46-306.01, R4-46-307.01



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - REGULAR RULEMAKING

MEETING DATE: November 1, 2022

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

FROM: Council Staff

DATE: October 12, 2022

SUBJECT: DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
Title 4, Chapter 46

Repeal: Article 3.1, R4-46-301.01, R4-46-302.01, R4-46-303.01, R4-46-304.01,
R4-46-305.01, R4-46-306.01, R4-46-307.01

Summary:

This regular rulemaking from the Department of Insurance and Financial Institutions (Department) seeks to repeal Title 4, Chapter 46, Article 3.1 containing seven (7) rules related to Rules of Practice and Procedure Before the Director for Real Estate Appraisal hearings. Specifically, this rulemaking is to eliminate the separate rules applying to Real Estate Appraisal hearings. This will repeal a separate and redundant set of hearing rules and will allow Real Estate Appraisal hearings to be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of that division.

This rulemaking is being initiated with two other rulemakings by the Department in order to update its hearing rules. The Department indicates the Insurance Division most recently updated its hearing rules in 2011 and some of the rules conflict with the Arizona Uniform Administrative Hearing Procedures Act (A.R.S. §§ 41-1092 through 41-1092.12). The Department indicates the Financial Institutions Division has not updated its hearing rules since 2001. The Department also indicates these rulemakings are necessary to synchronize the hearing rules between the two divisions of the Department. Formerly, when these divisions were separate agencies, they had their own hearing rules. The Department states synchronizing these

sets of rules will promote efficiency for the agency when administering hearings for both divisions. The Department states these changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

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 did not review or rely on any study in conducting this rulemaking.

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

According to the Department, the rulemaking is designed to streamline and coordinate the rules governing administrative hearings before the Director. The rulemaking is anticipated to result in a benefit to the Financial Institutions Division of the Department by eliminating a redundant set of hearing rules which should result in less confusion and greater efficiency for the division. No costs or benefits are anticipated to businesses directly affected by the proposed rulemaking because these businesses will be subject to the same rules they were essentially subject to prior to the rulemaking.

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 believes that the current rulemaking offers the least intrusive and least costly alternative method to achieve the purpose of the proposed rulemaking.

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

Stakeholders include the Department and licensees subject to regulation by the Financial Institutions Division, which includes appraisers, appraisal management companies, some educational course providers, and property tax agents.

No costs or benefits are anticipated for licensees affected by this rulemaking because they will be subject to the same rules they were essentially subject to prior to the rulemaking. This rulemaking simply repeals a redundant set of rules. A simultaneous rulemaking will make all the licensees regulated by the Financial Institutions Division subject to the same set of hearing rules.

This rulemaking is anticipated to result in a benefit to the Financial Institutions Division of the Department by eliminating a redundant set of hearing rules which should result in less confusion and greater efficiency for the division.

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

The Department indicates it made no changes between the Notice of Proposed Rulemaking published in the Administrative Register and the Notice of Final Rulemaking 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 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, 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?**

The Department indicates there are no corresponding federal laws applicable to the subject of this rulemaking.

11. **Conclusion**

This regular rulemaking from the Department seeks to repeal Title 4, Chapter 46, Article 3.1 containing seven (7) rules related to rules of practice and procedure for Real Estate Appraisal hearings. This rulemaking is being initiated with two other rulemakings by the Department in order to update its hearing rules. Specifically, this rulemaking is to eliminate the separate rules applying to Real Estate Appraisal hearings. This will repeal a separate and redundant set of hearing rules and will allow Real Estate Appraisal hearings to be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of that division.

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.



Director's Office
Arizona Department of Insurance and Financial Institutions
100 North 15th Avenue, Suite 261, Phoenix, AZ 85007-2624
Phone: (602) 364-3100 | Web: <https://difi.az.gov>

Douglas A. Ducey, Governor
Evan G. Daniels, Director

September 20, 2022

VIA EMAIL: grrc@azdoa.gov
Nicole Sornsin, Chairperson
Governor's Regulatory Review Council
100 North 15th Ave., Suite 305
Phoenix, AZ 85007

RE: Arizona Department of Insurance and Financial Institutions
Financial Institutions Division - Real Estate Appraisal
A.A.C. Title 4, Chapter 45, Article 3.1 – Rules of Practice and Procedure
Before the Director ("Hearing Rules")

Dear Chairperson Sornsin:

Please find enclosed the Final Rulemaking for the Real Estate Appraisal Hearing Rules being submitted by the Arizona Department of Insurance and Financial Institutions ("Department").

Pursuant to A.A.C. R1-6-201(A)(1), the Department responds as follows:

- a. The Department closed the record on this rulemaking on August 14, 2022.
- b. This rulemaking does not relate to a five-year review report. Instead, this rulemaking is being initiated with two other rulemakings by the Department that are designed to revise its rules pertaining to hearings to comport with the recent structural changes in the Department, to update the hearing rules, and to synchronize the rules governing hearings between the two divisions of the Department. This rulemaking will repeal the redundant set of Hearing Rules that apply to Real Estate Appraisal hearings. Those hearings will now be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of that division. The three rulemakings are designed to occur simultaneously and to have the same effective date.
- c. The rulemaking does not establish a new fee.
- d. The rulemaking does not contain a fee increase.
- e. The rulemaking does not request an immediate effective date under A.R.S. § 41-1032.
- f. The Department certifies that the preamble discloses a reference to any study relevant to the rule that it reviewed and either did or did not rely on in its evaluation of or justification for the rulemaking. The Department did not review or rely on any study relevant to the rulemaking.
- g. No new full-time employees are necessary to implement and enforce the rule.
- h. The following documents are also submitted to the Council with this cover letter:

- i. The Notice of Final Rulemaking;
- ii. An economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055; and
- iii. The general and specific statutes authorizing the rulemaking.

By this submission, the Department is requesting approval of this rulemaking from the Council.

For questions about this rulemaking, please contact Mary Kosinski at (602) 364-3476 or mary.kosinski@difi.az.gov.

Sincerely,



Evan G. Daniels
Director

NOTICE OF FINAL RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 46. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS –
FINANCIAL INSTITUTIONS DIVISION, REAL ESTATE APPRAISAL

PREAMBLE

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

Article 3.1	Repeal
R4-46-301.01	Repeal
R4-46-302.01	Repeal
R4-46-303.01	Repeal
R4-46-304.01	Repeal
R4-46-305.01	Repeal
R4-46-306.01	Repeal
R4-46-307.01	Repeal

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

Authorizing statute: A.R.S. § 32-3605(A)

Implementing statute: A.R.S. § 32-3605(B)(10)(c)

3. The effective date of the rule:

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 proposed rule:

Notice of Rulemaking Docket Opening: 28 A.A.R. 1660, July 15, 2022

Notice of Proposed Rulemaking: 28 A.A.R. 1643, July 15, 2022

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

Name: Mary E. Kosinski

Address: Department of Insurance and Financial Institutions

100 N. 15th Ave., Suite 261

Phoenix, Arizona 85007-2630

Telephone: (602)364-3476

E-mail: mary.kosinski@difi.az.gov

Web site: <https://difi.az.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:

This rulemaking is being initiated with two other rulemakings by the Arizona Department of Insurance and Financial Institutions ("Department"). One rulemaking is to revise the hearing rules of the Department's Insurance Division ("Insurance Division") (A.A.C. R20-6-101 through R20-6-160) and the other to the hearing rules of the Department's Financial Institutions Division ("Financial Institutions Division") (A.A.C. R20-4-1201 through R20-6-1220). The three rulemakings are designed to occur simultaneously and to have the same effective date.

These rulemakings are necessary for a number of reasons. First, to update the rules. The Insurance Division most recently updated its hearing rules in 2011 and some of the rules conflict with the Arizona Uniform Administrative Hearing Procedures Act (A.R.S. §§ 41-1092 through 41-1092.12). The Financial Institutions Division has not updated its hearing rules since 2001. At the very least, the Financial Institutions Division needs to remove any references to "Superintendent" in its rules because that position no longer exists.

Secondly, these rulemakings are necessary to synchronize the hearing rules between the two divisions of the Department. Formerly, when these divisions were separate agencies, they had their own hearing rules. Synchronizing these sets of rules will promote efficiency for the agency when administering hearings for both divisions. These changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

The third reason for this rulemaking is to eliminate the separate rules applying to Real Estate Appraisal hearings (this rulemaking). This will repeal a separate and redundant set of hearing

rules and will allow Real Estate Appraisal hearings to be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of that division.

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 and does not propose to rely on any study relevant to 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:

The rulemaking does not diminish a previous grant of authority granted to the Department.

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

Pursuant to A.R.S. § 41-1055(A):

- The rulemaking is not designed to change any conduct. Instead, it is designed to streamline and coordinate the rules governing administrative hearings before the Director.
- The rulemaking does not address any harm resulting from any conduct by licensees.
- Because this rulemaking is not made in response to a perceived problem caused by the conduct of licensees, it is not intended to reduce the frequency of any potentially violative conduct.
- The costs incurred by real estate appraisers are not expected to impact revenues or payroll expenditures.
- This rulemaking is anticipated to result in a benefit to the Financial Institutions Division of the Department by eliminating a redundant set of hearing rules which should result in less confusion and greater efficiency for the division.
- No costs or benefits are anticipated to businesses directly affected by the proposed rulemaking because these businesses will be subject to the same rules they were essentially subject to prior to the rulemaking. This rulemaking simply repeals a redundant set of rules. A simultaneous rulemaking will make all the licensees regulated by the Financial Institutions Division, including licensees regulated under A.R.S. Title 32, Chapter 36, subject to the same set of hearing rules.

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

The Department has not made any changes between the proposed rulemaking and the final rulemaking.

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

The Department did not receive any 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:

No other matters prescribed by statute are applicable to the Department or to any specific rule or class of rules.

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

The rule does not require a permit and does not use a general permit. Instead, the rule is designed to provide guidance on conducting administrative hearings.

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

No federal law is applicable to the subject of the rule.

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 formal analysis has been submitted to the Department that compares the rule's impact on the competitiveness of business in this state to the impact of business in other states.

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

The rule does not incorporate any reference material into the rule as specified at A.R.S. § 41-1028.

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, amended or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

**CHAPTER 46. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS –
FINANCIAL INSTITUTIONS DIVISION, REAL ESTATE APPRAISAL**

ARTICLE 3.1. RULES OF PRACTICE AND PROCEDURE BEFORE THE SUPERINTENDENT

Section

~~R4-46-301.01. Scope of Article~~

~~R4-46-302.01. Commencement of Proceedings; Notice of Hearing~~

~~R4-46-303.01. Answer to Notice of Hearing~~

~~R4-46-304.01. Filing; Service~~

~~R4-46-305.01. Stays~~

~~R4-46-306.01. Rehearing~~

~~R4-46-307.01. Settlement~~

~~ARTICLE 3.1. RULES OF PRACTICE AND PROCEDURE BEFORE THE SUPERINTENDENT~~

~~R4-46-301.01. Scope of Article~~

~~This Article governs procedures in all contested cases and appealable agency actions, including administrative appeals, filed with the Department. The Department shall use the authority of A.R.S. §§ 41-1092 through 41-1092.12, and the Office of Administrative Hearings' procedural rules to govern the initiation and conduct of proceedings. In a case or action, special procedural requirements in state statute or another Section in this Chapter shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. §§ 41-1092 through 41-1092.12 or the Office of Administrative Hearings' rules. This Article does not apply to rulemaking or to investigative proceedings before the Superintendent.~~

~~R4-46-302.01. Commencement of Proceedings; Notice of Hearing~~

~~A person may obtain a hearing under A.R.S. § 41-1092.03 (B) on any appealable agency action or contested case, including the following, unless otherwise provided by law:~~

- ~~1. A letter or order granting or denying a license;~~
- ~~2. A cease and desist order;~~
- ~~3. An order to remedy unsafe or unsound conditions;~~
- ~~4. An order assessing a fine;~~
- ~~5. Any other order or matter review able in a hearing either under the authority of these rules, a statute or an administrative rule enforced by the Superintendent, or by the order's express terms.~~

~~R4-46-303.01. Answer to Notice of Hearing~~

- ~~A. The Superintendent may, in a notice of hearing, direct one or more parties to file an answer to the assertions in the notice of hearing. Any party to the proceeding may file an answer without being directed to do so.~~
- ~~B. A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The Superintendent may require any party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.~~
- ~~C. An answer filed under this Section shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the assertions in the notice of hearing. An answering party that does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an assertion shall state that inability in its answer. That statement shall have the effect of a denial. A party admits each assertion that it does not deny. An answering party that intends to deny only a part or a qualification of an assertion, or to qualify an assertion, shall expressly admit as much of that assertion as is true and shall deny the remainder.~~
- ~~D. A party that fails to file an answer required by this Section within the time allowed is in default. The Superintendent may resolve the proceeding against a defaulting party. In doing so, the Superintendent may regard any assertions in the notice of hearing as admitted by the defaulting party.~~
- ~~E. An answering party waives all defenses not raised in its answer.~~

~~R4-46-304.01. Filing; Service~~

- ~~A. A person shall either personally deliver all papers permitted or required to be filed with the Superintendent or shall mail them by first class, certified, or express mail, or send them electronically to the Department, or shall serve them by any method permitted under R2-19-108. The Department considers papers filed when actually received at the Superintendent's address stated in this subsection.~~
- ~~B. A party in a contested case or appeal from an agency action shall make any required or permitted service in the manner permitted under R2-19-108. A party shall make service upon each represented~~

~~party's attorney unless the administrative law judge orders separate service on the actual party. A party shall make service upon each unrepresented party by service on the actual party.~~

~~R4-46-305.01. Stays~~

~~A person aggrieved by the Department's action or order who files a timely written request for a hearing may ask, in the request for a hearing, that the Superintendent stay an action or any part of an order that will become effective before the Department can hold a hearing. The Superintendent may, in the Superintendent's discretion, stay the legal effectiveness of any action or order until the matter can be heard and finally decided if the aggrieved person's request demonstrates that:~~

- ~~1. The person has a reasonable defense that might prevail on the merits at the hearing;~~
- ~~2. The person will suffer irreparable injury unless the Superintendent grants the stay;~~
- ~~3. The stay would not substantially or irreparably harm other interested persons; and~~
- ~~4. The stay would not jeopardize the public interest or contravene public policy.~~

~~R4-46-306.01. Rehearing~~

~~A. Except as provided in subsection (H), any party in a contested case who is aggrieved by a decision rendered in that case may file with the Superintendent, within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for rehearing or review of the decision specifying the particular reason for rehearing.~~

~~B. A party requesting rehearing under this Section may amend a motion for rehearing at any time before the Superintendent rules on the motion. Any other party, or the Attorney General, may file a response to the motion for rehearing within 15 days after service of the motion for rehearing, or the amended motion for rehearing. The Superintendent may require a written brief of the issues raised in the motion and may allow oral argument.~~

~~C. The Superintendent may grant a motion for rehearing for any of the following causes:~~

- ~~1. Irregularity in the proceedings before the Superintendent, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;~~
- ~~2. Misconduct of the Department, the administrative law judge, or the prevailing party;~~
- ~~3. Accident or surprise that could not have been prevented by ordinary care;~~

- ~~4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;~~
 - ~~5. Excessive or insufficient penalties;~~
 - ~~6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing;~~
 - ~~7. The decision is not justified by the evidence or is contrary to law.~~
- ~~D. The Superintendent may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (C). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.~~
- ~~E. The Superintendent, within the time for filing a motion for rehearing, may without a motion order a rehearing or review of a decision for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.~~
- ~~F. After giving the parties notice and an opportunity to be heard on the matter, the Superintendent may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.~~
- ~~G. When a motion for rehearing is based on an affidavit, the moving party shall serve the affidavit with the motion. An opposing party or the Attorney General may serve opposing affidavits within 10 days after service of the motion for rehearing.~~
- ~~H. The Superintendent may issue a final decision, subject only to judicial review and without an opportunity for rehearing or administrative review, if the Superintendent includes in the decision:~~
- ~~1. An express finding that the decision needs to be made immediately effective to preserve the public peace, health, and safety; and~~
 - ~~2. An express finding that a rehearing or review is:
 - ~~a. Impossible;~~
 - ~~b. Unnecessary, or~~
 - ~~c. Contrary to the public interest.~~~~

~~R4-46-307.01. Settlement~~

~~A. The Department will enter into a settlement, either in litigation or in an administrative proceeding, only if the defendant or respondent admits to the allegations in the complaint, notice, or order relating to the jurisdiction of the Superintendent or the jurisdiction of the tribunal that will enter the judgment or order.~~

~~B. The Superintendent has sole discretion to decide whether to resolve a matter by settlement. Nothing in Article 3 or Article 3.1 gives the Superintendent a duty to approve a settlement in any matter.~~

A.R.S. § 41-1055(B) Economic, Small Business, And Consumer Impact Statement

Title 4. Professions and Occupations

**Chapter 46. Department of Insurance and Financial Institutions – Financial
Institutions Division - Real Estate Appraisal**

Article 3.1 Rules of Practice and Procedure Before the Director

A.R.S. § 41-1055(B)(1): An identification of the proposed rulemaking.

This rulemaking is being initiated with two other rulemakings by the Arizona Department of Insurance and Financial Institutions (“Department”). One rulemaking is to revise the hearing rules of the Department’s Insurance Division (“Insurance Division”) (A.A.C. R20-6-101 through R20-6-160) and the other to the hearing rules of the Department’s - Financial Institutions Division (“Financial Institutions Division”) (A.A.C. R20-4-1201 through R20-6-1220). The three rulemakings are designed to occur simultaneously and to have the same effective date.

These rulemakings are necessary for a number of reasons. First, to update the rules. The Insurance Division most recently updated its hearing rules in 2011 and some of the rules conflict with the Arizona Uniform Administrative Hearing Procedures Act (A.R.S. §§ 41-1092 through 41-1092.12). The Financial Institutions Division has not updated its hearing rules since 2001. At the very least, the Financial Institutions Division needs to remove any references to “Superintendent” in its rules because that position no longer exists.

Secondly, these rulemakings are necessary to synchronize the hearing rules between the two divisions of the Department. Formerly, when these divisions were separate agencies, they had their own hearing rules. Synchronizing these sets of rules will promote efficiency for the agency when administering hearings for both divisions. These changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

The third reason for this rulemaking is to eliminate the separate rules applying to Real Estate Appraisal hearings (this rulemaking). This will repeal a separate and redundant set of hearing rules and will allow Real Estate Appraisal hearings to be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of that division.

Questions about this Economic Impact Statement can be directed to: Mary E. Kosinski (mary.kosinski@difi.az.gov).

A.R.S. § 41-1055(B)(2): An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking.

Licensees subject to regulation by the Financial Institutions Division under A.R.S. Title 32, Chapter 36 are directly affected by this rulemaking (appraisers – 5 classifications, appraisal management companies, educational course providers, and property tax agents).

A.R.S. § 41-1055(B)(3): A cost benefit analysis of the following:

(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.

This rulemaking is anticipated to result in a benefit to the Financial Institutions Division of the Department by eliminating a redundant set of hearing rules which should result in less confusion and greater efficiency for the division. No new full-time employees are necessary to implement and enforce the repealed 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.

No political subdivision of this state is directly affected by the implementation and enforcement of the proposed rulemaking.

(c) The 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.

No costs or benefits are anticipated to businesses directly affected by the proposed rulemaking because these businesses will be subject to the same rules they were essentially subject to prior to the rulemaking. This rulemaking simply repeals a redundant set of rules. A simultaneous rulemaking will make all the licensees regulated by the Financial Institutions Division, including licensees regulated under A.R.S. Title 32, Chapter 36, subject to the same set of hearing rules.

A.R.S. § 41-1055(B)(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 is not aware of any impact on the private employment of licensees who are subject to regulation under A.R.S. Title 32, Chapter 36. Likewise, the Department does not anticipate any impact on public employment in the Department.

A.R.S. § 41-1055(B)(5): A statement of the probable impact of the proposed rulemaking on small businesses. The statement shall include:

(a) An identification of the small businesses subject to the proposed rulemaking.

“Small business” is defined as a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. A.R.S. § 41- 1001(23). The individual licensees who fall within the 5 classes of appraisers (registered trainee appraisers, state licensed real estate appraisers, state certified residential real estate

appraisers, state certified general real estate appraisers and designated supervisory appraisers) and property tax agents may fall within this definition. In addition, course providers and appraisal management companies may also fall within this definition.

(b) The administrative and other costs required for compliance with the proposed rulemaking.

No new costs are required for compliance with the proposed rulemaking. The rulemaking simply repeals a redundant set of hearing rules and places the licensees subject to regulation under A.R.S. Title 32, Chapter 36 under the hearing rules governing all administrative hearings conducted by the Financial Institutions Division.

(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.

No impact is anticipated by the repeal of these rules.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.

The proposed rulemaking has no probable impact on private persons and consumers because it only applies to licensees regulated by the Financial Institutions Division.

A.R.S. § 41-1055(B)(6): A statement of the probable effect on state revenues.

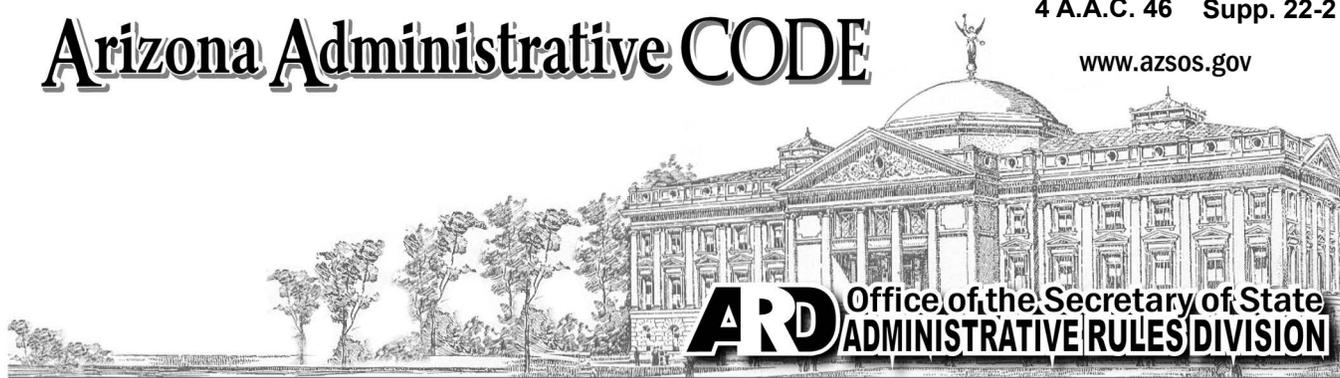
No impact on state revenues is anticipated.

A.R.S. § 41-1055(B)(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 believes that the current rulemaking offers the least intrusive and least costly alternative method to achieve the purpose of the proposed rulemaking.

A.R.S. § 41-1055(B)(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 rule is not based on any data.



TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS DIVISION - REAL ESTATE APPRAISAL

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 April 1, 2022 through June 30, 2022

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Questions about these rules? Contact:

Department: Department of Insurance and Financial Institutions
Address: 100 N. 15th Ave., Suite 261
Phoenix, AZ 85007-2630
Website: <https://difi.az.gov>
Name: Mary E. Kosinski
Telephone: (602) 364-3476
Email: mary.kosinski@difi.az.gov

The release of this Chapter in Supp. 22-2 replaces Supp. 19-2, 1-14 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. 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 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, 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.

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS DIVISION - REAL ESTATE APPRAISAL

Authority: A.R.S. § 32-3605(A) and A.R.S. § 20-124

Supp. 22-2

Under Laws 2019, Ch. 252, the name of the Department of Financial Institutions changed to the Department of Insurance and Financial Institutions. The Title of 4 A.A.C. 46 was amended at the request of the Department (Supp. 22-2).

Pursuant to Laws 2015, Ch. 19, § 5(C), the Title of 4 A.A.C. 46 was amended from the State Board of Appraisal to Real Estate Appraisal Division (Supp. 15-3).

Title 4, Chapter 46, consisting of Article 1, Sections R4-46-101 through R4-46-105; Article 2, Sections R4-46-201 through R4-46-208; Article 3, Sections R4-46-301 through R4-46-306; Article 4, Section R4-46-401; Article 5, Sections R4-46-501 through R4-46-503; and Article 6, Section R4-46-601, adopted effective December 29, 1995 (Supp. 95-4).

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Article 6, consisting of Section R4-46-601 and R4-46-602, adopted effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

Article 6, consisting of Section R4-46-601, repealed effective

CHAPTER 46. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS DIVISION -

October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3).

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Article 7, consisting of Sections R4-46-701 through R4-46-704, repealed by exempt rulemaking at 19 A.A.R. 4023, effective

November 21, 2013 (Supp. 13-4).

Article 7, consisting of Section R4-46-704, made by final rulemaking at 17 A.A.R. 566, effective April 5, 2011 (Supp. 11-2).

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ARTICLE 1. GENERAL PROVISIONS**R4-46-101. Definitions**

The definitions in A.R.S. §§ 32-3601, 32-3651, and 32-3661 apply to this Chapter. Additionally, unless the context otherwise requires, in this Chapter:

“Accredited” means approved by an accrediting agency recognized by the Council for Higher Education Accreditation or the U.S. Secretary of Education.

“Administrative law judge” has the meaning stated at A.R.S. § 41-1092(1).

“AMC” means appraisal management company as defined at A.R.S. § 32-3661.

“Appealable agency action” has the meaning stated at A.R.S. § 41-1092(3).

“Appraisal practice” means valuation services performed by an individual acting as an appraiser, including but not limited to an appraisal or appraisal review.

“Appraiser” means an individual, other than a property tax agent as defined at A.R.S. § 32-3651, registered, licensed, or certified by the Department to complete valuation assignments regarding real estate competently in a manner that is independent, impartial, and objective.

“AQB” means the Appraisal Qualifications Board as defined at A.R.S. § 32-3601.

“Assignment” means the valuation service that an appraiser provides as a consequence of an agreement between the appraiser and a client.

“Classroom education” means appraisal education delivered in a setting where there is no geographical separation between the instructor and student.

“Complaint” means a written allegation against a party.

“Conditional dismissal” means an agreement which allows the Director to dismiss the complaint upon the respondent’s completion of a Department specified continuing education course.

“Contested case” has the meaning stated at A.R.S. § 41-1001(6).

“Conviction” means a judgment by any state or federal court of competent jurisdiction in a criminal case, regardless of whether an appeal is pending or could be taken, and includes any judgment or order based on a plea of no contest.

“Course owner” means a person or a combination of persons that own the proprietary rights to a course. A course owner may have developed the course or may have purchased the proprietary rights to the course.

“Department” has the meaning stated at A.R.S. § 6-101(5).

“Director” has the meaning stated at A.R.S. § 6-101(7).

“Disciplinary action” means any regulatory sanction imposed by the Director, other than remedial action imposed through a letter of remedial action, and may include corrective education, a civil money penalty, restriction on the nature and scope of the respondent’s practice, monitoring, probation, mentorship, suspension, revocation, or an acceptance of surrender of a license or certificate or a combination of the above.

“Distance education” means appraisal education delivered in a setting in which the learner and instructor are geographically separated.

“Federally Regulated Appraisal Management Company” has the meaning stated at A.R.S. § 32-3661(9).

“Investigation” means a fact-finding process and review that is initiated when the Department receives a complaint.

“Investigator” means an individual who is a Department employee or operates under a contract with the Department to carry out investigations of alleged violations.

“Jurisdictional criteria” means the statutory standards of A.R.S. §§ 6-123, 6-124, and A.R.S. Title 32, Chapter 36, used by the Department to determine whether a complaint falls within its jurisdiction.

“Letter of concern” means a non-disciplinary advisory letter to notify a respondent that the finding of the Director does not warrant disciplinary action, but is nonetheless cause for concern and that its continuation may result in disciplinary action.

“Letter of remedial action” means a non-disciplinary letter that requires a respondent to take remedial action when any minor violation of A.R.S. Title 32, Chapter 36 or this Chapter is found.

“Mentor” means a certified appraiser authorized by the Department to supervise the work product of an appraiser who is subject to disciplinary action by the Director.

“Party” means each person or agency named or admitted as a party or properly seeking and entitled to participate in any proceeding.

“Person” means a natural person or any legal or commercial entity including a corporation, business trust, estate, trust, partnership, limited partnership, joint venture, association, limited liability company, limited liability partnership, or limited liability limited partnership.

“Probation” means a term of oversight by the Department, imposed upon a respondent as part of a disciplinary action, which may include submission of logs, working under the supervision of a mentor, or other conditions intended to protect the public and educate the respondent.

“Property Tax Agent” has the meaning stated at A.R.S. § 32-3651(3).

“Remedial action” means any corrective remedy that is designed to assist the respondent in improving the respondent’s professional practice.

“Respondent” means an appraiser, course owner, property tax agent, or appraisal management company against whom a complaint has been filed or any other party responding to an investigation, an action, a motion or a proceeding before the Director.

“Secondary provider” means a person that purchases or otherwise lawfully acquires the right to provide a course independently of the course owner that retains proprietary rights to the course.

“USPAP” means the Uniform Standards of Professional Appraisal Practice, issued and updated by The Appraisal Foundation and made state law under A.R.S. § 32-3610.

“Work file” means the documentation necessary to support the analysis, opinions, and conclusions of an appraisal assignment or tax appeal.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4).

CHAPTER 46. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS DIVISION -

Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 1880, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 11 A.A.R. 2018, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 14 A.A.R. 1434, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-102. Powers of Director

- A.** The Director may appoint advisory committees the Director deems appropriate. The committees shall make advisory recommendations which may be accepted, rejected, or modified at the Director's discretion.
- B.** Under the authority provided by A.R.S. § 32-3605(B), the Director may designate, train, and supervise volunteer licensees to conduct compliance audits of approved courses under R4-46-508.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Amended by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-103. Repealed**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Repealed by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

R4-46-104. Repealed**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Section repealed by final rulemaking at 13 A.A.R. 1388, effective June 2, 2007 (Supp. 07-2).

R4-46-105. Repealed**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). Section repealed by final rulemaking at 13 A.A.R. 1388, effective June 2, 2007 (Supp. 07-2).

R4-46-106. Fees

- A.** Under the specific authority provided by A.R.S. §§ 32-3607, 32-3619, and 32-3667, the Director establishes and shall collect the following fees:
1. Application for original license or certificate: \$400.
 2. Application for registration as a trainee appraiser: \$300.
 3. Examination: The amount established by the AQB-approved examination provider.
 4. Biennial renewal of a license or certificate: \$425.
 5. Renewal of registration as a trainee appraiser: \$300.

6. Delinquent renewal (in addition to the renewal fee): \$25.
 7. National Registry: The amount established by the Appraisal Subcommittee.
 8. Application for license or certificate by reciprocity: \$400.
 9. Application for non-resident temporary license or certificate: \$150.
 10. Course approval:
 - a. Core-curriculum qualifying education
 - i. Initial course approval: \$200.
 - ii. Renewal of course approval: \$200.
 - b. Continuing education
 - i. Initial course approval: \$200.
 - ii. Renewal of course approval: \$200.
 11. Application for initial registration as an appraisal management company: \$2,500.
 12. Biennial renewal of registration as an appraisal management company: \$2,500.
- B.** The fees established in subsection (A) and those specified in A.R.S. § 32-3652 are not refundable unless the provisions of A.R.S. § 41-1077 apply.
- C.** A person shall pay fees by cash or credit or debit card, or by certified or cashier's check, or money order payable to the Department of Insurance and Financial Institutions.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 14 A.A.R. 225, effective March 8, 2008 (Supp. 08-1). Amended by final rulemaking at 17 A.A.R. 2605, effective December 6, 2011 (Supp. 11-4). Amended by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4). Amended by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-107. Procedures for Processing Applications

- A.** To comply with A.R.S. Title 41, Chapter 6, Article 7.1, the following time-frames are established for processing applications for registration, licensure, certification, and designation, including renewal applications, and applications for course approval:
1. The Department shall notify the applicant within 60 days after receipt of the application that it is either administratively complete or incomplete. If the application is incomplete, the Department shall specify in the notice what information is missing.
 2. A final decision shall be rendered not later than 60 days after the applicant successfully completes all requirements in statute or this Chapter.
 3. The overall time-frame for action is 120 days, 60 days for administrative completeness review and 60 days for substantive review.
- B.** An applicant whose application is incomplete shall supply the missing information within 60 days after the date of the notice unless the time-frame is extended by mutual agreement. The administrative completeness review time-frame stops running on the date of the Department's written notice of an incomplete application and resumes when the Department receives a complete application. If the applicant fails to submit a complete application within the specified time limit, the Department may reject the application and close the file. An applicant may reapply.

- C. If the Director denies registration, licensure, certification, designation, or course approval to an applicant, the Department 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 hearing to appeal the denial, and
 3. The time for appealing the denial.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

ARTICLE 2. REGISTRATION, LICENSURE, AND CERTIFICATION AS AN APPRAISER

R4-46-201. Appraiser Qualification Criteria

- A. Classifications. As specified in A.R.S. § 32-3612, Arizona recognizes five classifications of appraisers. These classifications are:
1. Registered trainee appraiser,
 2. State licensed real estate appraiser,
 3. State certified residential real estate appraiser,
 4. State certified general real estate appraiser, and
 5. Designated supervisory appraiser.
- B. Qualification criteria. Except as provided elsewhere in this Article, an applicant for an original or renewal of a registration, licensure, certification, or designation shall meet the classification-specific qualification criteria established and updated January 1, 2022, by the AQB, which is incorporated by reference. A copy of the incorporated materials is on file with the Department and may be obtained from the Department or the Appraisal Foundation. This rule does not incorporate any later date or edition of this material.
- C. Regardless of whether a transaction is federally related:
1. A state licensed residential appraiser is limited to the scope of practice in A.R.S. § 32-3612(3), and
 2. A state certified residential appraiser is limited to the scope of practice in A.R.S. § 32-3612(2).
- D. If an applicant for registration, licensure, or certification meets the qualification criteria prescribed in A.R.S. Title 32, Chapter 36 and this Article, including evidence that the applicant has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B) and has submitted the application and the biennial National Registry fees specified in Section R4-46-106, the registration, license, or certificate that entitles the applicant to practice within the appropriate scope specified in A.R.S. § 32-3612 for the term specified in A.R.S. § 32-3616 shall be issued.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 1880, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007; subsections (D)(2)(f) and (D)(4) effective January 1, 2008 (Supp. 07-2). Amended by final rulemaking at 14 A.A.R. 1434, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28

A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-201.01. Application for Designation as a Supervisory Appraiser; Supervision of a Registered Trainee Appraiser

- A. An individual who wishes to act as a supervisory appraiser for a registered trainee appraiser shall:
1. Apply for and obtain designation as a supervisory appraiser before providing supervision to a registered trainee appraiser,
 2. Have been state certified for at least three years, and
 3. Apply for designation under A.R.S. § 32-3614.02.
- B. To apply for designation as a supervisory appraiser, a certified appraiser shall submit to the Department:
1. An application for designation;
 2. A statement whether the applicant for designation has been disciplined in any jurisdiction in the last three years in a manner that affects the applicant's eligibility to engage in appraisal practice and if so, the name of the jurisdiction, date of the discipline, circumstances leading to the discipline, and date when the discipline was completed;
 3. Evidence that the applicant for designation completed a training course that complies with the course content established by the AQB and that is specifically oriented to the requirements and responsibilities of supervisory and trainee appraisers;
 4. A signed affirmation that the applicant for designation will comply with the USPAP Competency Rule for the property type and geographic location in which the supervision will be provided; and
 5. Any other information and documentation that is necessary to meet the qualification criteria established and updated by the AQB.
- C. Supervision requirements:
1. A registered trainee appraiser may have more than one designated supervisory appraiser.
 2. A designated supervisory appraiser shall not supervise more than three registered trainee appraisers at any one time.
 3. A registered trainee appraiser shall maintain a separate appraisal log for each designated supervisory appraiser and, at a minimum, include the following in each log for each appraisal:
 - a. Type of property,
 - b. Date of report,
 - c. Address of appraised property,
 - d. Description of work performed by the registered trainee appraiser,
 - e. Scope of review and supervision provided by the designated supervisory appraiser,
 - f. Number of actual work hours worked by the registered trainee appraiser on the assignment, and
 - g. Signature and state certificate number of the designated supervisory appraiser.
 4. A designated supervisory appraiser shall provide to the Department in writing the name and address of each registered trainee appraiser within 10 days of engagement and notify the Department in writing within 10 days when the engagement ends.
 5. If a registered trainee appraiser or designated supervisory appraiser fails to comply with the applicable requirements of this Section:
 - a. The registered trainee appraiser or the designated supervisory appraiser may be subject to disciplinary action under A.R.S. § 32-3631(A)(8), and

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- b. The registered trainee appraiser shall not receive experience credit for hours logged during the period that the registered trainee appraiser or designated supervisory appraiser failed to comply with the applicable requirements of this Section.

Historical Note

Section R4-46-201.01 made by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-202. Repealed**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 768, effective February 3, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 1880, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4). Repealed by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

R4-46-202.01. Application for Licensure or Certification by Reciprocity

- A. To be eligible to obtain a license or certificate by reciprocity in the same classification, as specified in R4-46-201(A), in which an individual is currently licensed or certified, the individual shall submit:
1. Evidence that the applicant is licensed or certified in a state that meets the standards established at A.R.S. § 32-3618;
 2. A completed application form;
 3. Disclosure of the state or states in which the individual is currently licensed or certified;
 4. Evidence that the individual has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B); and
 5. The application and biennial National Registry fees specified under R4-46-106.
- B. The Department shall verify the following information:
1. License or certification number;
 2. Classification, as specified in R4-46-201(A), in which the individual is currently licensed or certified; and
 3. Whether the license or certificate is in good standing.

Historical Note

Section R4-46-202.01 made by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-203. Application for Non-resident Temporary Licensure or Certification

- A. To be eligible to obtain a non-resident temporary license or certificate, an individual shall:
1. Be licensed or certified as an appraiser in a state other than Arizona;
 2. Not be licensed or certified as an appraiser in Arizona; and

3. Have a dated and signed letter from a client that names the individual and indicates the client has engaged the individual to conduct an appraisal in Arizona, identifies the property or properties to be appraised, and specifies a date certain for completion of the assignment that is no more than one year from the date on which the Director issues a non-resident temporary license or certificate.

- B. To apply for a non-resident temporary license or certificate, an individual who meets the pre-requisites in subsection (A) shall submit:
1. A completed application form;
 2. An irrevocable consent to service of process;
 3. Evidence that the applicant has applied for a valid fingerprint clearance card pursuant to A.R.S. § 32-3620(B); and
 4. The application fee specified under Section R4-46-106.
- C. The Director shall grant an extension of no more than 120 days to an individual to whom a non-resident temporary license or certificate has been issued if the individual provides written notice before the date specified in subsection (A)(3) that more time is needed to complete the assignment described in subsection (A)(3).
- D. An appraiser to whom a non-resident temporary license or certificate has previously been issued may, if qualified under subsection (A), apply for another non-resident temporary license or certificate by complying with subsection (B), except the applicant is not required to comply again with subsection (B)(3) unless the card has expired, or is suspended or cancelled.
- E. The Director shall issue no more than 10 non-resident temporary licenses or certificates to an individual in any 12-month period.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Section R4-46-203 renumbered to R4-46-204; new Section R4-46-203 adopted effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 1880, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-204. Licensure and Certification Examinations

An applicant for licensure or certification may schedule an examination after the Department provides written notice to the applicant, to the extent written notice is required by the AQB. In such case, an applicant shall have 90 days from the written notice to successfully complete the AQB-approved examination for the classification for which application is made unless the time-frame is extended by mutual agreement.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Former Section R4-46-204 renumbered to R4-46-205; new Section R4-46-204 renumbered from R4-46-203 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 1880, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4).

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Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-205. Repealed**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-205 renumbered to R4-46-206; new Section R4-46-205 renumbered from R4-46-204 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4). Repealed by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

R4-46-206. Repealed**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-206 renumbered to R4-46-207; new Section R4-46-206 renumbered from R4-46-205 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 1880, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2). Repealed by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4).

R4-46-207. Repealed**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-207 renumbered to R4-46-209; new Section R4-46-207 renumbered from R4-46-206 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 1880, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4). Repealed by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

R4-46-208. Repealed**Historical Note**

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-208 renumbered to R4-46-210; new Section R4-46-208 adopted effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 1880, effective May 3, 2005 (Supp. 05-2). Section repealed by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2).

R4-46-209. Registration, License, or Certificate; Name Change; Conviction and Judgment Disclosure

- A. If the name of an appraiser is legally changed, the appraiser shall submit written notice of the change to the Department and provide documentation showing the circumstances under which the name change occurred. A new registration, license, or certificate with the correct name shall be issued.

- B. Within 30 days after the filing date of a criminal conviction in any jurisdiction, an appraiser or property tax agent who has been convicted shall report the conviction to the Department. The report shall include a copy of the initial indictment, information or complaint filed, the final judgment entered by the court, and all other relevant legal documents.
- C. Within 30 days after the final disposition of a matter, an appraiser or property tax agent shall report to the Department any civil judgment based on fraud, misrepresentation, or deceit in the making of any appraisal entered against the appraiser or property tax agent.

Historical Note

R4-46-209 renumbered from R4-46-207 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-210. Repealed**Historical Note**

R4-46-210 renumbered from R4-46-208 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Section repealed by final rulemaking at 13 A.A.R. 1381, effective June 2, 2007 (Supp. 07-2).

ARTICLE 3. COMPLAINT INVESTIGATIONS**R4-46-301. Complaints and Investigations; Complaint Resolution**

- A. Complaints and Investigations
1. The Department shall investigate a complaint, if the complaint meets the minimum jurisdictional criteria.
 2. The Department may notify the respondent of a complaint.
 3. The Department may require that the respondent file a written response to the complaint and provide any one or more of the following:
 - a. Appraisal report,
 - b. Appraisal review,
 - c. Consulting assignment,
 - d. Property tax appeal at issue,
 - e. Work file, and
 - f. Any other relevant records.
 4. The Department may assign or contract with an investigator.
 5. Under A.R.S. §§ 6-123(3), 6-124, 12-2212, and 32-3631(C), the Director may compel testimony or document production, regardless of whether an investigation is in process.
- B. Complaint Resolution
1. Without limiting any other remedy allowed by statute, if the Director finds a violation of A.R.S. Title 32, Chapter 36, or this Chapter, the Director may:
 - a. Dismiss the matter based upon mitigating factors;
 - b. Issue a letter of concern;
 - c. Issue an order, which may include disciplinary action and/or remedial action; or
 - d. Resolve the matter by settlement.
 2. Any time after a complaint has been filed against a respondent, the matter may be resolved by a settlement in

which the respondent agrees to accept disciplinary action and/or remedial action by consent. If the Director determines that the proposed settlement will adequately protect the public, the Director may issue a letter of remedial action, or enter into another form of stipulation, agreed settlement, or consent with the respondent. The Director may also allow for a conditional dismissal.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 2018, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1388, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-302. Repealed

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-302 repealed; new Section R4-46-302 renumbered from R4-46-303 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 2018, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1388, effective June 2, 2007 (Supp. 07-2). Repealed by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

R4-46-303. Repealed

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-303 renumbered to R4-46-302; new Section R4-46-303 renumbered from R4-46-304 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 2018, effective July 2, 2005 (Supp. 05-2). Repealed by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

R4-46-304. Repealed

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-304 renumbered to R4-46-303; new Section R4-46-304 renumbered from R4-46-305 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 13 A.A.R. 1388, effective June 2, 2007 (Supp. 07-2). Repealed by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

R4-46-305. Repealed

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-305 repealed; new Section R4-46-305 renumbered from R4-46-306 and amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 13 A.A.R. 1388, effective June 2, 2007 (Supp. 07-2). Repealed by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

R4-46-306. Repealed

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-306 renumbered to R4-46-305 effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 11 A.A.R. 2018, effective July 2, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 1388, effective June 2, 2007 (Supp. 07-2). Repealed by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

ARTICLE 3.1. RULES OF PRACTICE AND PROCEDURE BEFORE THE DIRECTOR

R4-46-301.01. Scope of Article

This Article governs procedures in all contested cases and appealable agency actions, including administrative appeals, filed with the Department. The Department shall use the authority of A.R.S. §§ 41-1092 through 41-1092.12, and the Office of Administrative Hearings' procedural rules to govern the initiation and conduct of proceedings. In a case or action, special procedural requirements in state statute or another Section in this Chapter shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. §§ 41-1092 through 41-1092.12 or the Office of Administrative Hearings' rules. This Article does not apply to rulemaking or to investigative proceedings before the Director.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-302.01. Commencement of Proceedings; Notice of Hearing

A person may obtain a hearing under A.R.S. § 41-1092.03 (B) on any appealable agency action or contested case, including the following, unless otherwise provided by law:

1. A letter or order granting or denying a license;
2. A cease and desist order;
3. An order to remedy unsafe or unsound conditions;
4. An order assessing a fine;
5. Any other order or matter reviewable in a hearing either under the authority of these rules, a statute, or an administrative rule enforced by the Director, or by the order's express terms.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-303.01. Answer to Notice of Hearing

- A. The Director may, in a notice of hearing, direct one or more parties to file an answer to the assertions in the notice of hearing. Any party to the proceeding may file an answer without being directed to do so.
- B. A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The Director may require any party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.
- C. An answer filed under this Section shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the assertions in the notice of hearing.

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ing. An answering party that does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an assertion shall state that inability in its answer. That statement shall have the effect of a denial. A party admits each assertion that it does not deny. An answering party that intends to deny only a part or a qualification of an assertion, or to qualify an assertion, shall expressly admit as much of that assertion as is true and shall deny the remainder.

- D.** A party that fails to file an answer required by this Section within the time allowed is in default. The Director may resolve the proceeding against a defaulting party. In doing so, the Director may regard any assertions in the notice of hearing as admitted by the defaulting party.
- E.** An answering party waives all defenses not raised in its answer.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-304.01. Filing; Service

- A.** A person shall either personally deliver all papers permitted or required to be filed with the Director or shall mail them by first class, certified, or express mail, or send them electronically to the Department, or shall serve them by any method permitted under A.A.C. R2-19-108. The Department considers papers filed when actually received at the Director's address stated in this subsection.
- B.** A party in a contested case or appeal from an agency action shall make any required or permitted service in the manner permitted under A.A.C. R2-19-108. A party shall make service upon each represented party's attorney unless the administrative law judge orders separate service on the actual party. A party shall make service upon each unrepresented party by service on the actual party.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-305.01. Stays

A person aggrieved by the Department's action or order who files a timely written request for a hearing may ask, in the request for a hearing, that the Director stay an action or any part of an order that will become effective before the Department can hold a hearing. The Director may, in the Director's discretion, stay the legal effectiveness of any action or order until the matter can be heard and finally decided if the aggrieved person's request demonstrates that:

1. The person has a reasonable defense that might prevail on the merits at the hearing,
2. The person will suffer irreparable injury unless the Director grants the stay,
3. The stay would not substantially or irreparably harm other interested persons, and
4. The stay would not jeopardize the public interest or contravene public policy.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-306.01. Rehearing

- A.** Except as provided in subsection (H), any party in a contested case who is aggrieved by a decision rendered in that case may file with the Director, within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for rehearing or review of the decision specifying the particular reason for rehearing.
- B.** A party requesting rehearing under this Section may amend a motion for rehearing at any time before the Director rules on the motion. Any other party, or the Attorney General, may file a response to the motion for rehearing within 15 days after service of the motion for rehearing, or the amended motion for rehearing. The Director may require a written brief of the issues raised in the motion and may allow oral argument.
- C.** The Director may grant a motion for rehearing for any of the following causes:
1. Irregularity in the proceedings before the Director, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Department, the administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary care;
 4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing;
 7. The decision is not justified by the evidence or is contrary to law.
- D.** The Director may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (C). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.
- E.** The Director, within the time for filing a motion for rehearing, may without a motion order a rehearing or review of a decision for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.
- F.** After giving the parties notice and an opportunity to be heard on the matter, the Director may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.
- G.** When a motion for rehearing is based on an affidavit, the moving party shall serve the affidavit with the motion. An opposing party or the Attorney General may serve opposing affidavits within 10 days after service of the motion for rehearing.
- H.** The Director may issue a final decision, subject only to judicial review and without an opportunity for rehearing or administrative review, if the Director includes in the decision:
1. An express finding that the decision needs to be made immediately effective to preserve the public peace, health, and safety; and
 2. An express finding that a rehearing or review is:
 - a. Impossible,
 - b. Unnecessary, or
 - c. Contrary to the public interest.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

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R4-46-307.01. Settlement

- A. The Department will enter into a settlement, either in litigation or in an administrative proceeding, only if the defendant or respondent admits to the allegations in the complaint, notice, or order relating to the jurisdiction of the Director or the jurisdiction of the tribunal that will enter the judgment or order.
- B. The Director has sole discretion to decide whether to resolve a matter by settlement. Nothing in Article 3 or Article 3.1 gives the Director a duty to approve a settlement in any matter.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

ARTICLE 4. APPRAISAL MANAGEMENT COMPANIES**R4-46-401. Application for Initial Registration**

- A. Unless exempt under A.R.S. § 32-3663 or 12 USC § 3353(c), a person shall not engage in business as an AMC and shall not provide any appraisal management services unless registered with the Department.
- B. To register under subsection (A), a person shall submit:
1. A registration application, which is available from the Department and on its website, and provide the information and certifications required under A.R.S. § 32-3662(B);
 2. The name and contact information of the controlling person who will be the main contact for all communication between the Department and the AMC;
 3. For the controlling person, each officer, and each individual who owns 10% or more of the AMC:
 - a. A copy of a fingerprint clearance card application under A.R.S. § 41-1758.03, and
 - b. The certification required under A.R.S. §§ 32-3668(B)(3) or 32-3669(B)(1), as applicable;
 4. Proof of the surety bond required under A.R.S. § 32-3667 and R4-46-402; and
 5. The application fee specified under R4-46-106.
- C. If an AMC operates in Arizona under more than one name, other than a DBA, the controlling person of the AMC shall ensure that a complete application, as described in subsection (B), is submitted in each name under which the AMC will operate. However, if an individual previously submitted a copy of a valid fingerprint clearance card application under subsection (B), the individual is not required to resubmit the fingerprint clearance card unless the card has expired, or is suspended, or cancelled.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). R4-46-401 amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 2734, effective July 21, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 1577, effective April 4, 2000 (Supp. 00-2). Amended by final rulemaking at 7 A.A.R. 1373, effective March 7, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 1951, effective April 3, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 1603, effective May 6, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2677, effective June 8, 2004 (Supp. 04-2). Amended by final rulemaking at 11 A.A.R. 475, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 2186, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 31, effective December 4,

2007 (Supp. 07-4). Amended by final rulemaking at 16 A.A.R. 1992, effective September 14, 2010 (Supp. 10-3). Section amended by emergency rulemaking at 18 A.A.R. 1306, effective May 18, 2012 for 180 days (Supp. 12-2). Emergency expired (Supp. 13-4). Section repealed; new Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-402. Bond Required

- A. The surety bond required under A.R.S. § 32-3667 shall be in the amount of \$20,000 and shall be issued by a surety company authorized to do business in Arizona.
- B. The controlling person of a registered AMC shall ensure that the surety bond required under A.R.S. § 32-3667 requires the issuing surety company to provide written notice to the Department by registered or certified mail at least 30 days before the surety company cancels the bond and within 30 days after the surety company pays a loss under the bond.
- C. The surety bond required under A.R.S. § 32-3667 is to be used exclusively to ensure that a registered AMC pass:
1. All amounts owed to persons that perform real estate appraisal services for the AMC, and
 2. All amounts adjudged against the AMC as a result of either negligent or improper real property appraisal services or appraisal management services or of a breach of contract in performing real property appraisal services or appraisal management services.
- D. The controlling person of a registered AMC shall ensure that the required surety bond is:
1. Maintained in the amount of \$20,000;
 2. Funded to \$20,000 within seven days after being drawn down; and
 3. Maintained for at least one year after the AMC's registration expires, is revoked or surrendered, or otherwise ends.
- E. If the Department receives notice from the surety company of intent to cancel the required bond, the Department shall notify the controlling person of the AMC and require that the controlling person submit proof of a replacement bond before the existing bond is cancelled. Under A.R.S. § 32-3678, failure to maintain the required bond is grounds for disciplinary action.
- F. If a registered AMC operates in Arizona under more than one name, other than a DBA, the controlling person shall ensure that a separate surety bond in the amount of \$20,000 is maintained in each name.
- G. If the name of a registered AMC is changed, the controlling person of the registered AMC shall ensure that a surety bond in the amount of \$20,000 is:
1. Maintained in the former name for one year after the name is changed, and
 2. Obtained in the registered AMC's new name.
- H. A person damaged by a registered AMC's failure to pay an obligation listed in subsection (C) has a right of action against the surety bond. The damaged person shall begin the action in a court of competent jurisdiction within one year after the AMC failed to pay the amount owed or the amount adjudged against the AMC.
- I. If the surety bond required under A.R.S. § 32-3667 is cancelled, liability of the issuing surety company is not limited or cancelled regarding any claim against the surety bond for actions by the AMC while the surety bond was in force.

Historical Note

New Section made by final rulemaking at 21 A.A.R.

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1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-403. Change in Controlling Person or Agent for Service of Process; Notice of Adverse Action

- A. If any of the information submitted under R4-46-401(B)(2) changes, the controlling person of the registered AMC shall provide to the Department written notice of the change within 10 business days.
- B. If an individual becomes the controlling person of a registered AMC and the information required under R4-46-401(B)(3) was not previously submitted for the individual, the new controlling person shall ensure that the required information is submitted to the Department within 10 business days after the change in controlling person.
- C. If a registered AMC is required under A.R.S. § 32-3662(B)(4) to provide the name and contact information for an agent for service of process in this state, the controlling person of the AMC shall provide the Department written notice of any change in the information within 10 business days.
- D. If the regulated entity, the responsible person, any controlling person, or any person who owns 10% or more of the firm has ever been, or is currently, the subject of any complaint, investigation, or disciplinary action against a license, certificate, registration, or membership by any state regulatory agency, or any professional or occupational credentialing authority that resulted in an adverse judgment against them, including any denial, or voluntary surrender, withdrawal, or resignation of a credential in lieu of disciplinary action, the controlling person of the AMC shall provide the Department with written notice of such action within 10 business days after such action has been finalized.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-404. Application for Renewal Registration

- A. Under A.R.S. § 32-3665, an initial registration for an AMC expires one year after the date of issuance. A renewal registration for an AMC expires two years after the date of issuance.
- B. To renew registration for an AMC, the controlling person of the registered AMC shall, within 60 days before expiration, submit:
 1. A renewal registration application,
 2. The certifications required under A.R.S. § 32-3662(B),
 3. Proof of the surety bond required under A.R.S. § 32-3667 and R4-46-402,
 4. The renewal fee under R4-46-106,
 5. Evidence that each person who has at least a 10% ownership interest in the AMC and the controlling person have applied for a valid fingerprint clearance card unless a valid fingerprint clearance card is currently on file with the Department, and
 6. Disclose any changes to the percentage of ownership.
- C. If the controlling person of a registered AMC fails to comply with subsection (B) and the registration expires, the controlling person shall ensure that the AMC immediately ceases providing all appraisal management services. The Department may accept a renewal application after the expiration date if

within 90 days of the date of expiration but shall assess a delinquent renewal fee in addition to the renewal fee.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-405. Certifications; National Registry Reporting

- A. Under A.R.S. § 32-3672, the controlling person of a registered AMC is required to make certain certifications to the Department at the time the AMC's registration is renewed.
- B. To make the certifications required under A.R.S. § 32-3672, the controlling person of a registered AMC shall use a form that is available from the Department and on its website.
- C. The controlling person of a registered AMC shall make available to the Department, upon request, evidence that the certifications are true and that the systems, processes, and records certified are effective in protecting the public.
- D. In accordance with the provisions contained in 12 U.S.C. § 3338, each authorized representative or controlling person of an AMC that is either registered with the state or federally regulated and operating in Arizona shall annually submit an AMC National Registry Report to the Department at least 15 days prior to March 1st of each year for the period from January 1 to December 31 of the previous year. The AMC National Registry Report shall include:
 1. Identifying information for the AMC;
 2. The number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction in the state during the previous year, or from the commencement of business for AMCs not in existence for the entire previous year; and
 3. A signed affirmation by written declaration.
- E. The AMC shall pay, at the time it submits the National Registry Report to the Department, the fee required under 12 U.S.C. § 3338(a)(4).
- F. A registered AMC or federally regulated AMC operating in Arizona who fails to timely submit a National Registry Report to the Department and to remit the AMC National Registry fee shall not appear on the AMC National Registry.
- G. Under A.R.S. § 32-3678, failure to comply with this Section is grounds for disciplinary action.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-406. Appeal for Waiver

- A. Under A.R.S. §§ 32-3668 and 32-3669, an AMC for which registration is sought under R4-46-401 may not have an owner, controlling person, officer, or other individual with a 10% or greater financial interest in the AMC who has ever had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered in any state.
- B. The requirement in subsection (A) may be waived, at the discretion of the Director, when an appeal is made by the individual who has had a financial, real estate, or mortgage lending

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industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered.

- C. To make an appeal for waiver under subsection (B), the individual who has had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered shall submit an appeal for waiver form, which is available from the Department and on its website.
- D. In deciding whether to waive the requirement under subsection (A), the Director shall consider the following factors:
1. Whether the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate was based on a finding of fraud, dishonesty, misrepresentation, or deceit on the part of the appellant;
 2. The amount of time that has elapsed since the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate;
 3. Whether the act leading to the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate was an isolated occurrence or part of a pattern of conduct;
 4. Whether the act leading to the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate appears to have been done for a self-serving purpose;
 5. The harm caused to victims, if any;
 6. Efforts at rehabilitation, if any, undertaken by the appellant and evidence regarding whether the rehabilitation efforts were successful;
 7. Restitution made by the appellant to victims, if any; and
 8. Other factors in mitigation or aggravation that the Director determines are relevant.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-407. Training Required

- A. The controlling person of a registered AMC shall ensure that all employees and other individuals who work on behalf of the AMC and are responsible for selecting independent appraisers to perform real property appraisal services receive sufficient training to be qualified to comply with federal and state law regarding appraisal management services.
- B. The controlling person of a registered AMC shall ensure that the training required under subsection (A) includes at least the following:
1. Overview of USPAP,
 2. Federal and state law applicable to real property appraisal services,
 3. Appraiser classifications and the scope of work for each classification,
 4. Factors that influence the complexity of an appraisal assignment, and
 5. Maintaining the independence of an appraiser.
- C. The controlling person of a registered AMC shall maintain a record of all training provided to an individual described under subsection (A) for one year beyond the termination of that individual's employment by or work on behalf of the AMC.
- D. The controlling person of a registered AMC shall make available to the Department, upon request, a copy of all materials

used to provide the training required under this Section and the records maintained under subsection (C).

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2).

R4-46-408. Voluntarily Relinquishing Registration

- A. The controlling person of a registered AMC may voluntarily relinquish the AMC's registration if:
1. No complaint is currently pending against the AMC,
 2. All amounts owed under subsection R4-46-402(C) have been paid, and
 3. The AMC is in good standing with the Department.
- B. To voluntarily relinquish an AMC's registration, the controlling person of the AMC shall enter into an agreement with the Director that provides the AMC shall:
1. Cease engaging in business as an AMC and cease providing appraisal management services immediately, and
 2. Maintain the surety bond required under A.R.S. § 32-3667 for one year after the agreement is entered.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

ARTICLE 5. COURSE APPROVAL**R4-46-501. Course Approval Required; Definitions**

- A. Under A.R.S. §§ 32-3601(10) and 32-3625, a course must be approved by the Director, including a course presented by distance education, before the course is offered in Arizona. A course shall be approved as either qualifying or continuing education.
- B. Prior to the approval of a course as either qualifying or continuing education, the Department shall determine whether the course satisfies the qualification criteria under subsection R4-46-201(B).
- C. A course owner shall ensure that the course is not offered as either qualifying or continuing education until the course owner receives notice that the course has been approved unless the course owner includes notice in the offering materials that course approval is pending and no credit may be claimed for participating in the course until approval is received.
- D. The Department shall include in the notice of course approval referenced in subsection (C):
1. An index number for the approved course,
 2. The maximum number of hours of instruction (including examination time if applicable) that may be claimed for participating in the approved course, and
 3. Whether the course is approved as qualifying or continuing education.
- E. A course owner shall ensure that the course is not advertised or represented as approved until after receipt of the notice referenced in subsection (D). After receiving notice of course approval, the course owner may represent in any materials that the course is approved.
- F. As used in this Article:
 "Continuing education" means the basic education requirement for renewal of a license or certification within the meaning of A.R.S. § 32-3625.

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“Qualifying education” means the basic education requirement to apply as a state-licensed appraiser under A.R.S. § 32-3613(B) or state-certified real estate appraiser under A.R.S. § 32-3614(C).

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 13 A.A.R. 1503, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-502. Approval of Distance-education Delivery Mechanism

If a course is to be delivered by distance education, the course owner shall obtain approval of the course-delivery mechanism from one of the following sources if required:

1. An organization approved by the AQB that provides approval of course design and delivery;
2. An accredited institution of higher education that approves the content of the course and offers and awards academic credit for the distance-education course; or
3. An accredited institution of higher education that approves the content of the course and a distance-education approval organization that approves the course design and delivery, which includes interactivity.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 1893, effective January 31, 2004 (Supp. 04-2). New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-503. Course Owners

- A. Approval of a course granted to the course owner extends to a secondary provider. However, for a course delivered by distance education:
 1. A course owner’s approval of the course-delivery mechanism, as required under R4-46-502, does not extend to a secondary provider; and
 2. Both the course owner and secondary provider shall apply for and obtain approval of the course-delivery mechanism from a source listed in R4-46-502.
- B. If a course owner allows an approved course to be offered by a secondary provider, the course owner shall ensure that the secondary provider:
 1. Uses the course owner’s materials, including the same textbook and examination, if any;
 2. Allows only the number of hours specified by the Department under subsection R4-46-501(D);
 3. Uses an instructor who is qualified under the standards specified in subsection R4-46-506(7); and
 4. Adheres to the course owner’s policies regarding student attendance, course scheduling, and prerequisites, if any.
- C. Before allowing an approved course to be offered by a secondary provider using distance education, the course owner shall comply with subsection (B) and:

1. Ensure that the secondary provider has obtained approval of the course-delivery mechanism from a source listed in R4-46-502, and
 2. Provide evidence that the secondary provider has obtained approval of the course-delivery mechanism for the approved course.
- D. A course owner shall be held responsible if a secondary provider, authorized by the course owner under subsection (B) or (C), violates any provision of this Article.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Amended effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 13 A.A.R. 1503, effective June 2, 2007 (Supp. 07-2). Section repealed; new Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-504. Application for Course Approval

Only a course owner may apply for course approval. To apply for course approval, a course owner shall submit to the Department:

1. An application for course approval, which is available from the Department and on its website;
2. Materials and other documents that demonstrate the course meets the minimum standards specified in R4-46-506;
3. If the course will be offered using distance education, evidence of approval of the course-delivery mechanism from a source listed in R4-46-502; and
4. The application fee specified under R4-46-106.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-505. Course Approval without Application

The Director approves without application the following:

1. A course approved through the AQB’s voluntary Course Approval Program;
2. The 15-Hour National USPAP Course or its equivalent, approved by the AQB, if the course is taught by at least one instructor who is certified by the AQB as an USPAP instructor; and
3. The 7-Hour National USPAP Update Course or its equivalent, approved by the AQB, if the course is taught by at least one instructor who is certified by the AQB as an USPAP instructor.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-506. Minimum Standards for Course Approval

The Director shall approve a course only if the course owner submits the following materials and documents with the application for approval required under R4-46-504 and demonstrates the course,

CHAPTER 46. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS DIVISION -

including a course presented by distance education, meets the following minimum standards:

1. Course description. Clearly describe the subject matter content of the course.
2. Summary outline. Identify major topics and the number of classroom hours devoted to each.
3. Prerequisites. Specify necessary prerequisites for any course other than a course on:
 - a. Introductory real estate appraisal principles and practices, and
 - b. Appraisal standards and ethics.
4. Learning objectives. Specific learning objectives shall:
 - a. State clearly the specific knowledge and skills students are expected to acquire by completing the course;
 - b. Be consistent with the course description required under subsection (1);
 - c. Be consistent with the instructional materials described in subsection (5);
 - d. Be achievable in the number of hours allotted for the course;
 - e. If for qualifying education, specify the required core curriculum, module subtopic, and number of course hours; and
 - f. If for continuing education, specify the appraisal topic and number of course hours.
5. Instructional materials. Instructional materials used by students shall:
 - a. Cover the subject matter in sufficient depth to achieve the learning objectives specified in subsection (4);
 - b. Reflect current knowledge and practice in the field of appraisal;
 - c. Contain no significant errors;
 - d. Use correct grammar and spelling;
 - e. Be written in a clear, concise, and understandable manner;
 - f. Be in a format that facilitates learning; and
 - g. Be bound or packaged and produced in a quality manner.
6. Examinations for qualifying education courses. Qualifying education courses shall include a series of examinations or a comprehensive final examination, or both. A course examination shall:
 - a. Contain enough questions to assess adequately whether a student acquired knowledge of the subject matter covered by the course;
 - b. Contain questions directed towards assessing whether students achieved the learning objectives specified in subsection (4);
 - c. Be allotted sufficient time for students to complete;
 - d. Contain questions on information adequately addressed in the instructional material required under subsection (5);
 - e. Contain questions that are written in a clear, accurate, and unambiguous manner;
 - f. Contain questions for which the intended answer is clearly the best answer choice;
 - g. Be proctored and closed-book; and
 - h. Have a criterion for passing that is announced before the examination is given.
7. Instructor qualifications policy. The course owner has a written policy that requires use of instructors who meet at least one of the following:
 - a. Has a baccalaureate degree in any field and at least three years of experience directly related to the subject matter to be taught,
 - b. Has a master's degree in any field and one year of experience directly related to the subject matter to be taught,
 - c. Has a master's or higher degree in a field directly related to the subject matter to be taught,
 - d. Has at least five years of real estate appraisal teaching experience directly related to the subject matter to be taught, or
 - e. Has at least seven years of real estate appraisal experience directly related to the subject matter to be taught.
8. Required policies. The course owner shall have the following written policies:
 - a. Attendance policy that ensures student attendance is verified.
 - i. Stipulate that to receive credit, a student must be present for the entire course;
 - ii. Include the instructor's name on the attendance record; and
 - iii. Maintain attendance records for five years;
 - b. Scheduling policy.
 - i. Provide that a student may participate in a maximum of eight hours of instruction in a day, and
 - ii. Provide that appropriate breaks are included during each class session, and
 - c. Completion certificate policy.
 - i. Require that a signed and dated completion certificate be issued promptly to all students who complete a course, and
 - ii. Require that a completion certificate contain all information required on the form of certification provided by the Department.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-507. Secondary Providers

The Director shall hold a course owner responsible for the activities of a secondary provider who conducts the course owner's approved course in Arizona. To protect the integrity of the approval, a course owner shall have a written agreement with a secondary provider that requires the secondary provider to:

1. Use the materials required under subsection R4-46-506(5) and the examination required under subsection R4-46-506(6) without change;
2. Conduct the course in accordance with the policies required under R4-46-506(7) and (8);
3. Clearly state in advertising materials that the course has been lawfully acquired from the course owner and that approval was provided to the course owner and not to the secondary provider;
4. Cease using the materials and examination when the course approval expires under R4-46-510; and
5. If the course is to be delivered by distance learning, obtain approval of the course-delivery mechanism from a source listed in R4-46-502.

Historical Note

New Section made by final rulemaking at 21 A.A.R.

CHAPTER 46. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS DIVISION -

1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-508. Compliance Audit of Approved Courses

- A. To improve the quality of education available to appraisers in this state, the Department may regularly audit approved courses for compliance with this Chapter.
- B. The Director shall identify approved courses for audit using the following to establish the priority of audits:
 1. Approved courses about which a complaint has been received,
 2. Approved courses of a course owner that is new to this state, and
 3. Approved courses that have not been audited in the last five years.
- C. On request from the Director, the course owner of an approved course shall provide the dates, times, and locations at which the approved course will be taught and the name of the instructor who will teach each presentation of the approved course.
- D. The audit of an approved course may be conducted by a volunteer auditor trained by the Department.
- E. The course owner of an approved course shall allow an auditor described under subsection (D) to attend the approved course at no charge.
- F. The auditor shall be identified to the instructor before the approved course starts.
- G. On request from the auditor, the course owner shall allow the auditor to examine records, materials, and other documents relevant to the approved course audited.
- H. After review by the Director, the Department shall provide a copy of the audit report to the course owner. If the audit identifies ways in which the approved course fails to comply with this Article, the Department shall:
 1. Work with the course owner to establish a correction plan to bring the course into compliance,
 2. Establish a time within which the course owner is required to complete the correction plan and bring the course into compliance, and
 3. Inform the course owner of the manner in which to report the approved course is in compliance with this Article.
- I. Failure of a course owner to comply with this Article may lead to revocation of course approval.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-509. Changes to an Approved Course

The Director encourages revisions and updates that improve and keep an approved course current. However, if any of the information provided under R4-46-506(1), (2), (4), or (5) changes so substantially as to alter the scope of the approved course as determined at the sole discretion of the Director, the course owner of the approved course shall submit a new application for approval under R4-46-504.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022

(Supp. 22-2).

R4-46-510. Renewal of Course Approval

- A. Course approval expires a maximum of two years after approval is granted. Approval of a distance education course expires in two years or, if applicable, when the distance education delivery-mechanism approval required under R4-46-502 or approval under R4-46-505 expires, whichever is less.
- B. The Director may renew the approval of a course only if the information provided under R4-46-506(1), (2), (4), and (5) has not changed substantially.
- C. If an approved course meets the standard in subsection (B), the course owner may apply for renewal of course approval within 90 days before the course approval expires.
- D. To apply for renewal of course approval, a course owner shall submit a renewal application, which is available from the Department and on its website, and pay the renewal fee specified in subsection R4-46-106(A)(10).

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-511. Transfer of an Approved Course

- A. A course owner that transfers the proprietary rights to an approved course shall provide written notice of the transfer to the Department. The course owner shall include in the notice the name of and contact information for the new course owner and the date of the transfer.
- B. The new course owner to which the proprietary rights to an approved course are transferred shall attach to the notice required under subsection (A) a certification available from the Department and on its website, that the new course owner:
 1. Will adhere to the requirements in this Article, and
 2. Will be responsible for the actions of all secondary providers who have an agreement under R4-46-507.
- C. If proprietary rights to an approved course are transferred under this Section, the expiration date of the course approval does not change.

Historical Note

New Section made by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 25 A.A.R. 1139, effective June 10, 2019 (Supp. 19-2). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

ARTICLE 6. PROPERTY TAX AGENTS**R4-46-601. Standards of Practice**

The Director may revoke or suspend a property tax agent's registration or otherwise discipline a property tax agent to the extent permitted by A.R.S. § 32-3654 for any of the following acts or omissions:

1. Engaging in an activity that leads to a conviction for a crime involving the tax profession;
2. Operating beyond the boundaries of an agreed relationship with an employer or a client;
3. Inferring or implying representation of a person or firm that the agent does not represent, or filing a document on behalf of a taxpayer without specific authorization of the taxpayer;

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4. Violating the confidential nature of the property tax agent-client relationship, except as required by law;
5. Inappropriately offering or accepting anything of value with the intent of inducing or in return for a specific action;
6. Assigning, accepting, or performing a tax assignment that is contingent upon producing a predetermined analysis or conclusion;
7. Issuing an appraisal analysis or opinion, in the performance of a tax assignment, that fails to disclose bias or the accommodation of a personal interest;
8. Willfully furnishing inaccurate, deceitful, or misleading information, or willfully concealing material information in the performance of a tax assignment;
9. Preparing or using, in any manner, a resume or statement of professional qualifications that is misleading or false;
10. Promoting a tax agent practice or soliciting assignments by using misleading or false advertising;
11. Soliciting a tax assignment by assuring a specific result or by stating a conclusion regarding that assignment without analysis of the facts; or
12. Performing an appraisal, as defined by A.R.S. § 32-3601, unless licensed or certified by the Director as an appraiser.

Historical Note

Adopted effective December 29, 1995 (Supp. 95-4). Section repealed; new Section adopted effective October 1, 1998; filed in the Office of the Secretary of State Septem-

ber 10, 1998 (Supp. 98-3). Amended by final rulemaking at 13 A.A.R. 1388, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3). Amended by final rulemaking at 28 A.A.R. 893 (May 6, 2022), effective June 11, 2022 (Supp. 22-2).

R4-46-602. Repealed**Historical Note**

Adopted effective October 1, 1998; filed in the Office of the Secretary of State September 10, 1998 (Supp. 98-3). Amended by final rulemaking at 13 A.A.R. 1388, effective June 2, 2007 (Supp. 07-2). Section repealed by final rulemaking at 21 A.A.R. 1675, effective October 6, 2015 (Supp. 15-3).

ARTICLE 7. REPEALED**R4-46-701. Repealed****R4-46-702. Repealed****R4-46-703. Repealed****R4-46-704. Repealed****Historical Note**

New Section made by final rulemaking at 17 A.A.R. 566, effective April 5, 2011 (Supp. 11-2). Section repealed by exempt rulemaking at 19 A.A.R. 4023, effective November 21, 2013 (Supp. 13-4).

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS – FINANCIAL INSTITUTIONS DIVISION, REAL ESTATE APPRAISAL

Authorizing Statute: A.R.S. § 32-3605(A)

Implementing Statute: A.R.S. § 32-3605(B)(10)(c)

[32-3605. Deputy director; duties; powers; immunity](#)

A. The deputy director shall adopt rules in aid or in furtherance of this chapter.

B. The deputy director shall:

1. Adopt standards for appraisal practice that is regulated by this chapter. The standards at a minimum shall be equivalent to the standards of professional appraisal practice.

2. In prescribing criteria for certification, adopt criteria that at a minimum are equal to the minimum criteria for certification adopted by the appraiser qualifications board.

3. In prescribing criteria for licensing and registration, adopt criteria that at a minimum are equal to the minimum criteria for licensing and registration adopted by the appraiser qualifications board.

4. Further define by rule with respect to state-licensed or state-certified appraisers appropriate and reasonable educational experience, appraisal experience and equivalent experience that meets the statutory requirement of this chapter.

5. Adopt the national examination as approved by the appraiser qualifications board for state-certified appraisers.

6. Adopt the national examination as approved by the appraiser qualifications board for state-licensed appraisers.

7. Establish administrative procedures for:

(a) Processing applications for licenses and certificates, including registration certificates.

(b) Approving or disapproving applications for registration, licensure and certification.

(c) Issuing licenses and certificates, including registration certificates.

8. Define by rule, with respect to registered trainee appraisers and state-licensed and state-certified appraisers, the continuing education requirements for the renewal of licenses or certificates that satisfy the statutory requirements provided in this chapter.

9. Periodically review the requirements for the development and communication of appraisals provided in this chapter and adopt rules explaining and interpreting the requirements.

10. Define and explain by rule each stage and step associated with the administrative procedures for the disciplinary process pursuant to this chapter, including:

(a) Prescribing minimum criteria for accepting a complaint against a registered trainee appraiser or a licensed or certified appraiser. The deputy director may not consider a complaint for administrative action if the complaint either:

(i) Relates to an appraisal that was completed more than five years before the complaint was submitted to the deputy director or more than two years after final disposition of any judicial proceeding in which the appraisal was an issue, whichever period of time is greater.

(ii) Is filed against a person who is a staff person of the department and the person is a licensed or certified appraiser and the complaint is against the person's license or certificate and relates to the person's performance of duties. This item applies to a contract investigator who is under contract with the department for the performance of an appraisal review as defined by the uniform standards of professional appraisal practice.

(b) Defining the process and procedures used in investigating the allegations of the complaint. The deputy director shall consolidate complaints that are filed within a six-month period of time if the complaints are against the same appraiser, relate to the same appraisal and property and are filed by an entity that is subject to the mandatory reporting provisions of the Dodd-Frank Wall Street reform and consumer protection act (P.L. 111-203; 124 Stat. 1376). Complaints that are consolidated pursuant to this subdivision must be considered and adjudicated as one complaint.

(c) Defining the process and procedures used in hearings on the complaint, including a description of the rights of the deputy director and any person who is alleged to have committed the violation.

(d) Establishing criteria to be used in determining the appropriate actions for violations.

11. Communicate information that is useful to the public and appraisers relating to actions for violations.

12. Issue decrees of censure, fix periods and terms of probation and suspend and revoke licenses and certificates pursuant to the disciplinary proceedings provided for in section 32-3631.

13. At least monthly transmit to the appraisal subcommittee a listing of all appraisal management companies that have received a state certificate of registration in accordance with this chapter.

14. Investigate and assess potential law or order violations and discipline, suspend, terminate or deny registration renewals of appraisal management companies that violate laws or orders. The deputy director shall report violations of appraisal-related laws or orders and disciplinary and enforcement actions to the appraisal subcommittee.

15. Transmit the national registry fee collected pursuant to section 32-3607 to the appraisal subcommittee.

16. Establish the fees in accordance with section 32-3607.

17. Receive applications for state licenses and certificates.

18. Maintain a registry of the names and addresses of persons who are registered, licensed or certified under this chapter.

19. Retain records and all application materials submitted to the deputy director.

20. Publish on the department's website a current list of supervisory appraisers and registered trainee appraisers.

21. Perform such other functions and duties as may be necessary to carry out this chapter.

C. The deputy director may accept and spend federal monies and grants, gifts, contributions and devises from any public or private source to assist in carrying out the purposes of this chapter. These monies do not revert to the state general fund at the end of the fiscal year.

D. The deputy director may impose civil penalties pursuant to section 32-3631.

C-5

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

Title 20, Chapter 4

Amend: Article 12, R20-4-1201, R20-4-1202, R20-4-1204, R20-4-1209, R20-4-1210,
R20-4-1219, R20-4-1220

Repeal: R20-4-1208, R20-4-1211



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - REGULAR RULEMAKING

MEETING DATE: November 1, 2022

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

FROM: Council Staff

DATE: October 12, 2022

SUBJECT: DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
Title 20, Chapter 4

Amend: Article 12, R20-4-1201, R20-4-1202, R20-4-1204, R20-4-1209,
R20-4-1210, R20-4-1219, R20-4-1220

Repeal: R20-4-1208, R20-4-1211

Summary:

This regular rulemaking from the Department of Insurance and Financial Institutions (Department) seeks to amend seven (7) rules and repeal two (2) rules in Title 20, Chapter 4, Article 12 related to Rules of Practice and Procedure Before the Director for hearings before the Financial Institutions Division.

The Department indicates the Financial Institutions Division has not updated its hearing rules since 2001. This rulemaking updates the Financial Institutions Division's hearing rules to reflect the structural change to the Department and to eliminate rules that are unnecessary because they are already contained in the APA. It also synchronizes the administrative hearing rules between the two divisions (Insurance and Financial Institutions). Formerly, when these divisions were separate agencies, they had their own hearing rules. The Department states synchronizing these sets of rules will promote efficiency for the agency when administering

hearings for both divisions. The Department states these changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

A separate rulemaking from the Department seeks to eliminate the redundant rules applying to Real Estate Appraisal hearings. This will repeal a separate, unnecessary set of hearing rules and will allow Real Estate Appraisal hearings to be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of the Financial Institutions Division.

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 did not review or rely on any study in conducting this rulemaking.

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

The Department indicates this rulemaking is anticipated to result in a benefit to the Insurance Division of the Department by synchronizing the Financial Institution Division's and Insurance Division's hearing rules which should result in less confusion and greater efficiency for the Department. The Department states no costs or benefits are anticipated to businesses directly affected by the proposed rulemaking because this rulemaking only updates the rules and synchronizes them with the Financial Institutions Division's hearing rules. The Department states it does not add any new requirements for licensees that do not already exist in statute. These rules augment the Administrative Hearing Procedures Act (APA) which governs administrative hearings before the Department.

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 believes that the current rulemaking offers the least intrusive and least costly alternative method to achieve the purpose of the proposed rulemaking.

6. What are the economic impacts on stakeholders?

Licenses subject to regulation by the Financial Institutions Division under A.R.S. Title 6 (State Chartered Banks and Credit Unions, Savings and Loan Associations, Consumer Lenders, Debt Management Companies, Escrow Agents, Trust Companies, Mortgage Brokers and Bankers, Loan Originators, Money Transmitters, Advance Fee Loan Brokers, and Premium Finance Companies), Title 32, Chapter 9 (Collection Agencies), Title 32, Chapter 36 (Real Estate Appraisers, Appraisal Management Companies, and Property Tax Agents), and Title 44, Chapter 2.1 (Sales Finance Companies) are directly affected by this rulemaking. All licenses are expected to benefit from clarified rules.

This rulemaking is anticipated to result in a benefit to the Insurance Division of the Department by synchronizing the Financial Institution Division's and Insurance Division's hearing rules which should result in less confusion and greater efficiency for the Department. No new full-time employees are necessary to implement and enforce the revised rules.

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

The Department indicates it made no changes between the Notice of Proposed Rulemaking published in the Administrative Register and the Notice of Final Rulemaking 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 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, 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?

The Department indicates there are no corresponding federal laws applicable to the subject of this rulemaking.

11. Conclusion

This regular rulemaking from the Department seeks to amend seven (7) rules and repeal two (2) rules in Title 20, Chapter 4, Article 12 related to Rules of Practice and Procedure Before the Director for hearings before the Financial Institutions Division. The Department indicates the Financial Institutions Division has not updated its hearing rules since 2001. This rulemaking

updates the Financial Institutions Division's hearing rules to reflect the structural change to the Department and to eliminate rules that are unnecessary because they are already contained in the APA. It also synchronizes the administrative hearing rules between the two divisions (Insurance and Financial Institutions). The Department states synchronizing these sets of rules will promote efficiency for the agency when administering hearings for both divisions. The Department states these changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

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.



Director's Office
Arizona Department of Insurance and Financial Institutions
100 North 15th Avenue, Suite 261, Phoenix, AZ 85007-2624
Phone: (602) 364-3100 | Web: <https://difi.az.gov>

Douglas A. Ducey, Governor
Evan G. Daniels, Director

September 20, 2022

VIA EMAIL: grrc@azdoa.gov
Nicole Sornsins, Chairperson
Governor's Regulatory Review Council
100 North 15th Ave., Suite 305
Phoenix, AZ 85007

RE: Arizona Department of Insurance and Financial Institutions
Financial Institutions Division
A.A.C. Title 20, Chapter 4, Article 12 – Rules of Practice and Procedure
Before the Superintendent ("Hearing Rules")

Dear Chairperson Sornsins:

Please find enclosed the Final Rulemaking for the Financial Institutions Division's Hearing Rules being submitted by the Arizona Department of Insurance and Financial Institutions ("Department").

Pursuant to A.A.C. R1-6-201(A)(1), the Department responds as follows:

- a. The Department closed the record on this rulemaking on August 14, 2022.
- b. This rulemaking does not relate to a five-year review report. Instead, this rulemaking is being initiated with two other rulemakings by the Department that are designed to revise its rules pertaining to hearings to comport with the recent structural changes in the Department, to update the Hearing Rules, and to synchronize the rules governing hearings between the two divisions of the Department. This rulemaking will also allow the Financial Institutions Division's Hearing Rules to govern Real Estate Appraisal because its hearing rules are being repealed. The three rulemakings are designed to occur simultaneously and to have the same effective date.
- c. The rulemaking does not establish a new fee.
- d. The rulemaking does not contain a fee increase.
- e. The rulemaking does not request an immediate effective date under A.R.S. § 41-1032.
- f. The Department certifies that the preamble discloses a reference to any study relevant to the rule that it reviewed and either did or did not rely on in its evaluation of or justification for the rulemaking. The Department did not review or rely on any study relevant to the rulemaking.
- g. No new full-time employees are necessary to implement and enforce the rule.
- h. The following documents are also submitted to the Council with this cover letter:
 - i. The Notice of Final Rulemaking;

- ii. An economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055; and
- iii. The general and specific statutes authorizing the rulemaking.

By this submission, the Department is requesting approval of this rulemaking from the Council.

For questions about this rulemaking, please contact Mary Kosinski at (602) 364-3476 or mary.kosinski@difi.az.gov.

Sincerely,

A handwritten signature in blue ink that reads "Evan G. Daniels".

Evan G. Daniels
Director

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE
CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS –
FINANCIAL INSTITUTIONS

PREAMBLE

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

Article 12	Amend
R20-4-1201	Amend
R20-4-1202	Amend
R20-4-1204	Amend
R20-4-1208	Repeal
R20-4-1209	Amend
R20-4-1210	Amend
R20-4-1211	Repeal
R20-4-1219	Amend
R20-4-1220	Amend

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

Authorizing statute: A.R.S. § 6-123

Implementing statute: A.R.S. §§ 6-123(2), 6-138

3. The effective date of the rule:

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 proposed rule:

Notice of Rulemaking Docket Opening: 28 A.A.R. 1660, July 15, 2022

Notice of Proposed Rulemaking: 28 A.A.R. 1647, July 15, 2022

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

Name: Mary E. Kosinski
Address: Department of Insurance and Financial Institutions
100 N. 15th Ave., Suite 261
Phoenix, Arizona 85007-2630
Telephone: (602)364-3476
E-mail: mary.kosinski@difi.az.gov
Web site: <https://difi.az.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:

This rulemaking is being initiated with two other rulemakings by the Arizona Department of Insurance and Financial Institutions ("Department"). One rulemaking is to revise the hearing rules of the Department's Insurance Division ("Insurance Division") (A.A.C. R20-6-101 through R20-6-160) and the other is to repeal the redundant Real Estate Appraisal hearing rules (A.A.C. R4-46-301.01 through R4-46-307.01). The three rulemakings are designed to occur simultaneously and to have the same effective date.

These rulemakings are necessary for a number of reasons. First, to update the rules. The Insurance Division most recently updated its hearing rules in 2011 and some of the rules conflict with the Arizona Uniform Administrative Hearing Procedures Act ("APA") (A.R.S. §§ 41-1092 through 41-1092.12). The Department's Financial Institutions Division ("Financial Institutions Division") has not updated its hearing rules since 2001. At the very least, the Financial Institutions Division needs to remove any references to "Superintendent" in its rules because that position no longer exists.

Secondly, these rulemakings are necessary to synchronize the hearing rules between two divisions of the Department: Financial Institutions and Insurance. Formerly, when these divisions were separate agencies, they had their own hearing rules. Synchronizing these sets of rules will promote efficiency for the agency when administering hearings for both divisions. These changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

The third reason is to eliminate the redundant rules applying to Real Estate Appraisal hearings. This will repeal a separate, unnecessary set of hearing rules and will allow Real Estate Appraisal

hearings to be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of the Financial Institutions Division.

This rulemaking updates the Financial Institutions Division's hearing rules to reflect the structural change to the Department and to eliminate rules that are unnecessary because they are already contained in the APA. It also synchronizes the administrative hearing rules between the two divisions (Insurance and Financial Institutions).

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 and does not propose to rely on any study relevant to 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:

The rulemaking does not diminish a previous grant of authority granted to the Department.

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

Pursuant to A.R.S. § 41-1055(A):

- The rulemaking is not designed to change any conduct. Instead, it is designed to streamline and coordinate the rules governing administrative hearings before the Director.
- The rulemaking does not address any harm resulting from any conduct by licensees.
- Because this rulemaking is not made in response to a perceived problem caused by the conduct of licensees, it is not intended to reduce the frequency of any potentially violative conduct.
- This rulemaking is anticipated to result in a benefit to the Financial Institutions Division of the Department by synchronizing the Financial Institutions Division's and Insurance Division's hearing rules which should result in less confusion and greater efficiency for the Department.
- No costs or benefits are anticipated to businesses directly affected by the proposed rulemaking because this rulemaking only updates the rules and synchronizes them with the Insurance Division's hearing rules. It does not add any new requirements for licensees that do not already exist in statute. These rules augment the APA which governs administrative hearings before the Department.

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

The Department has not made any changes between the proposed rulemaking and the final rulemaking.

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

The Department did not receive any 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:

No other matters prescribed by statute are applicable to the Department or to any specific rule or class of rules.

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

The rule does not require a permit and does not use a general permit. Instead, the rule is designed to provide guidance on conducting administrative hearings.

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

No federal law is applicable to the subject of the rule.

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 formal analysis has been submitted to the Department that compares the rule's impact on the competitiveness of business in this state to the impact of business in other states.

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

The rule does not incorporate any reference material into the rule as specified at A.R.S. § 41-1028.

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, amended or repealed as an emergency rule.

15. The full text of the rules follows:

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE
CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS –
FINANCIAL INSTITUTIONS**

ARTICLE 12. RULES OF PRACTICE AND PROCEDURE BEFORE THE SUPERINTENDENT

Section

R20-4-1201. Scope of Article; Definitions

R20-4-1202. ~~Definitions~~ Appearance and Practice before the Director for Administrative Hearings

R20-4-1204. Filing; Service

~~R20-4-1208. Commencement of Proceedings; Notice of Hearing~~

R20-4-1209. Answer to Notice of ~~Hearing~~ an Administrative Hearing

R20-4-1210. Stays

~~R20-4-1211. Intervention~~

R20-4-1219. ~~Rehearing~~ Request for Hearing or Review

R20-4-1220. ~~Consent Agreements~~ Petition for Rulemaking Action

**ARTICLE 12. RULES OF PRACTICE AND PROCEDURE BEFORE THE ~~SUPERINTENDENT~~
DIRECTOR**

R20-4-1201. Scope of Article; Definitions

A. Scope. This Article, Title 6, Title 32, chapters 9 and 36, and Title 44, Chapter 2.1 of the Arizona Revised Statutes ~~governs procedures in all contested cases and appealable agency actions, including administrative appeals, filed with the Department.~~ govern administrative hearings before the Department. The Department shall use the authority of ~~A.R.S. §§ 41-1092 through 41-1092.12, and~~ A.R.S. Title 41, Chapter 6, Article 10, the Office of Administrative Hearings' procedural rules and this Article to govern the initiation and conduct of ~~proceedings.~~ administrative hearings. ~~In a case or action,~~ an administrative hearing, special procedural requirements in state statute or another Section in this ~~Chapter~~ Article shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. ~~§§ 41-1092 through 41-1092.12, or~~ Title 41, Chapter 6, Article 10, the Office of

Administrative Hearings' rules, or this Article. This Except as otherwise provided in Section R20-4-1220 for rulemaking petitions, this Article does not apply to rulemaking or to investigative proceedings before the ~~Superintendent.~~ Director. Unless expressly applicable by rule or statute, the Arizona Rules of Civil Procedure do not apply to administrative hearings.

B. In addition to the definitions provided in A.R.S. §§ 41-1001 and 41-1092, the following terms apply to this Article:

“Administrative Hearing” means an appealable agency action as defined by A.R.S. § 41-1092(3) or a contested case as defined by A.R.S. § 41-1001(5) subject to A.R.S. Title 41, Chapter 6, Article 10.

“Attorney General” means the Attorney General of Arizona, and the Attorney General’s assistants and special agents.

“Department” means the Arizona Department of Insurance and Financial Institutions – Financial Institutions Division.

“Director” has the meaning stated at A.R.S. § 20-102.

“Party” has the meaning prescribed at A.R.S. § 41-1001(16) and includes any person or entity subject to the jurisdiction of the Department under A.R.S. Title 6, Title 32 - Chapter 9, Title 32 - Chapter 36, and Title 44 - Chapter 2.1.

R20-4-1202. Definitions Appearance and Practice before the Director for Administrative Hearings

~~In this Article, unless the context otherwise requires:~~

~~“Administrative law judge” has the meaning stated at A.R.S. § 41-1092(1).~~

~~“Appealable agency action” has the meaning stated at A.R.S. § 41-1092(3).~~

~~“Contested case” has the meaning stated at A.R.S. § 41-1001(4).~~

~~“Department” means the Arizona State Department of Financial Institutions.~~

~~“License” has the meaning stated at A.R.S. § 41-1001(10).~~

~~“Party” means:~~

~~—The Department;~~

~~—The Superintendent;~~

~~—Each person either named or admitted as a party, and~~

~~—Each person properly seeking, and entitled, to be a party.~~

~~“Superintendent” has the meaning stated in A.R.S. § 6-101(16).~~

- ~~A. A party may appear on their own behalf or through counsel.~~
- ~~B. When an attorney other than the Attorney General appears or intends to appear before the Director or the Department, they shall promptly disclose their name and contact information and the name and contact information of the party on whose behalf they intend to appear.~~

R20-4-1204. Filing; Service

- ~~A. A person shall either personally deliver all papers permitted or required to be filed with the Superintendent or shall mail them by first class, certified, or express mail, or send them by facsimile transmission (602-381-1225), to the Superintendent at 2910 N. 44th Street, Suite 310, Phoenix, AZ 85018-7270, or shall serve them by any method permitted under R2-19-108. The Department considers papers filed when actually received at the Superintendent’s address stated in this subsection. A document filed by a party with the Department is filed on the date it is received by the Department as established by the Department’s earliest stamped date on the face of the document or by some other method of affixing a received date by the Department.~~
- ~~B. A party in a contested case or appeal from an agency action shall make any required or permitted service in the manner permitted under R2-19-108. A party shall make service upon each represented party’s attorney unless the administrative law judge orders separate service on the actual party. A party shall make service upon each unrepresented party by service on the actual party. If a party is represented by an attorney, service is effectuated by service upon the attorney unless additional service upon the represented party is required by an administrative law judge or the Department.~~
- ~~C. A document is served upon a party as provided for under A.R.S. § 41-1092.04 and Section R2-19-108. A party effectuating service is responsible for producing proof of service if requested by the Department.~~

R20-4-1208. Commencement of Proceedings; Notice of Hearing

~~A person may obtain a hearing under A.R.S. § 41-1092.03 (B) on any appealable agency action or contested case, including the following, unless otherwise provided by law.~~

- ~~1. A letter or order granting or denying a license;~~
- ~~2. A license issued with restrictions or conditions;~~
- ~~3. A cease and desist order;~~

- ~~4. An order to remedy unsafe or unsound conditions;~~
- ~~5. An order to remedy an impairment of capital;~~
- ~~6. An order taking possession and control of a financial institution or enterprise;~~
- ~~7. An order assessing a fine;~~
- ~~8. Any other order or matter reviewable in a hearing either under the authority of these rules, a statute or an administrative rule enforced by the Superintendent, or by the order's express terms.~~

R20-4-1209. Answer to Notice of ~~Hearing~~ an Administrative Hearing

- A. The ~~Superintendent~~ Department may, in a notice of hearing, direct one or more parties to file ~~an~~ a written answer to the ~~assertions~~ allegations contained in the notice of hearing. ~~Any~~ Even if not directed to do so, any party to the proceeding may file an answer ~~without being directed to do so.~~
- B. A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The ~~Superintendent~~ Department may require any party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.
- C. An answer filed under this Section shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the ~~assertions~~ allegations in the notice of hearing. An answering party ~~that~~ who does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an ~~assertion~~ allegation shall state that inability ~~in its answer. That statement which~~ shall have the effect of a denial. ~~A party admits each assertion that it does not deny. Any allegation not denied is admitted. An answering~~ A party ~~that~~ who intends to deny only a part ~~or a qualification~~ of an ~~assertion, or to qualify an assertion,~~ allegation, shall expressly admit as much of that ~~assertion~~ allegation as is true and shall deny the remainder.
- D. A party ~~that~~ who fails to file an answer required by this Section within the time allowed is in default. The ~~Superintendent~~ Director may resolve the proceeding against a defaulting party. In doing so, the ~~Superintendent~~ Director may regard any ~~assertions~~ allegations in the notice of hearing as admitted by the defaulting party.
- E. ~~An answering party waives all defenses not raised in its answer. Defenses not raised in the answer are~~ waived.

R20-4-1210. Stays Stay Pending a Hearing

A person aggrieved by the Department's action or order who files a timely written request for a hearing may ask, in the request for a hearing, that the ~~Superintendent~~ Director stay an action or any part of an order that will become effective before ~~the Department can hold~~ a hearing. The ~~Superintendent~~ Director may, in the ~~Superintendent's~~ Director's discretion, stay the legal effectiveness of any action or order until the matter can be heard and finally decided if the aggrieved person's request demonstrates that:

1. The person has a reasonable defense that might prevail on the merits at the hearing,
2. The person will suffer irreparable injury unless the ~~Superintendent~~ Director grants the stay,
3. The stay would not substantially or irreparably harm other interested persons, and
4. The stay would not jeopardize the public interest or contravene public policy.

~~R20-4-1211. Intervention~~

~~A person may only intervene in a proceeding if the person timely applies and:~~

- ~~1. A statute confers a right to intervene, or~~
- ~~2. The person's claim or defense shares a question of law or fact in common with the main proceeding.~~

~~R20-4-1219. Rehearing Request for Rehearing or Review~~

- ~~A. Except as provided in subsection (H), any Any party in a contested case who is aggrieved by a an administrative decision rendered in that case may file with the ~~Superintendent~~, Director within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for rehearing or review of the decision specifying the particular reason for ~~rehearing~~: the request.~~
- ~~B. A party requesting rehearing filing a motion under this Section may amend a the motion for rehearing at any time before ~~the Superintendent rules on the motion~~: a response to the motion is filed. ~~Any other party, or the Attorney General, may file a response to the motion for rehearing within 15 days after service of the motion for rehearing, or the amended motion for rehearing. The Superintendent may require a written brief of the issues raised in the motion and may allow oral argument. An amended motion tolls the time for filing a response and the time for rendering a decision on the motion.~~~~
- ~~C. The Superintendent may grant a motion for rehearing for any of the following causes:~~
- ~~1. Irregularity in the proceedings before the Superintendent, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;~~

- ~~2. Misconduct of the Superintendent, the Superintendent employees, the administrative law judge, or the prevailing party;~~
- ~~3. Accident or surprise that could not have been prevented by ordinary care;~~
- ~~4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;~~
- ~~5. Excessive or insufficient penalties;~~
- ~~6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing;~~
- ~~7. The decision is not justified by the evidence or is contrary to law.~~

A request for rehearing or review which is not timely filed is deemed waived for the purpose of judicial review.

- D. ~~The Superintendent may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (C). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified. A motion for rehearing or review shall specify which of the grounds listed in subsection (G) it is based upon and shall set forth the specific facts and laws in support of the motion. A motion may cite relevant portions of testimony from the hearing if a transcript is provided with the motion and may cite hearing exhibits by reference to the exhibit number. The motion shall specify the relief sought by the request, such as a different finding of fact, conclusion of law or order and may seek multiple forms of relief in the alternative. When a motion for rehearing or review is based on an affidavit, the moving party shall attach the affidavit to the motion.~~
- E. ~~The Superintendent, within the time for filing a motion for rehearing, may without a motion order a rehearing or review of a decision for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing. A party may file a separate request for a stay of the Director's decision. Filing a stay request or a motion for rehearing or review does not stay an order filed by the Director. The Director may stay an order pending the resolution of a motion for rehearing or review.~~
- F. ~~After giving the parties notice and an opportunity to be heard on the matter, the Superintendent may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing. Each party served with a motion for rehearing or review shall be permitted to file a written response within 15 days after the motion has been filed. Affidavits may be attached to and filed with a~~

response. A response may cite relevant portions of testimony from the hearing if a transcript is provided with the response and may cite hearing exhibits by reference to the exhibit number. The Director has the discretion to hear oral argument to consider a request for rehearing or review.

~~G. When a motion for rehearing is based on an affidavit, the moving party shall serve the affidavit with the motion. An opposing party or the Attorney General may serve opposing affidavits within 10 days after service of the motion for rehearing. The Director may grant a motion for rehearing or review for any of the following causes:~~

- ~~1. Irregularity in the proceedings before the Department, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;~~
- ~~2. Misconduct by the Department, the administrative law judge, or the prevailing party;~~
- ~~3. Accident or surprise that could not have been prevented by ordinary care;~~
- ~~4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;~~
- ~~5. Excessive or insufficient penalties;~~
- ~~6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing; and~~
- ~~7. The decision is not justified by the evidence or is contrary to law.~~

~~H. The Superintendent may issue a final decision, subject only to judicial review, and without an opportunity for rehearing or administrative review if the Superintendent includes in the decision:~~

- ~~1. An express finding that the decision needs to be made immediately effective to preserve the public peace, health, and safety; and~~
- ~~2. An express finding that a rehearing or review is:
 - ~~a. Impossible;~~
 - ~~b. Unnecessary, or~~
 - ~~e. Contrary to the public interest.~~~~

The Director may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (G). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.

~~I. The Director, within the time for filing a motion for rehearing, may without a motion for rehearing, order a rehearing for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.~~

J. The Director may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.

R20-4-1220. ~~Consent Agreements~~ Petition for Rulemaking Action

~~A. The Department will enter into a consent agreement, either in litigation or in an administrative proceeding, only if the defendant or respondent admits to the allegations in the complaint, notice, or order relating to the jurisdiction of the Superintendent or the jurisdiction of the tribunal that will enter the judgment or order.~~

The following definitions apply in this Section.

1. "Petitioner" means a person who petitions the Department for Rulemaking action as authorized under A.R.S. § 41-1033(A).
2. "Rule" has the meaning stated at A.R.S. § 41-1001 and is enforceable by the Department.
3. "Rulemaking action" means the process for formulation and finalization of a new rule, or amendment or repeal of an existing rule.
4. "Substantive Policy Statement" has the meaning stated at A.R.S. § 41-1001, is advisory only, and is not enforceable by the Department.

~~B. A refusal to admit allegations is a denial. However, a defendant or respondent may consent to a judgment or order reciting that it does not admit or deny the allegations except those required by subsection (A). A consent agreement shall contain those additional provisions required by the Superintendent in a given matter, and may include:~~

- ~~1. Waiving any right to seek judicial review challenging the judgment's or order's validity,~~
- ~~2. Waiving findings of fact and conclusions of law,~~
- ~~3. Stating that the agreement is signed only to settle the matter and not as an admission that the defendant or respondent has violated the law.~~

Any person may petition the Department under A.R.S. § 41-1033(A) to either:

1. Make, amend, or repeal a final Rule; or
2. Review an existing agency practice or Substantive Policy Statement that the Petitioner alleges to constitute a Rule.

~~C. The Superintendent has sole discretion to decide whether to resolve a matter by consent agreement. Nothing in this Section gives the Superintendent a duty to approve a consent agreement in any matter.~~

A person who files a petition pursuant to A.R.S. § 41-1033(A), shall include the following information in the petition:

1. The Petitioner's name and contact information;
 2. The name and address of any organization the Petitioner represents;
 3. Whether the Petitioner is petitioning the Department to:
 - a. Make, amend, or repeal a final Rule; or
 - b. Review an existing agency practice or Substantive Policy Statement that the Petitioner alleges to constitute a Rule;
 4. A detailed explanation of Petitioner's basis for submitting the petition;
 5. If the Petitioner is petitioning the Department to make a Rule, the language of the proposed new Section and the specific authority for the requested Rulemaking action;
 6. If the Petitioner is petitioning the Department to amend an existing Rule, a citation to the existing Section to be amended, the language of the proposed Rule amendment, and the specific authority for the requested Rulemaking action;
 7. If the Petitioner is petitioning the Department to repeal an existing Rule, a citation to the existing Section or subsection to be repealed, and an explanation of why the Rule should be repealed including, if applicable, how the Rule does not meet the requirements of A.R.S. § 41-1030;
 8. If the Petitioner is petitioning the Department to review an existing agency practice that the Petitioner alleges to constitute a Rule, a description of the Department's practice, an explanation of how the Department's practice constitutes a Rule being enforced by the Department, the language of the proposed new Rule, and the specific authority for the requested Rulemaking action;
 9. If the petitioner is petitioning the Department to review a Substantive Policy Statement that the Petitioner alleges to constitute a Rule, a citation to the Substantive Policy Statement, an explanation of how the Substantive Policy Statement is being enforced by the Department as a Rule, the language of the proposed new Rule, and the specific authority for the requested Rulemaking action; and
 9. The Petitioner's dated signature.
- D.** The petitioner may submit additional supporting information, including:
1. Statistical data; and
 2. A list of other persons and entities likely to be affected by the proposed Rulemaking action, with an explanation of the likely effects.

E. Within 60 days of the date the Department receives the petition, the Director shall send the petitioner a written decision indicating whether the Department is denying the petition or will initiate the requested Rulemaking action, with the reasons for the decision.

A.R.S. § 41-1055(B) Economic, Small Business, And Consumer Impact Statement
Title 20. Commerce, Financial Institutions, and Insurance
Chapter 4. Department of Insurance and Financial Institutions
– Financial Institutions

Article 12. Rules of Practice and Procedure Before the Superintendent

A.R.S. § 41-1055(B)(1): An identification of the proposed rulemaking.

This rulemaking is being initiated with two other rulemakings by the Arizona Department of Insurance and Financial Institutions (“Department”). One rulemaking is to revise the hearing rules of the Department’s Insurance Division (“Insurance Division”) (A.A.C. R20-6-101 through R20-6-160) and the other is to repeal the redundant Real Estate Appraisal hearing rules (A.A.C. R4-46-301.01 through R4-46-307.01). The three rulemakings are designed to occur simultaneously and to have the same effective date.

These rulemakings are necessary for a number of reasons. First, to update the rules. The Insurance Division most recently updated its hearing rules in 2011 and some of the rules conflict with the Arizona Uniform Administrative Hearing Procedures Act (“APA”) (A.R.S. §§ 41-1092 through 41-1092.12). The Department’s Financial Institutions Division (“Financial Institutions Division”) has not updated its hearing rules since 2001. At the very least, the Financial Institutions Division needs to remove any references to “Superintendent” in its rules because that position no longer exists.

Secondly, these rulemakings are necessary to synchronize the hearing rules between the two divisions of the Department: Financial Institutions and Insurance. Formerly, when these divisions were separate agencies, they had their own hearing rules. Synchronizing these sets of rules will promote efficiency for the agency when administering hearings for both divisions. These changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

The third reason is to eliminate the redundant rules applying to Real Estate Appraisal hearings. This will repeal a separate, unnecessary set of hearing rules and will allow Real

Estate Appraisal hearings to be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of that division.

This rulemaking updates the Financial Institutions Division's hearing rules to reflect the structural change to the Department and to eliminate rules that are unnecessary because they are already contained in the APA. It also synchronizes the administrative hearing rules between the two divisions (Insurance and Financial Institutions).

Questions about this Economic Impact Statement can be directed to: Mary E. Kosinski (mary.kosinski@difi.az.gov).

A.R.S. § 41-1055(B)(2): An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking.

Licenses subject to regulation by the Financial Institutions Division under A.R.S. Title 6 (State Chartered Banks and Credit Unions, Savings and Loan Associations, Consumer Lenders, Debt Management Companies, Escrow Agents, Trust Companies, Mortgage Brokers and Bankers, Loan Originators, Money Transmitters, Advance Fee Loan Brokers, and Premium Finance Companies), Title 32, Chapter 9 (Collection Agencies), Title 32, Chapter 36 (Real Estate Appraisers, Appraisal Management Companies, and Property Tax Agents), and Title 44, Chapter 2.1 (Sales Finance Companies) are directly affected by this rulemaking.

A.R.S. § 41-1055(B)(3): A cost benefit analysis of the following:

(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.

This rulemaking is anticipated to result in a benefit to the Financial Institutions Division of the Department by synchronizing the Financial Institutions Division's and Insurance Division's hearing rules which should result in less confusion and greater efficiency for the Department. No new full-time employees are necessary to implement and enforce the revised 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.

No political subdivision of this state is directly affected by the implementation and enforcement of the proposed rulemaking.

(c) The 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.

No costs or benefits are anticipated to businesses directly affected by the proposed rulemaking because this rulemaking only updates the rules and synchronizes them with the Insurance Division's hearing rules. It does not add any new requirements for licensees that do not already exist in statute. These rules augment the APA which governs administrative hearings before the Department.

A.R.S. § 41-1055(B)(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 is not aware of any impact on the private employment of licensees who are subject to regulation by the Financial Institutions Division. Likewise, the Department does not anticipate any impact on public employment in the Department.

A.R.S. § 41-1055(B)(5): A statement of the probable impact of the proposed rulemaking on small businesses. The statement shall include:

(a) An identification of the small businesses subject to the proposed rulemaking.

“Small business” is defined as a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. A.R.S. § 41- 1001(23). Many of the licensees regulated by the Financial Institutions Division may fall within this definition.

(b) The administrative and other costs required for compliance with the proposed rulemaking.

No new costs are required for compliance with the proposed rulemaking. The rulemaking accomplishes the following:

1. The rulemaking eliminates unnecessary rules for the Financial Institutions Division that are duplicative of the APA. For instance, Section R20-4-1208: Commencement of Proceedings; Notice of Hearing, is unnecessary because A.R.S. §§ 41-1092.03 addresses the Notice of Hearing and commencement of proceedings for administrative hearings. Likewise, Section R20-4-1211: Intervention, is unnecessary because A.R.S. § 41-1092.03(B) allows for intervention and Section R20-4-1220: Consent Agreements is also unnecessary because A.R.S. § 41-1092.07(F)(5) allows for informal disposition of a matter with a consent order.
2. The rulemaking retains existing rules that augment the APA. Section R20-4-1210: Stays, which is not addressed in the APA is retained.
3. The rulemaking replaces Section R20-4-1220: Consent Agreements, with Petition for Rulemaking Action. This replacement brings the Financial Institution hearing rules in compliance with A.R.S. § 41-1033(B) which requires an agency to prescribe the form of a petition and the procedures for the petition’s submission, consideration, and disposition. It also synchronizes the Financial Institutions Division rule with the Insurance Division rule on petitions.

Many of the other changes made to the Financial Institutions Division’s hearing rules are to mirror the Insurance Division’s hearing rules. These changes are either linguistic or rearrange provisions to synchronize with the Insurance Division’s

rules and have no impact on the costs required for compliance with the proposed rulemaking.

(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 only new rule proposed for the Financial Institutions Division hearing rules is the replacement of Section R20-4-1220 with language addressing Petitions for Rulemaking Action. This new rule addresses the requirement imposed upon the agency that an agency prescribe the form of a petition and the procedures for the petition's submission, consideration, and disposition as required by A.R.S. § 41-1033(B). Although the new rule will have an impact on small businesses, the Department believes that the new rule is the least stringent and simplest approach to allow it to comply with the requirement of A.R.S. § 41-1033(B) while providing guidance to licensees seeking to file petitions under A.R.S. § 41-1033(A) with the Department.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.

The proposed rulemaking has no probable impact on private persons and consumers because it only applies to licensees regulated by the Financial Institutions Division.

A.R.S. § 41-1055(B)(6): A statement of the probable effect on state revenues.

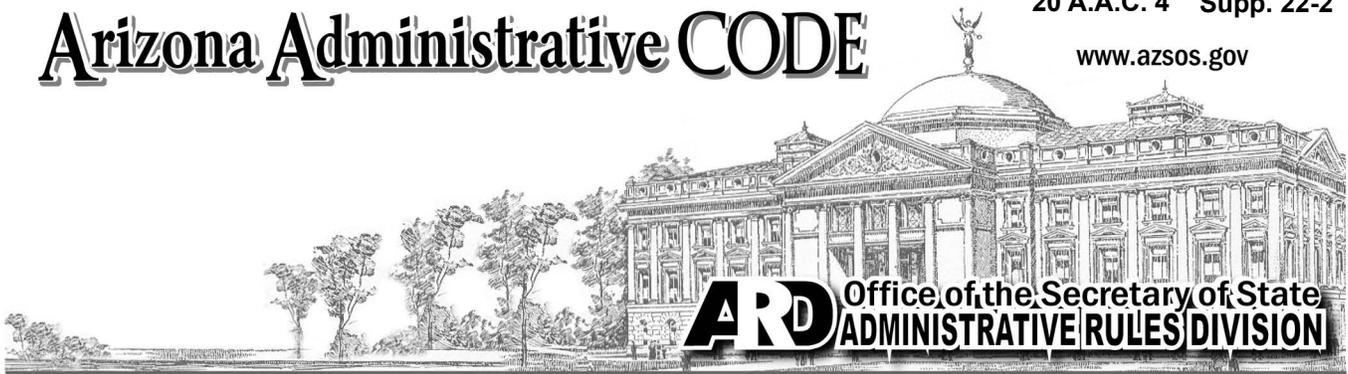
No impact on state revenues is anticipated.

A.R.S. § 41-1055(B)(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 believes that the current rulemaking offers the least intrusive and least costly alternative method to achieve the purpose of the proposed rulemaking.

A.R.S. § 41-1055(B)(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 rule is not based on any data.



TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

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*.

Editor's Note: The name of the Arizona Department of Financial Institutions was changed to the Department of Insurance and Financial Institutions under Laws 2019, Ch. 252, effective July 1, 2020. The Chapter heading has been updated at the request of the Department (Supp. 22-2).

Questions about these rules? Contact:

Department: Department of Insurance and Financial Institutions
Financial Institutions Division
Address: 100 N. 15th Ave., Ste. 261
Phoenix, AZ 85007
Website: <https://difi.az.gov/laws/rulemaking-process>
Name: Mary E. Kosinski
Telephone: (602) 364-3476
Email: mary.kosinski@difi.az.gov

The release of this Chapter in Supp. 22-2 replaces Supp. 20-1, 1-48 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. 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 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, 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.

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

Authority: A.R.S. § 20-124

Supp. 22-2

CHAPTER TABLE OF CONTENTS

Editor's Note: The name of the Arizona Department of Financial Institutions was changed to the Department of Insurance and Financial Institutions under Laws 2019, Ch. 252, effective July 1, 2020 (Supp. 22-2).

Editor's Note: The Banking Department's name was changed to the Arizona Department of Financial Institutions under the authority of A.R.S. § 6-110, originally enacted as Laws 2004, Ch. 188, effective January 1, 2006 (Supp. 06-1).

Editor's Note: Title 20, formerly Commerce, Banking, and Insurance, is now Commerce, Financial Institutions, and Insurance. This change became effective when the Banking Department changed its name to the Department of Financial Institutions, effective January 1, 2006 (Supp. 06-1).

20 A.A.C. 4, consisting of R20-4-101 through R20-4-106, R20-4-201 through R20-4-215, R20-4-301 through R20-4-331, R20-4-401 through R20-4-402, R20-4-501 through R20-4-536, R20-4-601 through R20-4-620, R20-4-701 through R20-4-707, R20-4-801 through R20-4-816, R20-4-901 through R20-4-924, R20-4-1001, R20-4-1101 through R20-4-1102, R20-4-1201 through R20-4-1220, R20-4-1401 through R20-4-1410, R20-4-1501 through R20-4-1530, R20-4-1601 through R20-4-1604, and R20-4-1701 through R20-4-1706, recodified from 4 A.A.C. 4, consisting of R4-4-101 through R4-4-106, R4-4-201 through R4-4-215, R4-4-301 through R4-4-331, R4-4-401 through R4-4-402, R4-4-501 through R4-4-536, R4-4-601 through R4-4-620, R4-4-701 through R4-4-707, R4-4-801 through R4-4-816, R4-4-901 through R4-4-924, R4-4-1001, R4-4-1101 through R4-4-1102, R4-4-1201 through R4-4-1220, R4-4-1401 through R4-4-1410, R4-4-1501 through R4-4-1530, R4-4-1601 through R4-4-1604, and R4-4-1701 through R4-4-1706, pursuant to R1-1-102 (Supp. 95-1).

ARTICLE 1. GENERAL

R20-4-101 through R4-4-106 recodified from R4-4-101 through R4-4-106 (Supp. 95-1).

Article 1, consisting of Sections R4-4-101 through R4-4-106 adopted effective August 16, 1991 (Supp. 91-3).

Article 1, consisting of Sections R4-4-101 through R4-4-104, repealed effective August 16, 1991 (Supp. 91-3).

Table with 2 columns: Section, Description. Includes R20-4-101 Scope of Article, R20-4-102 Definitions, R20-4-103 Fingerprints, R20-4-104 Acceptance of Other Forms, R20-4-105 Claims Against a Deposit in Place of Bond, R20-4-106 Bankruptcy, R20-4-107 Licensing Time-frames, Table A. Licensing Time-frames.

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Article 13, consisting of Sections R20-4-1301 through R20-4-1305, emergency rulemaking renewed at 16 A.A.R. 2165, effective October 24, 2010 for an additional 180 days (Supp. 10-4).

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2).

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, emergency expired April 21, 2011; new Article consisting of Sections R20-4-1301 through R20-4-1305, made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4).

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, emergency rulemaking renewed at 16 A.A.R. 2165, effective October 24, 2010 for an additional 180 days (Supp. 10-4).

Article 13, consisting of Sections R20-4-1301 through R20-4-1305, made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2).

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Article 18, consisting of Sections R20-4-1801 through R20-4-1812, adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

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CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - FINANCIAL INSTITUTIONS

ARTICLE 1. GENERAL

R20-4-101. Scope of Article

The rules in this Article apply to all activities of the Superintendent and to the interpretation of all Arizona statutes and rules administered by the Superintendent.

Historical Note

Former Rule 1. Former R4-4-101 repealed, new R4-4-101 adopted effective August 16, 1991 (Supp. 91-3).
R20-4-101 recodified from R4-4-101 (Supp. 95-1).

R20-4-102. Definitions

In this Chapter, unless otherwise specified:

1. "Active management" means directing a licensee's activities by a responsible individual, who:
 - a. Is knowledgeable about the licensee's Arizona activities;
 - b. Supervises compliance with:
 - i. The laws enforced by the Department of Financial Institutions as they relate to the licensee, and
 - ii. Other applicable laws and rules; and
 - c. Has sufficient authority to ensure compliance.
2. "Affiliate" has the meaning stated at A.R.S. § 6-901.
3. "Attorney General" means the Attorney General or an assistant Attorney General of the state of Arizona.
4. "Branch office" means any location within or outside Arizona, including a personal residence, but not including a licensee's principal place of business in Arizona, where the licensee holds out to the public that the licensee acts as a licensee.
5. "Business of a savings and loan association or savings bank" means receiving money on deposit subject to payment by check or any other form of order or request or on presentation of a certificate of deposit or other evidence of debt.
6. "Compensation" means, in applying that term's definition in A.R.S. §§ 6-901, 6-941, and 6-971, anything received in advance, after repayment, or at any time during a loan's life. This subsection expressly excludes the following items from those definitions of compensation:
 - a. Charges or fees customarily received after a loan's closing including prepayment penalties, termination fees, reinvestment fees, late fees, default interest, transfer fees, impound account interest and fees, extension fees, and modification fees. However, extension fees and modification fees are compensation if the lender advances additional funds or increases the credit limit on an open-end mortgage as part of the extension or modification;
 - b. Out-of-pocket expenses paid to independent third parties including appraisal fees, credit report fees, legal fees, document preparation fees, title insurance premiums, recording, filing, and statutory fees, collection fees, servicing fees, escrow fees, and trustee's fees;
 - c. Insurance commissions;
 - d. Contingent or additional interest, including interest based on net operating income; or
 - e. Equity participation.
7. "Commercial finance transaction," as that term is used in this Section's definitions of the terms "Engaged in the business of making mortgage loans" and "Engaged in the business of making mortgage loans or mortgage banking loans," means a loan made primarily for other than personal, family, or household purposes.
8. "Control of a licensee," as used in A.R.S. §§ 6-903, 6-944, or 6-978, does not include acquiring additional fractional equity interests in a licensee by any person who already has the power to vote 51% or more of the licensee's outstanding voting equity interests.
9. "Correspondent contract," as that term is used in A.R.S. §§ 6-941, 6-943, 6-971, or 6-973, means an agreement between a lender and a funding source under which the funding source may fund, or is required to fund, loans originated by the lender.
10. "Cushion," as that term is used in R20-4-1811 or R20-4-1908, means funds that a servicer or lender may require a borrower to pay into an escrow or impound account before the borrower's periodic payments are available in the account to cover unanticipated disbursements.
11. "Directly or indirectly makes, negotiates, or offers to make or negotiate" and "Directly or indirectly making, negotiating, or offering to make or negotiate," as those phrases are used in A.R.S. §§ 6-901, 6-941, or 6-971, mean:
 - a. Providing consulting or advisory services in connection with a mortgage loan transaction, mortgage banking loan transaction, or commercial mortgage loan transaction;
 - i. To an investor, concerning the location or identity of potential borrowers, regardless of whether the person providing consulting or advisory services directly contacts any potential borrowers; or
 - ii. To a borrower, concerning the location or identity of potential investors or lenders; or
 - b. Providing assistance in preparing an application for a mortgage loan transaction, mortgage banking loan transaction, or commercial mortgage banking loan transaction, regardless of whether the person providing assistance directly contacts any potential investor or lender; and
 - c. Processing a loan; but
 - d. "Directly or indirectly makes, negotiates, or offers to make or negotiate" and "Directly or indirectly making, negotiating, or offering to make or negotiate" do not include:
 - i. Providing clerical, mechanical, or word processing services to prepare papers or documents associated with a mortgage loan transaction, mortgage banking loan transaction, or commercial mortgage banking loan transaction;
 - ii. Purchasing, selling, negotiating to purchase or sell, or offering to purchase or sell a mortgage loan, mortgage banking loan, or commercial mortgage banking loan already funded;
 - iii. Making, negotiating, or offering to make additional advances on an existing open-ended mortgage loan, mortgage banking loan, or commercial mortgage loan including revolving credit lines;
 - iv. Modifying, renewing, or replacing a mortgage loan, a mortgage banking loan, or a commercial mortgage loan already funded, if the parties to and security for the loan are the same as the original loan immediately before the modification, renewal, or replacement, and if no additional funds are advanced and no increase is made in the credit limit on an open-ended loan. Replacing a loan means making a new loan

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- simultaneously with terminating an existing loan.
12. "Electronic record" has the meaning stated at A.R.S. § 44-7002(7).
 13. "Employee" means a natural person who has an employment relationship with a licensee that is acknowledged by both the person and the licensee, and:
 - a. The person is entitled to payment, or is paid, by the licensee;
 - b. The licensee withholds and remits, or is liable for withholding and remitting, payroll deductions for all applicable federal and state payroll taxes;
 - c. The licensee has the right to hire and fire the employee and the employee's assistants;
 - d. The licensee directs the methods and procedures for performing the employee's job;
 - e. The licensee supervises the employee's business conduct and the employee's compliance with applicable laws and rules; and
 - f. The rights and duties under subsections (13)(a) through (e) belong to the licensee regardless of whether another person also shares those rights and duties.
 14. "Engaged in the business of making mortgage loans," as that phrase is used in A.R.S. § 6-902, and "engaged in the business of making mortgage loans or mortgage banking loans," as that phrase is used in A.R.S. § 6-942, mean the direct or indirect making of a total of more than five mortgage banking loans or mortgage loans, or both in a calendar year. Each loan counts only once as of its closing date. A person is not "engaged in the business of making mortgage loans or mortgage banking loans" if the person makes loans solely in commercial finance transactions in which no more than 35% of the aggregate value of all security taken by the investor on the closing date is a lien, or liens, on real property.
 15. "Exclusive contract," as that term is used in A.R.S. §§ 6-912 and 6-991.02, means a written agreement in which a loan originator agrees to perform services as a loan originator subject to supervision and control by a person holding a certificate of exemption issued under A.R.S. § 6-912 on an exclusive basis. The agreement provides that the loan originator is expressly prohibited from performing loan origination or modification services for any other person during the time the agreement is in effect.
 16. "Generally accepted accounting principles" has the meaning used by the Financial Accounting Standards Board or the American Institute of Certified Public Accountants.
 17. "Holds out to the public," as used in this Section's definition of "branch office," means advertising or otherwise informing the public that mortgage banking loans, commercial mortgage loans, or mortgage loans are made or negotiated at a location. "Holds out to the public" includes listing a location on business cards, stationery, brochures, rate lists, or other promotional items. "Holds out to the public" does not include a clearly identified home or mobile telephone number on a business card or stationery.
 18. "Loan," as that term is used in A.R.S. §§ 6-126(C)(6) and (8), means all loans negotiated or closed, without regard to the location of the real property collateral or type of loan.
 19. "Loan Processing" means obtaining a loan application's supporting documents for use in underwriting.
 20. "Person" means a natural person or any legal or commercial entity including a corporation, business trust, estate, trust, partnership, limited partnership, joint venture, association, limited liability company, limited liability partnership, or limited liability limited partnership.
 21. "Property insurance," as that term is used in A.R.S. §§ 6-909 and 6-947, does not include flood insurance as that term is used in the Flood Disaster Protection Act of 1973, as modified by the National Flood Insurance Reform Act of 1994. 42 U.S.C. 4001, et seq.
 22. "Reasonable investigation of the background," as that term is used in A.R.S. §§ 6-903, 6-943, or 6-976 means a licensee, at a minimum:
 - a. Collects and reviews all the documents authorized by the Immigration Reform and Control Act of 1986, 8 U.S.C. 1324a;
 - b. Obtains a completed Employment Eligibility Verification (Form I-9);
 - c. Obtains a completed and signed employment application;
 - d. Obtains a signed statement attesting to all of an applicant's felony convictions, including detailed information regarding each conviction;
 - e. Consults with the applicant's most recent or next most recent employer, if any;
 - f. Inquiries regarding the applicant's qualifications and competence for the position;
 - g. If for a loan officer, loan originator, loan processor, branch manager, supervisor, or similar position, obtains a current credit report from a credit reporting agency; and
 - h. Investigates further if any information received in the above inquiries raises questions as to the applicant's honesty, truthfulness, integrity, or competence. An inquiry is sufficient after two attempts to contact a person, including at least one written inquiry.
 23. "Record" has the meaning stated at A.R.S. § 44-7002(13).
 24. "Registered to do business in this state" means:
 - a. If an Arizona corporation, it is incorporated under A.R.S. Title 10, Chapter 2, Article 1;
 - b. If a foreign corporation, it either transfers its domicile under A.R.S. Title 10, Chapter 2, Article 2, or obtains authority to transact business in Arizona under A.R.S. Title 10, Chapter 15, Article 1;
 - c. If a business trust, it obtains authority to transact business in Arizona under A.R.S. Title 10, Chapter 18, Article 4;
 - d. If an estate, it acts through a personal representative duly appointed by this state's Superior Court, under the provisions of A.R.S. Title 14, Chapter 3 or 4;
 - e. If a trust, it delivers to the Superintendent an executed copy of the trust instrument creating the trust together with:
 - All the current amendments, or
 - A true copy of the trust instrument certified accurate and complete by a trustee of the trust before a notary public;
 - f. If a general partnership, limited partnership, limited liability company, limited liability partnership, or limited liability limited partnership, it is organized under A.R.S. Title 29;

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- g. If a foreign general partnership, limited partnership, limited liability company, limited liability partnership, or limited liability limited partnership, it is registered with the Arizona Secretary of State's office under A.R.S. Title 29;
 - h. If a joint venture, association, or any entity not specified in this subsection, it is organized and conducts its business in compliance with Arizona law; or
 - i. The entity is exempt from registration.
25. "Registered Exempt Person" means a person who is exempt from licensure pursuant to A.R.S. § 6-912 and A.R.S. Title 6, Chapter 9, Articles 1, 2 and 3 as a federally chartered savings bank that is registered with the nationwide mortgage licensing system and registry and holds a certificate of exemption.
26. "Resident of this state" means a natural person domiciled in Arizona.
27. "Responsible individual" or "responsible person", as those terms are used in A.R.S. §§ 6-903, 6-943, 6-973, and 6-976, means a resident of this state who:
- a. Lives in Arizona during the entire period of designation as the responsible individual on a license;
 - b. Is in active management of a licensee's affairs;
 - c. Meets the qualifications listed in A.R.S. §§ 6-903, 6-943, or 6-973; and
 - d. Is an officer, director, member, partner, employee, or trustee of a licensed entity.

Historical Note

Former Rule 2. Former R4-4-102 repealed, new R4-4-102 adopted effective August 16, 1991 (Supp. 91-3). R20-4-102 recodified from R4-4-102 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10 (Supp. 99-2). Amended by final rulemaking at 7 A.A.R. 668, effective January 10, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4). Amended by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

R20-4-103. Fingerprints

- A. A licensee or applicant shall deliver fingerprints requested or required by the Superintendent on fingerprint cards provided by the Superintendent.
- B. A licensee or applicant shall bear any costs incurred in obtaining or submitting fingerprints.
- C. A licensee or applicant shall arrange to have fingerprints taken, signed, and dated by:
 - 1. A municipal police department,
 - 2. A local sheriff's office, or
 - 3. Another law enforcement authority recognized by the Superintendent.

Historical Note

Former Rule 3. Former R4-4-103 repealed, new R4-4-103 adopted effective August 16, 1991 (Supp. 91-3). R20-4-103 recodified from R4-4-103 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4670, effective November 14, 2000 (Supp. 00-4).

R20-4-104. Acceptance of Other Forms

If another entity's applications and forms provide all the information required by Arizona law, the Superintendent has the discretion to accept them, even if another provision of this Chapter requires use of a specific Department of Financial Institutions form. The Superintendent's exercise of the discretion to accept alternative forms does not limit the Superintendent's power to require addi-

tional information necessary to complete an application or other form.

Historical Note

Former Rule 4. Former R4-4-104 repealed, new R4-4-104 adopted effective August 16, 1991 (Supp. 91-3). R20-4-104 recodified from R4-4-104 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4670, effective November 14, 2000 (Supp. 00-4).

R20-4-105. Claims Against a Deposit in Place of Bond

- A. As used in this Section:
 - 1. "Deposit" means cash or alternatives to cash deposited by a licensee with the Superintendent in place of a bond.
 - 2. "Depositor" means licensee or an employee of the licensee who makes a deposit with the Superintendent.
 - 3. "Verified claim" means a claim filed with the Superintendent under subsection (B).
 - 4. "Award" means an amount of money granted under subsection (F).
- B. A person may file a claim against a deposit by delivering documentation of the claim to the Superintendent. The claim shall be based on a final judgment in favor of the claimant, entered by a court of competent jurisdiction. To support a claim, the judgment shall be:
 - 1. Against a depositor;
 - 2. For injury caused by the depositor's wrongful act, default, fraud, or misrepresentation committed in the course of the depositor's licensed business activity; and
 - 3. Documented by:
 - a. A certified copy of the complaint in the action;
 - b. A certified copy of the judgment in the action;
 - c. A statement that execution of the judgment has not been stayed, or an explanation of the terms and reason for any stay;
 - d. A statement of any amounts recovered on the judgment; and
 - e. A sworn and notarized statement that the claim is true and correct to the best of the claimant's knowledge and belief.
- C. A claimant shall file a claim with the Superintendent, and all required supporting documentation, not more than six months after entry of the judgment asserted in the claim. However, if execution of the asserted judgment is stayed during the first six months after its entry, the claimant may file a verified claim only during the six months after the stay is lifted. The Department shall process a timely-filed verified claim as a request for hearing under R20-4-1208.
- D. The claimant shall notify the depositor of the filing of a verified claim under this Section, and make the depositor a party to all proceedings on the claim. To do so, the claimant shall send the depositor a copy of all documents filed under subsection (B). The claimant shall make this delivery no more than 10 days after the original filing with the Superintendent under subsection (B). The Department considers a proceeding on a verified claim to be a contested case, governed by the provisions of 20 A.A.C. 4, Article 12.
- E. The Superintendent shall, after a hearing, deny a verified claim if the hearing produces evidence of any of the following circumstances:
 - 1. The judgment is not for an injury caused by the depositor and described in subsection (B)(2);
 - 2. The judgment was awarded by default, stipulation, or consent, and no showing is made in the hearing of an injury caused by the depositor and described in subsection (B)(2);
 - 3. The judgment's execution has been stayed for any reason;

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4. The judgment was procured through fraud or collusion;
 5. The judgment has been satisfied from other sources; or
 6. The action that produced the judgment was barred by the applicable statute of limitations at the time it was commenced.
- F.** If the Superintendent grants a verified claim, the Superintendent shall do so in the amount of the compensatory damages awarded against the depositor in the judgment, exclusive of:
1. Attorney's fees, and
 2. Amounts previously paid on the judgment.
- G.** A person injured by a depositor shall give the Superintendent written notice at the time of filing a civil action if the claims alleged could be made as a verified claim under this Section. The written notice shall include a statement of the amount of compensatory damages sought against the depositor. The injured person shall provide further information about the civil action to the Superintendent upon request.
- H.** If the Superintendent grants a verified claim under subsection (F), the Superintendent shall authorize the State Treasurer, in writing, to release the deposit to the claimant in the amount stated in subsection (F) if the Superintendent has not received notice of another pending civil action under subsection (G).
- I.** If given notice under subsection (G), the Superintendent shall determine whether the deposit is sufficient to satisfy all claims under subsection (F). The Superintendent shall determine award amounts for each claim of which the Superintendent has notice, and authorize payment, as follows:
1. If the deposit is sufficient to satisfy all claims under subsection (F), the Superintendent shall authorize its release as described in subsection (H).
 2. If the deposit is not sufficient to satisfy all claims under subsection (F), the Superintendent shall calculate the award on each claim as follows:
 - a. Each granted claim shall receive a pro rata share of the total deposit.
 - b. Each pro rata share shall be a dollar amount calculated by multiplying the total deposit by a fraction.
 - i. The numerator of the fraction is the amount of the Superintendent's award for the verified claim.
 - ii. The denominator of the fraction is the sum of the amount of the Superintendent's award for the verified claim plus the total compensatory damages sought in all other civil actions against the same depositor disclosed to the Superintendent under subsection (G).
 - c. The Superintendent shall authorize the State Treasurer to release the pro rata portion of the deposit calculated for each verified claim.
- J.** A depositor or former licensee may request return of its deposit if it substitutes a bond for the deposit, or if its license is surrendered, revoked, or expired, and if all statutory conditions for release of the deposit have been satisfied. The Superintendent shall not release any part of a deposit to a depositor or former licensee until the Superintendent determines whether there are any awards on verified claims unsatisfied because of an apportionment under subsection (I). The Superintendent shall use the deposit amount to pay any unsatisfied portion of those awards. If the deposit amount is not sufficient to pay in full all unsatisfied awards, the Superintendent shall pay the remaining amount of the deposit to claimants in the ratio their awards bear to the total of all awards granted against the deposit.
- K.** The court supervising a licensee in receivership may order the release of a deposit to persons injured by conduct described in subsection (B). In that event, the receiver shall deliver a certi-

fied copy of the court's order to the Superintendent. The copy may be uncertified if the receiver is the Superintendent or any other officer or agency of the state of Arizona. The Superintendent shall then authorize the State Treasurer, in writing, to release the deposit to the receiver. The receiver shall distribute the deposit as ordered by the receivership court, rather than under this Section.

Historical Note

Adopted effective August 16, 1991 (Supp. 91-3). R20-4-105 recodified from R4-4-105 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4670, effective November 14, 2000 (Supp. 00-4).

R20-4-106. Bankruptcy

An enterprise licensee or consumer lender licensee shall immediately deliver written notice to the Superintendent if it files a voluntary bankruptcy petition, or if its creditors name the licensee a debtor in an involuntary bankruptcy petition. On the date of each of the following documents' filing with the bankruptcy court, the licensee shall deliver to the Superintendent a copy of the:

1. Petition for relief,
2. Schedule of assets and liabilities,
3. Statement of financial affairs,
4. List of creditors, and
5. Plan of reorganization.

Historical Note

Adopted effective August 16, 1991 (Supp. 91-3). R20-4-106 recodified from R4-4-106 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4).

R20-4-107. Licensing Time-frames

- A.** As used in this Section, "application" means a document specified or described in this Title, or in any statute enforced by the Department, requesting any permit, certificate, approval, registration, charter, or similar permission described in Table A, together with all supporting documentation required by statute or rule.
- B.** The time-frames in Table A apply solely to applications received by the Department after the effective date of this Section. Each overall time-frame consists of an administrative completeness review time-frame, and a substantive review time-frame. The administrative completeness review time-frame begins to run upon receipt of an application by the Department.
1. Within the administrative completeness review time-frame in Table A, the Department shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice shall specify the missing information or component.
 2. An applicant whose application is incomplete shall supply the missing information within 60 days after the date of the notice. If an applicant shows good cause in writing before the expiration of the 60 day time limit, the Superintendent shall extend the period for administrative completion of an application. The administrative completeness review time-frame stops running on the postmark date of the Department's written notice of an incomplete application, and resumes when the Department receives a complete application. If the applicant fails to submit a complete application within the specified time limit, the Department shall reject the application and close the file. An applicant may reapply.
 3. The substantive review time-frame begins to run on the postmark date of the Department's written notice that the application is administratively complete.

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4. Within the overall time-frame set forth in Table A the Department shall send the applicant written notice of its decision to approve, conditionally approve, or deny a license, unless the time-frame is extended by mutual agreement under A.R.S. § 41-1075. If the Department denies an application, it shall provide written justification for the denial and a written explanation of the applicant's right to a hearing or appeal in the form required by A.R.S. § 41-1076.
5. The Department shall calculate time limits prescribed in this Section under R2-19-107.
- C. The time-frames in this Section apply solely to actions taken by the Department. Nothing in this Section relieves a licensee or applicant of a duty to fulfill any other legal or regulatory requirement that is a condition of its power and authority to engage in business.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3).
Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4).

Table A. Licensing Time-frames

No.	License Type	Legal Authority	Administrative Completeness Review (Days)	Substantive Review (Days)	Overall Time-Frame (Days)
1	Bank	A.R.S. § 6-203, et seq.			
	Initial Application	R20-4-211	45	45	90
2	Bank Trust Dept.	A.R.S. § 6-381			
	Initial Application	A.R.S. § 6-203, A.R.S. § 6-204(C)	45	45	90
3	Savings & Loan	A.R.S. § 6-401, et seq.			
	Initial Application	A.R.S. § 6-408, R20-4-327	75	75	150
4	Credit Union	A.R.S. § 6-501, et seq.			
	Initial Application	A.R.S. § 6-506(A)	60	60	120
5	Trust Company	A.R.S. § 6-851, et seq.			
	Initial Application	A.R.S. § 6-854(A)	75	75	150
6	Consumer Lender	A.R.S. § 6-601, et seq.			
	Initial Application	A.R.S. § 6-603(C)	60	60	120
7	Debt Management	A.R.S. § 6-701, et seq.			
	Initial Application	A.R.S. § 6-704(A), R20-4-602(A)	30	30	60
8	Escrow Agent	A.R.S. § 6-801, et seq.			
	Initial Application	A.R.S. § 6-814	60	60	120
9	Mortgage Broker or Commercial Mortgage Broker	A.R.S. § 6-901, et seq.			
	Initial Application	A.R.S. § 6-903(C) & (D)	60	60	120
10	Mortgage Banker	A.R.S. § 6-941, et seq.			
	Initial Application	A.R.S. § 6-943(D)	60	60	120
11	Commercial Mortgage Banker	A.R.S. § 6-971, et seq.			
	Initial Application	A.R.S. § 6-974(A)	60	60	120
12	Acquisition of Control of Financial Institution	R20-4-1602, R20-4-1702			
	Initial Application	A.R.S. 6-1104	30	30	60
13	Money Transmitter	A.R.S. § 6-1201, et seq.			
	Initial Application	A.R.S. § 6-1204(A)	60	60	120
14	Advance Fee Loan Broker	A.R.S. § 6-1301, et seq.			
	Initial Application	A.R.S. § 6-1303(A)	30	30	60
15	Premium Finance Co.	A.R.S. § 6-1401, et seq.			

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	Initial Application	A.R.S. § 6-1402(C)	60	60	120
16	Collection Agency	A.R.S. § 32-1001, et seq.			
	Initial Application	A.R.S. § 32-1021, R20-4-1502	30	15	45
17	Motor Vehicle Dealer	A.R.S. § 44-281, et seq.			
	Initial Application	A.R.S. § 44-282(B)	30	15	45
18	Sales Finance Co.	A.R.S. § 44-281, et seq.			
	Initial Application	A.R.S. § 44-282(B)	30	15	45
19	Certificate of Exemption	A.R.S. § 6-912			
	Initial Application	A.R.S. § 6-912(B)	45	45	90
20	Loan Originators	A.R.S. § 6-991, et seq.			
	Initial Application	A.R.S. § 6-991.04(A)	60	60	120

Historical Note

Table A adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4). Amended by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

ARTICLE 2. BANK ORGANIZATION AND REGULATION

R20-4-201. Articles of Incorporation

A licensee shall deliver to the Superintendent a copy of each amendment to the licensee’s articles of incorporation within 30 days after the amendment is filed with the Arizona Corporation Commission. Before delivery to the Superintendent, an officer of the licensee shall:

1. Certify the copy delivered in compliance with this Section, in writing, signed by the certifying officer, attesting to the completeness, accuracy, and authenticity of the certified copy; and
2. Ensure the copy bears a stamp affixed by the Arizona Corporation Commission to evidence filing with the Commission.

Historical Note

Former Rule 1. R20-4-201 recodified from R4-4-201 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 811, effective January 10, 2001 (Supp. 01-1).

R20-4-202. Bylaws

A licensee shall deliver to the Superintendent a copy of each amendment to the licensee’s bylaws within 30 days after the amendment is adopted. An officer of the licensee shall certify the copy delivered in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.

Historical Note

Former Rule 2. R20-4-202 recodified from R4-4-202 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 811, effective January 10, 2001 (Supp. 01-1).

R20-4-203. Repealed

Historical Note

Former Rule 3; Amended subsection (C) effective September 4, 1981 (Supp. 81-5). R20-4-203 recodified from R4-4-203 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-204. Repealed

Historical Note

Former Rule 6. R20-4-206 recodified from R4-4-206 (Supp. 95-1).

Historical Note

Former Rule 4. R20-4-204 recodified from R4-4-204 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-205. Repealed

Historical Note

Former Rule 5. R20-4-205 recodified from R4-4-205 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3188, effective August 3, 2000 (Supp. 00-3).

R20-4-206. Bankers Blanket Bond Coverage -- A.R.S. § 6-188

A. Each bank shall carry at least the following basic blanket bond coverage:

Banks with Deposits of:	Amounts:
Less than \$750,000	\$25,000
\$ 750,000 to 1,500,000	50,000
1,500,000 to 2,000,000	75,000
2,000,000 to 3,000,000	90,000
3,000,000 to 5,000,000	120,000
5,000,000 to 7,500,000	150,000
7,500,000 to 10,000,000	175,000
10,000,000 to 15,000,000	200,000
15,000,000 to 20,000,000	250,000
20,000,000 to 25,000,000	300,000
25,000,000 to 35,000,000	350,000
35,000,000 to 50,000,000	450,000
50,000,000 to 75,000,000	550,000
75,000,000 to 100,000,000	700,000
100,000,000 to 150,000,000	850,000
150,000,000 to 250,000,000	1,200,000
250,000,000 to 500,000,000	1,700,000
500,000,000 to 1,000,000,000	2,500,000
1,000,000,000 to 2,000,000,000	4,000,000
Over 2,000,000,000	6,000,000

B. Each bank shall supplement the bankers blanket bond coverage with at least a \$1,000,000 excess fidelity bond. Effective 8-8-73.

R20-4-207. Capital Obligations

A. An applicant for a Superintendent’s order of approval to issue a capital obligation shall submit the following documents to

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the Superintendent, and shall not issue any capital obligation before the Superintendent issues the order of approval. The required documents are:

1. A certified copy of the resolution adopted by the Board of Directors, or a certified copy of the unanimous written consent of the Board of Directors, authorizing the sale of the capital obligation;
 2. A copy of the agreement underlying the capital obligation;
 3. A copy of the note or debenture intended to represent the capital obligation; and
 4. A copy of the prospectus, if any, proposed for use in the sale of the capital obligation.
- B.** Each document evidencing a capital obligation shall:
1. Bear on its face, in bold face type, the following: This obligation is not a deposit and is not insured by the Federal Deposit Insurance Corporation.
 2. Have a maturity provision that either:
 - a. Gives the obligation a maturity of at least five years, or
 - b. In the case of an obligation or issue that provides for scheduled repayments of principal, gives an average maturity of at least five years. The restriction on maturity stated in this subsection does not apply to any obligation that otherwise meets all the requirements of this rule if the Superintendent determines that exigent circumstances require the issuance of the obligation without regard to any restriction on maturity. The provisions of this subsection do not apply to mandatory convertible debt obligations or issues.
 3. State expressly on its face that the obligation:
 - a. Is subordinated and junior in right of payment to the issuing bank's obligations to its depositors and to the bank's other obligations to its general and secured creditors, and
 - b. Is ineligible as collateral for a loan by the issuing bank, except as provided in A.R.S. § 6-354.
 4. Be unsecured.
 5. State expressly on its face that the issuing bank may not retire any part of its capital obligation without the Superintendent's prior written order of approval, and the prior written consent of the Federal Deposit Insurance Corporation.
 6. Include, if the obligation is issued to a depository institution, a specific waiver of the right of offset by the lending depository institution.
 7. State that, in the event of liquidation, all depositors and other creditors of the bank are to be paid in full before any payment of principal or interest is made on a capital obligation.
- C.** No payment shall be made under an optional right of payment reserved to the bank without the separate authorization of the Superintendent. The Superintendent may grant that authority in the initial order of approval or in a later order of approval.

Historical Note

Former Rule 7. R20-4-207 recodified from R4-4-207 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 2155, effective May 4, 2001 (Supp. 01-2).

R20-4-208. Repealed**Historical Note**

Former Rule 8. R20-4-208 recodified from R4-4-208 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3188, effective August 3, 2000 (Supp. 00-3).

R20-4-209. Notice of Permanent Closing of Banking Office

A bank may close fewer than all of its banking offices. Before closing any office, a bank shall deliver a letter to the Superintendent specifying the banking office it plans to close and the closing date. The bank shall ensure that the Superintendent receives the letter at least 10 days before the closing date. Closing the banking office shall terminate the bank's authority to maintain that banking office on the date of the actual closure.

Historical Note

Former Rule 9. R20-4-209 recodified from R4-4-209 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5388, effective November 9, 2001 (Supp. 01-4).

R20-4-210. Repealed**Historical Note**

Former Rule 10. R20-4-210 recodified from R4-4-210 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3188, effective August 3, 2000 (Supp. 00-3).

R20-4-211. Application for a Banking Permit

- A.** Before an application is filed, the representatives of the potential applicant shall meet with the Superintendent of Banks to discuss capitalization, location, and management of the proposed bank.
- B.** After the meeting required by subsection (A), persons who wish to proceed with the application process shall submit an application in the form the Superintendent prescribes. The applicant shall support the application with sufficient information to enable the Superintendent to make a determination.

Historical Note

Former Rule 11. R20-4-211 recodified from R4-4-211 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 3188, effective August 3, 2000 (Supp. 00-3).

R20-4-212. Repealed**Historical Note**

Former Rule 12. Amended effective September 4, 1981 (Supp. 81-4). R20-4-212 recodified from R4-4-212 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-213. Repealed**Historical Note**

Former Rule 13. Repealed effective September 13, 1981 (Supp. 81-5). R20-4-213 recodified from R4-4-213 (Supp. 95-1).

R20-4-214. Preservation of Records

- A.** Every bank shall keep its corporate and business records as originals or as copies of the originals made by reproduction methods that accurately and permanently preserve the records. Copies complying with this subsection, when satisfactorily identified, have the same evidentiary status as an original. A bank may use an electronic recordkeeping system. The Department shall not require a bank to keep a written copy of its records if the bank can generate all information and copies required by this Section in a timely manner for examination or other purposes.
- B.** A bank shall keep its corporate and business records for the period required by this Section. These periods are measured from the date of the last entry or final action date. A bank shall

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have and comply with its own record retention schedule that is consistent with this Section. A bank may comply with this Section by complying with a preemptive federal regulation, even if the federal regulation requires a shorter retention period than is listed in this Section. This Section does not prohibit record retention for longer periods than these state-required minimums for any reason, including a retention period established by preemptive federal law or regulation. Likewise, this Section does not prohibit a bank from keeping any type of record not required in subsection (D).

C. Beginning on the effective date of this Section, corporate and business records of a bank operating in the state of Arizona are classified, and their retention periods are prescribed, according to the schedule in subsection (D). Retention periods are listed in subsection (D) using the notations, acronyms, and abbreviations listed in this Section.

1. A numerical designation refers to a period of years unless a shorter period of time is specified in the schedule.
2. "AC" means after closure.
3. "ACH" means automated clearing house.
4. "AE" means after expiration.
5. "ALC" means after last contact.
6. "AP" means after paid.
7. "ATD" means after termination date.
8. "CTR" means a cash transaction report required by the Federal Bank Secrecy Act.
9. "FDIC" means the Federal Deposit Insurance Corporation.
10. "FHA" means the Federal Housing Administration.
11. "FHLMC" means the Federal Home Loan Mortgage Corporation.
12. "FNMA" means the Federal National Mortgage Association.
13. "GNMA" means the Government National Mortgage Association.
14. "IRS" means the United States Department of the Treasury's Internal Revenue Service.
15. "M" means months.
16. "P" means the bank shall keep the record permanently.
17. "PMI" means private mortgage insurance.
18. "SAR" means a suspicious activity report required by the federal Bank Secrecy Act.
19. "TTL" means a treasury, tax, and loan account maintained by a bank.
20. "UCC" means the Uniform Commercial Code as it is in effect in Arizona.

D. Retention Schedule

1. Accounting and Auditing
 - a. Accrual and bond amortization 3
 - b. Audit report 6
 - c. Audit work papers 3
 - d. Bank call, income and dividend report 5
 - e. Bill, statement, or invoice - paid 7
 - f. Budget work papers 2
 - g. Collateral vault "in-and-out" ticket 1
 - h. Daily reserve computation 1
 - i. Earnings report 7
 - j. Expense voucher or invoice 7
 - k. Financial statement 7
 - l. Interoffice reconciliation 1
 - m. Interoffice transaction 1
 - n. Periodic statement for account owned by the bank 2
 - o. Reconciliation of deposits-due to bank 2
 - p. Reconciliation register-due from bank 2
 - q. Return and cash item register 1
 - r. Service contract 2

- s. Treasury tax and loan account 2
- t. Unclaimed property record 7
2. Administration
 - a. Articles of incorporation or association, bylaws, or other record of organization P
 - b. Bankers blanket bond-record showing compliance 5 AE
 - c. Bank examiner's report 7
 - d. Capital note issuance and transfer record P
 - e. Depreciation record-office equipment 3
 - f. Dividend check and register 7
 - g. Dividend check-outstanding P
 - h. Expired policy insuring the bank 3 AE
 - i. FDIC assessment base, record 5
 - j. FDIC certificate P
 - k. Insurance policy number, record of premium paid and amount recovered 3 AE
 - l. Legal proceedings when completed 5
 - m. Minute book of:
 - i. Meetings of the board of directors P
 - ii. Meetings of committees of the board of directors P
 - iii. Shareholders' meetings P
 - n. Postage meter record book (from date of final entry) 1
 - o. Real estate documentation 5 ATD
 - p. Report to directors 3
 - q. Stock issuance and transfer record P
 - r. Required report to supervisory agency 3
 - s. Tax controversy or proceeding when completed 7
 - t. Tax record not material to any controversy 7
 - u. Voting list and proxies 3
3. Collections
 - a. Collection payment record 1
 - b. Collection receipt-carbon 1
 - c. Collection register 1
 - d. Coupon cash letter-outgoing 1
 - e. Coupon envelope 1
 - f. Customer file copy 1
 - g. Incoming collection letter 1
 - h. Incoming contract or note letter 1
4. Customer service
 - a. Broker account holder-identification 5
 - b. Broker's confirmation 3
 - c. Broker's invoice 3
 - d. Broker's statement 3
 - e. E-Bond application 2
 - f. E-Bond sold or redeemed-record 2
 - g. E-Bond transmittal letter 2
 - h. Lock box daily receipts 1
 - i. Night depository agreement 1 AC
 - j. Night depository daily record 1
 - k. Safekeeping record and receipt 5
 - l. Securities buy order and sell order 3
5. Data processing (management information systems)
 - a. Back-up data (for reconstruction) daily, end of month, quarter, or year 1
 - b. Disaster recovery program P
 - c. Film copy of every IRS financial reporting form 6
 - d. Program change P
 - e. System, program and procedure manual P
6. Deposits
 - a. Account opened and account closed report 1
 - b. Certificate of deposit purchase record 7
 - c. Check paid, withdrawal slip, and other debits to account 7

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d. Club account check register	1	e. Armored car receipt	1
e. Club account coupon	1	f. Check book order	1
f. SAR - for suspicious transaction under \$10,000	5	g. Check book-receipt	1
g. CTR - for transaction exceeding \$10,000	5	h. Court order memorandum record	5
h. Customer authorization, resolution, and signature card	6 AC	i. Notice of Protest	1
i. Deposit account record needed to reconstruct	7	j. Travelers check-application	2
j. Deposit and other credits	7	k. Vault record-opening and closing	1
k. Dormant account – after closed or escheated	7 ALC	l. Wire transfer debit entry and credit entry	7
l. Form 1096, and 1099 reports to IRS	7	10. General ledger	
m. Individual retirement account record	7	a. Daily statement of condition	3
n. Interest check or other record of interest payment and reports	7	b. General journal-if byproduct of posting the general ledger	3
o. Internal management reports:		c. General journal-if used as book of original entry with description	3
i. Large balance	1	d. General ledger	5
ii. Overdraft	1	e. General ledger ticket-debit and credit	2
iii. Public funds	1	11. International department	
iv. Service charges	1	a. Broker account holder-identification	5
v. Stop payment	1	b. Cable copy	7
vi. Uncollected funds	1	c. Cable requisition	7
vii. Unposted item	1	d. Collection paid	1
viii. Zero balance	1	e. Correspondence	2
p. Ledger card	5 AC	f. Draft	7
q. Power of attorney document	7 ATD	g. Foreign collection register	6
r. Receipt for statement held at customer's request	1	h. Foreign draft application	6
s. Record showing compliance with the following federal regulations. The stated retention period applies unless, and until, it is preempted by federal law:		i. Foreign draft-carbon	2 ATD
i. Regulation CC, Expedited Funds Availability Act	2	j. Foreign exchange remittance sheet or book	6
ii. Regulation DD, Truth in Savings Act	2	k. Foreign financial account-record	7
iii. Regulation E, Electronic Funds Transfer Act	2	l. Foreign mail transfer application	6
t. Returned statement and cancelled checks	6	m. Foreign mail transfer-carbon	2 ATD
u. Statement	6	n. Foreign outstanding cash	2
v. Stop payment order	6 AE	o. Foreign payment-incoming	2
w. Document used to request and receive Tax Identification Number	6	p. Letter of credit application	2
x. Transaction journal	6	q. Letter of credit ledger sheet	7
y. Trial balance	6	r. Transfer outside of the United States in excess of \$10,000 – record	5
7. Due from banks		12. Investments	
a. Advice from correspondent bank	1	a. Bonds	
b. Bank statement	1	i. Amortization record	6
c. Draft-original	7	ii. Confirmation	3
d. Draft register or copy	1 AP	iii. Safekeeping receipt	2
e. Duplicate check-information and documentation pertaining to issuance	7	b. Broker's securities	
f. Reconciliation register	1	i. Broker's invoice	3
8. Due to banks		ii. Broker's statement	3
a. Account opened and account closed-reports	1	iii. Report of lost or stolen securities	3
b. Advice-copy	1	iv. Safekeeping advice	2
c. Incoming cash letter memo for credit	1	v. Taxpayer identification number	5
d. Incoming cash letter for remittance	1	c. Commercial paper	
e. Reconciliation register (TTL)	2	i. Broker's advice	2
f. Reconciliation verification	1	ii. Purchase order	2
g. Resolution	2 AC	iii. Remittance advice	2
h. Signature card	6 AC	d. Mortgage-backed securities	
i. Trial balance (fiche)	7	i. Buy-and-sell agreement	3
j. Undelivered statement, reconstruction available from bank records	1	ii. Commitment letter	7
k. Undelivered statement, reconstruction not possible	7	iii. FHLMC and FNMA loan file	7
9. General		iv. GNMA certificate	7
a. Address change order	1	v. Interest accrual record	7
b. Affidavit from customer including affidavit of loss, forgery, or non-use of cashier's check	1	vi. Monthly remittance report	7
c. Writ of attachment or garnishment	5	13. Loans. A bank shall keep each loan record listed for the period required by this subsection. These periods are measured from the date of final activity. A bank shall have and comply with its own record retention schedule that is consistent with this subsection. A bank may comply with this subsection by complying with a preemptive federal regulation, even if the federal regulation requires a shorter retention period than is listed in this subsection.	
d. Attachment, release	5		

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This subsection does not prohibit record retention for longer periods than these state-required minimums for any reason, including a retention period established by preemptive federal law or regulation. Likewise, this Section does not prohibit a bank from keeping any type of record not required by this subsection.

- a. All Loans - general
 - i. Application for loan approved 6
 - ii. Appraisal 6
 - iii. Borrower's financial statement 6
 - iv. Charge-off record 10
 - v. Charged off note 10
 - vi. Collateral file 6
 - vii. Correspondence 6
 - viii. Credit file – all documentation 6
 - ix. Credit report 6
 - x. Daily proof and record 6
 - xi. Loan committee minutes P
 - xii. Miscellaneous loan reports including new loan journal, paid loan journal, past due report, and transaction journal as original entry 6
 - xiii. Other documentation for reconstruction of loan 2
- b. Commercial loans
 - i. Application for loan denied 12 M
 - ii. Bill of sale 6
 - iii. Borrowing resolution 3
 - iv. Business annual report (fiscal or year end) - after date of report 3
 - v. Business cash-flow analysis report - after date of report 3
 - vi. Business tax return - after date of return 6
 - vii. Commitment letter 6
 - viii. Copy of mortgage note or deed of trust 6
 - ix. Evidence of insurance 6
 - x. Guaranty 6
 - xi. Letter of credit 6
 - xii. Participation agreement 6
 - xiii. Promissory note 6
 - xiv. Purchase and sale agreement 6
 - xv. Security agreement 6
 - xvi. Title documentation 6
 - xvii. UCC filing 6
- c. Consumer loans
 - i. Application for loan denied, including adverse action notice 25 M
 - ii. Collateral record 6
 - iii. Hazard insurance record 6
 - iv. Invoice 6
 - v. Life and disability insurance record 6
 - vi. Overdraft loan agreement 6
 - vii. Promissory note and modification agreement - copy 6
 - viii. Title documentation 6
 - ix. UCC filing - copy 6
- d. Real estate loans
 - i. Assignment of escrow 6
 - ii. Assumption 6
 - iii. Commitment letter 6
 - iv. Copy of deed of trust or mortgage note, as it may have been modified 6
 - v. Escrow analysis and record 6
 - vi. Evidence of any FHA or PMI insurance required 6
 - vii. Hazard insurance life of loan
 - viii. Proof of insurance excluding hazard 6

- ix. Sales contract 6
- x. Settlement sheet 6
- xi. Survey 6
- xii. Title documentation 6
- e. Construction loans. In addition to the documents specified in subsection (d), a bank shall keep a record for a construction loan as specified in this subsection:
 - i. Certificate of occupancy 6
 - ii. Construction progress report 6
 - iii. Contractor's cost breakdown 6
 - iv. Disbursement documentation 6
 - v. Inspection report 6
 - vi. Residential construction specifications and material list 6
- 14. Official checks and drafts
 - a. Affidavit, bond, indemnity agreement, other documentation supporting the issuance of a duplicate check or draft 7
 - b. Bank draft 3
 - c. Cashier's check-cancelled 7
 - d. Cashier's check register-copy 7
 - e. Expense check-cancelled 7
 - f. Expense check register-copy 7
 - g. Expense voucher or invoice 7
 - h. Money order-bank or personal 7
 - i. Money order register-copy 7
 - j. Official check outstanding P
- 15. Personnel Records
 - a. Attendance record, and time card 3
 - b. Authorization for payroll deduction 2
 - c. Department of labor report 5
 - d. Disability record 5
 - e. Employee record and personnel folder 5
 - f. Employment application 3 AT
 - g. Insurance record 2
 - h. Payroll check 2
 - i. Pension fund record 10
 - j. Profit sharing fund record 10
 - k. Rejected employee application 2
 - l. Salary ledger or electronic data processing printout 4
 - m. Salary receipt 2
 - n. W-3 reconciliation of income tax withheld from wages 3
 - o. W-4 withholding exemption certificate 3
 - p. Wage and tax statement record (W-2) 7
 - q. Wage differential documentation (Fair Labor Standards Act) 3
- 16. Registered mail
 - a. Marine insurance book 3
 - b. Record of incoming and outgoing registered mail 1
 - c. Return receipt card 3
- 17. Safe deposit vault
 - a. Access ticket or card 6
 - b. Court order and correspondence 6
 - c. Delivery of will, burial plot deed, insurance policy-receipt 6
 - d. Forced entry record 6
 - e. Lease or contract-closed account 2 AC
 - f. Ledger record of account 1
 - g. Opened box contents-record and report 7
 - h. Rent receipt-copy 1
 - i. Sale to satisfy lien-record 7
 - j. Signature card, authorization, and resolution 6 AC
- 18. Tellers

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a.	Mail teller envelope	3 M	ii.	Personal property	3 AC
b.	Teller's balancing recap or recap book	1	e.	Asset delivery receipt	3 AC
c.	Teller's cash ticket-original and carbons	1	f.	Authorization	
d.	Teller's cash shipment record	1	i.	By co-fiduciary	P
e.	Teller's exchange ticket	1	ii.	By consultant	P
f.	Teller's machine tape	1	g.	Approval	
19.	Transit, proof, and clearing		i.	By co-fiduciary	P
a.	ACH entry	6	ii.	By consultant	P
b.	Advice of correction to deposit	2	h.	Broker's statement	7
c.	Clearinghouse settlement sheet - recapitulation of checks delivered to the clearinghouse or federal reserve	2	i.	Buy and sell order	7
d.	Record of items processed	6	j.	Cash documentation	
e.	Proof machine tape or other record	2	i.	Customer cash and asset statement	7
f.	Receipt for transit letter	1	ii.	Cash and security journal	7
g.	Return item letter	5	iii.	Cash trial balance	1
20.	Trust department administration		k.	Common trust fund annual report	10
a.	Appraisal of real or personal property held as a trust asset	3 AC	l.	Correspondence	
b.	Correspondence	3 AC	i.	Transfer letter	3 AC
c.	Decree or receipt and release	3 AC	ii.	Claim letter	3 AC
d.	Fee record and supporting data	3 AC	m.	Coupon collection record	7
e.	Intermediate and final account	3 AC	n.	Court accounting and petition	7
f.	Legal documentation including judgment, court order, and legal opinion	3 AC	o.	Daily transaction journal	6 M
g.	Paid bill	3 AP	p.	Debits and credits-daily	1
h.	Real estate insurance policy	1 AE	q.	Documentation necessary to support account decision	3 AC
i.	Real estate and mortgage document	3 AC	r.	Tax Documentation	
j.	Receipt for asset received or delivered	3 AC	i.	Federal estate tax return	10
k.	Record of asset tax cost	3 AC	ii.	State estate tax return	10
l.	Summary card, original instrument, agreement and amendment, and letters of appointment	3 AC	iii.	Tax-related work papers	10
m.	Synopsis sheet	3 AC	iv.	Federal gift tax return	10
21.	Corporate trust		s.	Fee calculations and supporting data	1
a.	Bond registration journal	3 AC	t.	Income tax return	
b.	Bond-cancelled	7	i.	Federal	3 AC
c.	Indemnity bond	P	ii.	State	3 AC
d.	Certification	2	u.	Inventory	3 AC
e.	Coupon envelope	6 M	v.	Investment review and related material	3 AC
f.	Coupon-cancelled	6 M	w.	Minutes	
g.	Customer receipt	7	i.	Investment committee	P
h.	Dividend and coupon record	3 AC	ii.	Trust committee	P
i.	Dividend and interest disbursement check and list	3 AC	23.	Other personal trust records	
j.	General ledger ticket	2	a.	Legal opinion	3 AC
k.	Legal paper	P	b.	Correspondence related to legal opinion	3 AC
l.	Copy of cancelled stock certificate, original returned to customer	1	c.	Paid bill	7
m.	Stock registration journal	3 AC	d.	Review and recommendation	3 AC
n.	Stock transfer memo	1	e.	Safekeeping record and receipt	3 AC
o.	Stock transfer receipt	1	f.	Security ledger sheet	P
p.	Tax return	3 AC	g.	Trust check	10
q.	Transfer-supporting papers	3 AC	h.	Trust entry-original	3 AC
r.	Transfer journal	3 AC	i.	Trust or agency agreement-original	3 AC
s.	Transfer tax waiver	3 AC	j.	Vault withdrawal and deposit ticket	7
t.	Trust ledger-corporate	7	k.	Will-certified copy	P
22.	Personal trust		l.	Work papers supporting tax return	7
a.	Record of previously discharged fiduciary		24.	Trust Investments	
i.	Accounting	3 AC	a.	Annual report	
ii.	Decree	3 AC	i.	Common trust fund	10
iii.	Receipt and release	3 AC	ii.	Pooled fund	10
b.	Accounting - recorded	3 AC	b.	Valuation	
c.	Advice of payment - securities department regarding bond and coupon collection	3 AC	i.	Common trust fund	10
d.	Appraisal		ii.	Pooled fund	10
i.	Real property	3 AC	c.	Minutes	
			i.	Investment committee	P
			ii.	Administrative committee	P
			d.	Investment order and broker's confirmation	3 AC
			e.	investment review and related material	3 AC
			f.	Correspondence	3 AC
			g.	Summary of annual account activity	3 AC
			25.	Wire transfer	

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- | | |
|--------------------------|---|
| a. Incoming wire log | 1 |
| b. Outgoing wire log | 1 |
| c. Transmission record | 7 |
| d. Wire transfer request | 7 |

Historical Note

Former Rule 14. R20-4-214 recodified from R4-4-214 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4142, effective September 12, 2001 (Supp. 01-3). Missing notation in subsection (D)(1)(j) corrected as proposed at 7 A.A.R. 2491 (Supp. 20-1).

R20-4-215. Trust Business

All banks authorized to conduct trust business under their banking permit shall comply with the applicable requirements of R20-4-808 through R20-4-816.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-215 recodified from R4-4-215 (Supp. 95-1).

ARTICLE 3. EXPIRED**R20-4-301. Expired****Historical Note**

Former Rule 1. R20-4-301 recodified from R4-4-301 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-302. Repealed**Historical Note**

Former Rule 2; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-302 recodified from R4-4-302 (Supp. 95-1).

R20-4-303. Expired**Historical Note**

Former Rule 3. R20-4-303 recodified from R4-4-303 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-304. Expired**Historical Note**

Former Rule 4. R20-4-304 recodified from R4-4-304 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-305. Repealed**Historical Note**

Former Rule 5. R20-4-305 recodified from R4-4-305 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-306. Repealed**Historical Note**

Former Rule 6. R20-4-306 recodified from R4-4-306 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-307. Repealed**Historical Note**

Former Rule 7. R20-4-307 recodified from R4-4-307 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-308. Repealed**Historical Note**

Former Rule 8. R20-4-308 recodified from R4-4-308 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-309. Expired**Historical Note**

Former Rule 9. R20-4-309 recodified from R4-4-309 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-310. Reserved**R20-4-311. Repealed****Historical Note**

Former Rule 11; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-311 recodified from R4-4-311 (Supp. 95-1).

R20-4-312. Repealed**Historical Note**

Former Rule 12. R20-4-312 recodified from R4-4-312 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-313. Reserved**R20-4-314. Repealed****Historical Note**

Former Rule 14. R20-4-314 recodified from R4-4-314 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-315. Repealed**Historical Note**

Former Rule 15. R20-4-315 recodified from R4-4-315 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-316. Repealed**Historical Note**

Former Rule 16. R20-4-316 recodified from R4-4-316 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-317. Repealed**Historical Note**

Former Rule 17; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-317 recodified from R4-4-317 (Supp. 95-1).

R20-4-318. Expired**Historical Note**

Former Rule 18. R20-4-318 recodified from R4-4-318 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-319. Repealed**Historical Note**

Former Rule 19. R20-4-319 recodified from R4-4-319 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-320. Repealed

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Historical Note

Former Rule 20. R20-4-320 recodified from R4-4-320 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-321. Repealed**Historical Note**

Former Rule 21. R20-4-321 recodified from R4-4-321 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-322. Repealed**Historical Note**

Former Rule 22; Repealed effective January 19, 1984 (Supp. 84-1). R20-4-322 recodified from R4-4-322 (Supp. 95-1).

R20-4-323. Repealed**Historical Note**

Former Rule 23. R20-4-323 recodified from R4-4-323 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-324. Expired**Historical Note**

Former Rule 24. R20-4-324 recodified from R4-4-324 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-325. Expired**Historical Note**

Former Rule 25. R20-4-325 recodified from R4-4-325 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-326. Expired**Historical Note**

Former Rule 26. R20-4-326 recodified from R4-4-326 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-327. Expired**Historical Note**

Former Rule 27. R20-4-327 recodified from R4-4-327 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-328. Expired**Historical Note**

Former Rule 28. R20-4-328 recodified from R4-4-328 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-329. Repealed**Historical Note**

Former Rule 29. R20-4-329 recodified from R4-4-329 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-330. Expired**Historical Note**

Original Rule. R20-4-330 recodified from R4-4-330 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 841, effective March 14, 2017 (Supp. 17-1).

R20-4-331. Repealed**Historical Note**

Original Rule. R20-4-331 recodified from R4-4-331 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

ARTICLE 4. CREDIT UNIONS**R20-4-401. Fidelity Bond Coverage**

- A.** A credit union shall have a fidelity bond in the form and in the amount required to maintain federal insurance on its accounts.
- B.** A fidelity bond purchased by a credit union to comply with this Section shall include faithful-performance-of-duty coverage.
- C.** A credit union shall purchase its fidelity bond from an insurer that holds a certificate of authority from the Arizona Director of Insurance to transact surety business in Arizona.

Historical Note

Former Rule 1. R20-4-401 recodified from R4-4-401 (Supp. 95-1). Amended effective April 21, 1995 (Supp. 95-2). Amended by final rulemaking at 7 A.A.R. 2229, effective May 3, 2001 (Supp. 01-2).

R20-4-402. Repealed**Historical Note**

Former Rule 2. R20-4-402 recodified from R4-4-402 (Supp. 95-1). Repealed effective April 21, 1995 (Supp. 95-2).

ARTICLE 5. SMALL LOANS**R20-4-501. Repealed****Historical Note**

Former Rule 1. R20-4-501 recodified from R4-4-501 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-502. Repealed**Historical Note**

Former Rule 2. R20-4-502 recodified from R4-4-502 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-503. Adjustments in Precomputed Charges

A licensee shall adjust the total precomputed charges if the first installment period is more or less than one month long. The licensee's records shall reflect the adjustment's collection in one of three ways.

1. In the first installment payment,
2. Amortized over the life of the contract, or
3. As part of the final payment.

Historical Note

Former Rule 3. R20-4-503 recodified from R4-4-503 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-504. Repealed**Historical Note**

Former Rule 4. R20-4-504 recodified from R4-4-504 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-505. Repealed

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Historical Note

Former Rule 5. R20-4-505 recodified from R4-4-505 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-506. Repealed**Historical Note**

Former Rule 6. R20-4-506 recodified from R4-4-506 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-507. Repealed**Historical Note**

Former Rule 7. R20-4-507 recodified from R4-4-507 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-508. Cut-off Date for Computing Refunds upon Early Repayment in Full

If a borrower repays a loan before the due date of the final installment, a licensee shall calculate any refund or credit due on the pre-computed loan using the following rules:

1. A licensee shall credit any full repayment, made on or before the 15th day following an installment date, as if received on the last previous installment date.
2. A licensee shall credit any full repayment, made on or after the 16th day following an installment date, as if received on the next installment date.

Historical Note

Former Rule 8. R20-4-508 recodified from R4-4-508 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, November 14, 2000 (Supp. 00-4).

R20-4-509. Repealed**Historical Note**

Former Rule 9. R20-4-509 recodified from R4-4-509 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-510. Repealed**Historical Note**

Former Rule 10. R20-4-510 recodified from R4-4-510 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-511. Repealed**Historical Note**

Former Rule 11. R20-4-511 recodified from R4-4-511 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-512. Reserved**R20-4-513. Repealed****Historical Note**

Former Rule 13. R20-4-513 recodified from R4-4-513 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-514. Repealed**Historical Note**

Former Rule 14. R20-4-514 recodified from R4-4-514 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-515. Repealed**Historical Note**

Former Rule 15. R20-4-515 recodified from R4-4-515 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-516. Repealed**Historical Note**

Former Rule 16. R20-4-516 recodified from R4-4-516 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-517. Repealed**Historical Note**

Former Rule 17. R20-4-517 recodified from R4-4-517 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-518. Deferral Fee

- A. A licensee may collect a deferral fee at the time it agrees to a deferment or at any time after the assessment of a deferral fee. If a licensee receives a payment when it agrees to the deferment, it may apply the payment first to the deferral fee. Any remainder of the payment shall be applied to the balance of the loan.
- B. If a licensee receives a payment that is large enough to pay in full a delinquent installment and all allowable delinquency fees, the licensee shall apply the payment first to the delinquent installment and fees. The licensee shall not show the paid installment as deferred, and shall not collect a deferral fee.

Historical Note

Former Rule 18. R20-4-518 recodified from R4-4-518 (Supp. 95-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-519. Deferment Statement

A licensee shall give the borrower a statement at the time a deferment is made, and shall retain a copy of the statement in the borrower's credit file. The statement shall contain the following information:

1. The amount of the deferral fee,
2. The date of the borrower's next scheduled payment,
3. The amount of the borrower's next scheduled payment, and
4. The extended maturity date of the loan.

Historical Note

Former Rule 19. R20-4-519 recodified from R4-4-519 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-520. Repealed**Historical Note**

Former Rule 20. R20-4-520 recodified from R4-4-520 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-521. Repealed**Historical Note**

Former Rule 21. R20-4-521 recodified from R4-4-521 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-522. Repealed

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Historical Note

Former Rule 22. R20-4-522 recodified from R4-4-522 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-523. Repealed**Historical Note**

Former Rule 23. R20-4-523 recodified from R4-4-523 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-524. Books, Accounts, and Records

- A.** A licensee may use a computer recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of its books, accounts, and records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may modify a computer recordkeeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any modification that changes a computer system back to a paper-based recordkeeping system;
- B.** A licensee shall keep its books, accounts, and records of operations licensed under A.R.S. Title 6, Chapter 5 separate from the books, accounts, and records of its other business activities.
- C.** In addition to any statutory requirements, the books, accounts, and records maintained by a Small Loan Company shall include the following:
1. A file containing a record of all legal actions brought during the fiscal year. A licensee shall keep the file until the Department of Financial Institutions conducts its examination of the licensee.
 2. An itemized record of disbursing the proceeds of each loan. The itemized record shall include the amount of refund on each loan that is renewed or refinanced if the licensee makes precomputed loans.
 3. A record of the receipt of all allowable fees.
 4. A record for each borrower and each loan that contains documentary evidence of filing or recording each instrument of record for the loan.
 5. A record of the borrower's voluntary election to purchase any insurance in connection with a loan, if that insurance is sold by the licensee.

Historical Note

Former Rule 24. R20-4-524 recodified from R4-4-524 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-525. Repealed**Historical Note**

Former Rule 25. R20-4-525 recodified from R4-4-525 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-526. Repealed**Historical Note**

Former Rule 26. R20-4-526 recodified from R4-4-526 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-527. Repealed**Historical Note**

Former Rule 27. R20-4-527 recodified from R4-4-527 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-528. Repealed**Historical Note**

Former Rule 28. R20-4-528 recodified from R4-4-528 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-529. Repealed**Historical Note**

Former Rule 29. R20-4-529 recodified from R4-4-529 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-530. Repealed**Historical Note**

Former Rule 30. R20-4-530 recodified from R4-4-530 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-531. Repealed**Historical Note**

Former Rule 31. R20-4-531 recodified from R4-4-531 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-532. Repealed**Historical Note**

Former Rule 32. R20-4-532 recodified from R4-4-532 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

R20-4-533. Reserved**R20-4-534. Insurance**

- A.** A licensee shall obtain written evidence of the borrower's voluntary election to purchase insurance in connection with a loan if the licensee's sale of insurance to the borrower is intended to secure repayment of a loan. The licensee shall retain this evidence of voluntary election in its records as required by statute. A document sufficient to comply with this Section shall read as follows:

TO SECURE REPAYMENT OF MY LOAN, I ELECT TO PURCHASE INSURANCE IN THE AMOUNT OF \$ _____.

I UNDERSTAND THAT MY TOTAL LOAN OBLIGATION IS THE SUM OF \$ _____.

- B.** A licensee shall obtain written evidence of the borrower's voluntary election to purchase property insurance in connection with a loan if the licensee's sale of property insurance to the borrower is intended to secure repayment of a loan. The licensee shall retain this evidence of voluntary election in its records as required by statute. A document sufficient to comply with this Section shall read as follows:

TO SECURE REPAYMENT OF MY LOAN, I ELECT TO PURCHASE PROPERTY INSURANCE IN THE AMOUNT OF \$ _____.

I UNDERSTAND THAT MY TOTAL LOAN OBLIGATION IS THE SUM OF \$ _____.

I ATTEST THAT THE VALUE OF MY PROPERTY INSURED IN CONNECTION WITH THIS LOAN IS THE SUM OF \$ _____.

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Historical Note

Former Rule 34. R20-4-534 recodified from R4-4-534 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4605, effective November 14, 2000 (Supp. 00-4).

R20-4-535. Reserved**R20-4-536. Repealed****Historical Note**

Former Rule 36. R20-4-536 recodified from R4-4-536 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 3380, effective August 3, 2000 (Supp. 00-3).

ARTICLE 6. DEBT MANAGEMENT COMPANIES

Article 6, consisting of Sections R4-4-601 through R4-4-620, adopted effective October 26, 1978, except that Sections R4-4-603, R4-4-604 and R4-4-607 shall become effective January 1, 1979. R20-4-601 through R20-4-620 recodified from R4-4-601 through R4-4-620 (Supp. 95-1).

Former Article 6 consisting of Section R4-4-601 repealed effective October 26, 1978. R20-4-601 recodified from R4-4-601 (Supp. 95-1).

R20-4-601. Repealed**Historical Note**

Former Rule 1; Former Section R4-4-601 repealed, new Section R4-4-601 adopted effective October 26, 1978 (Supp. 78-5). R20-4-601 recodified from R4-4-601 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-602. Applications

- A.** An applicant for a debt management company license shall send the Department an application on the form required by the Superintendent. The Department shall order a credit report from a local credit reporting agency disclosing the credit history of the applicant's principals or managing agents. The Department shall direct the credit reporting agency to send the credit report directly to the Superintendent. The applicant shall pay the cost of obtaining the credit report. A complete application shall include the credit report required by this Section and all of the following:
1. The surety bond required by A.R.S. § 6-704(B);
 2. The fidelity bond required by A.R.S. § 6-704(D);
 3. The nonrefundable application fee and original license fee described in A.R.S. § 6-706, and specified in A.R.S. § 6-126(A)(14);
 4. A sample of the contract intended to be used by the applicant;
 5. Current financial statements as described in R20-4-604(A)(5);
 6. A certified copy of the current articles of incorporation, by-laws, partnership agreement or other organizing documents used to form the applicant business entity; and
 7. Statements of personal history, on the form required by the Superintendent, for each of the applicant's principals, principal officers, trustees, partners, and managing agents.
- B.** A debt management company applying to operate a branch office or use an agency shall send the Department an application on the form required by the Superintendent.
- C.** A debt management company applying to renew a license shall deliver, on or before June 15 of each year, an application to the Department on the form required by the Superintendent. A debt management company shall apply separately to renew the license of each authorized business location. With each application for renewal, a debt management company shall

include the renewal fee described in A.R.S. § 6-706 and specified in A.R.S. § 6-126(C)(2).

- D.** The Department may require additional information the Superintendent considers necessary in connection with an application under this Section.

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-602 recodified from R4-4-602 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

R20-4-603. Reports

- A.** Each debt management company and each nonprofit corporation or association exempt from licensure under A.R.S. § 6-702(4) and (5), shall send the Department an annual report of its business and operations for each place of business during the previous year beginning July 1 and ending June 30, using the form required by the Superintendent. A debt management company shall deliver its report to the Department on or before August 15.
- B.** Each debt management company organized as a corporation shall send the Department a copy, date-stamped by the Arizona Corporation Commission, of each annual report and certificate of disclosure filed under the authority of A.R.S. § 10-202 or 10-1622 within ten days of filing the report and certificate with the Arizona Corporation Commission.
- C.** Each debt management company shall notify the Department of any change in its ownership or in the names of its officers, directors, trustees, partners, or managing agents within ten days of the change.

Historical Note

Adopted effective January 1, 1979 (Supp. 78-5). R20-4-603 recodified from R4-4-603 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

R20-4-604. Records

- A.** A debt management company shall keep books, accounts, and records adequate to provide a clear and readily understandable record of all its business activity. A debt management company may use an electronic recordkeeping system. The Department shall not require a debt management company to keep a written copy of its books, accounts, and records if the debt management company can generate all information and documentation required by this Section within three days of the Department's request for production of the records for examination or other purposes. A debt management company's books, accounts, and records shall include:
1. A file for each account containing:
 - a. A copy of all correspondence concerning the account;
 - b. Evidence of the notice given to creditors of the debt management contract;
 - c. A subsidiary ledger disclosing all financial transactions concerning the account;
 - d. A copy of each written statement of account given to the debtor;
 - e. The original budget analysis required under R20-4-607; and
 - f. The original contract between the debt management company and the debtor, including all amendments.
 2. A trust account general ledger, kept current daily, that reflects each deposit to and disbursement from the trust account.
 3. Each reconciliation of the debt management company's trust account, prepared at least once a month.

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4. A general ledger, kept current monthly, that reflects each financial transaction by the debt management company except those recorded in its trust account general ledger.
5. A financial statement produced in accordance with generally accepted accounting principles at least once every three months, or more frequently if directed by the Superintendent, that reflects the financial condition of the debt management company. The financial statement shall include:
 - a. A balance sheet,
 - b. A statement of income and retained earnings,
 - c. A statement of changes in financial condition, and
 - d. Appropriate footnotes that either:
 - i. Explain entries in the documents listed in subsections (A)(5)(a), (b), and (c);
 - ii. Contain material information not required or not reportable in documents listed in subsections (A)(5)(a), (b), or (c); or
 - iii. Contain other disclosures required by generally accepted accounting principles.
6. A record of all pending litigation naming the debt management company as a party. The debt management company shall keep, during the pendency of each case, a copy of the complaint, and a copy of any answer or motion filed by the debt management company in response to the complaint.

- B. All records required under this Section may be maintained at the debt management company's office in Arizona. A debt management company may keep its records outside this state if it:
 1. Makes the records available to the Superintendent, for examination or other purposes, in this state not more than three business days after demand; and
 2. Allows its debtor customers to call toll free to obtain information from the records that is not available from the debt management company's office in Arizona.
- C. Each debt management company shall preserve its books, accounts, and records for the period required by A.R.S. §§ 6-709(J) and 6-710(1).

Historical Note

Adopted effective January 1, 1979 (Supp. 78-5). R20-4-604 recodified from R4-4-604 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

R20-4-605. Reserved**R20-4-606. Reserved****R20-4-607. Budget Analysis**

- A. A debt management company shall not accept an account unless it first concludes that the debtor can reasonably meet the payments agreed upon by the debt management company and the debtor. The debt management company's conclusion shall be supported by a written budget analysis kept in the company's records.
- B. The written budget analysis shall either be part of an application form or a separate document. The debtor shall date and sign the written budget analysis before the debt management company draws any conclusions from the budget analysis.
- C. The budget analysis shall disclose the disposable income available for payment to the debt management company after the debtor pays its reasonable and necessary living expenses including taxes, insurance, child support, alimony, and residential rent or mortgage payments.

Historical Note

Adopted effective January 1, 1979 (Supp. 78-5). R20-4-607 recodified from R4-4-607 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

R20-4-608. Reserved**R20-4-609. Repealed****Historical Note**

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-609 recodified from R4-4-609 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-610. Repealed**Historical Note**

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-610 recodified from R4-4-610 (Supp. 95-1). Repealed effective September 19, 1996 (Supp. 96-3).

R20-4-611. Advertising

- A. A debt management company shall send the Department copies of all advertising, communication, or sales material at least five days before the company uses the advertising, communication, or sales material to promote the sale of the company's services. This requirement applies to every type of promotional material used, whether the company will publish, exhibit, broadcast, or personally distribute the material by any other method or medium.
- B. A debt management company shall not use advertising, communication, or sales material that contains:
 1. A false, misleading, or deceptive statement about the debt management company's services or charges. A statement is a violation of this Section if the person making the statement does not state a material fact necessary to make the statement true, in light of the circumstances under which it is made;
 2. A claim, direct or implied, that the debt management company consolidates debts or makes loans; or
 3. A schedule of payments in any form.
- C. A debt management company's advertising, communication, and sales material shall contain:
 1. The name of the debt management company exactly as it appears on the current license; and
 2. The following legend, conspicuously displayed in at least 12 point type and in bold print: "NOT A LOAN COMPANY."
- D. The Department's failure to object to the advertising, communication, or sales material filed with it is not and shall not be represented as an approval of the material or the statements it contains.

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-611 recodified from R4-4-611 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

R20-4-612. Solvency and Minimum Liquid Assets

- A. A debt management company shall not operate if it is insolvent. For purposes of this Section "insolvent" has the same meaning as in A.R.S. § 47-1201(23).
- B. To determine compliance with A.R.S. § 6-709(A), a debt management company's liquid assets include funds held in its trust account. Liquid assets do not include goodwill and other intangible assets. A debt management company's total liquid assets shall exceed by \$2,500.00 the total of all its current business

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liabilities together with all balances held for debtors as reflected in the company's subsidiary ledgers.

- C. Except as otherwise provided by this Section, or in a specific ruling by the Superintendent, a debt management company shall use generally accepted accounting principles to compute assets and liabilities.

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-612 recodified from R4-4-612 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

R20-4-613. Reserved

R20-4-614. Reserved

R20-4-615. Reserved

R20-4-616. Reserved

R20-4-617. Reserved

R20-4-618. Reserved

R20-4-619. Reserved

R20-4-620. Repealed

Historical Note

Adopted effective October 26, 1978 (Supp. 78-5). R20-4-620 recodified from R4-4-620 (Supp. 95-1). Section repealed by final rulemaking at 8 A.A.R. 2708, effective June 6, 2002 (Supp. 02-2).

ARTICLE 7. ESCROW AGENTS**R20-4-701. Change in Location of Business**

An escrow agent shall mail the Superintendent written notice of any change in the location of the escrow agent's business. The escrow agent shall ensure that the Superintendent receives the notice at least five days before the escrow agent conducts business at the new location. The escrow agent shall mail the fee required by A.R.S. § 6-126(A), together with the current escrow license, to the Superintendent with the notice of the location change. The Superintendent shall change the submitted license to reflect the new business location and return it to the escrow agent.

Historical Note

Former Rule 1. R20-4-701 recodified from R4-4-701 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-702. Account Practices and Records

An escrow agent shall maintain records to enable the Superintendent to reconstruct the details of each escrow transaction. The records shall include the following:

1. The seller's name and address;
2. The buyer's name and address;
3. The lender's name and address, if any;
4. The borrower's name and address, if any;
5. The real estate agent's name and address, if any;
6. Complete escrow instructions;
7. Records and supporting documentation for each receipt and disbursement made through the escrow; and
8. A copy of the escrow settlement.

Historical Note

Former Rule 2. R20-4-702 recodified from R4-4-702 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-703. Preservation of Records

An escrow agent shall preserve the records, books, and accounts pertaining to each escrow transaction for at least three years following the final settlement date of the transaction. An escrow agent may use an electronic recordkeeping system. The Department shall not require an escrow agent to keep a written copy of the records, books, and accounts if the escrow agent can generate all information and copies of documents required by A.R.S. § 6-831 in a timely manner for examination or other purposes.

Historical Note

Former Rule 3. R20-4-703 recodified from R4-4-703 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-704. Subsidiary Account Records

An escrow agent shall maintain subsidiary account records that identify the funds deposited in each escrow. The total of all credit balances in the subsidiary accounts shall always equal the balance of the general ledger control account.

Historical Note

Former Rule 4. R20-4-704 recodified from R4-4-704 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-705. Reserved

R20-4-706. Repealed

Historical Note

Former Rule 6. R20-4-706 recodified from R4-4-706 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

R20-4-707. Expired

Historical Note

Adopted effective June 25, 1993 (Supp. 93-2). R20-4-707 recodified from R4-4-707 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 411, effective September 30, 2014 (Supp. 15-1).

R20-4-708. Financial Condition and Resources

The Superintendent shall consider the following criteria in evaluating an escrow agent's, other escrow agent's, or applicant's financial condition and resources under A.R.S. § 6-817:

1. Amount of positive net worth,
2. Amount of tangible net worth,
3. Amount of liquid assets,
4. Amount of cash provided by operations,
5. Ratio of debt to net worth,
6. Owner's personal financial resources,
7. Outside resources available,
8. Profitability,
9. Projected operating results,
10. Status as agent for a title insurance company, and
11. Sources of new business.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5385, effective November 9, 2001 (Supp. 01-4).

ARTICLE 8. TRUST COMPANIES**R20-4-801. Definitions**

In this Article, unless the context otherwise requires:

"Account" means the trust, estate, or other fiduciary relationship established with a trust department or trust company.

"Affiliate" has the meaning stated at A.R.S. § 6-801.

"Certificate" has the meaning stated at A.R.S. § 6-851.

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“Fiduciary” has the meaning stated at A.R.S. § 6-851.

“Governing instrument” means a document, and all its operative amendments, that:

- Creates a trust and regulates the trustee’s conduct,
- Creates an agency relationship between a trust department or trust company and a client, or
- Otherwise evidences a fiduciary relationship between a trust department or trust company and a client.

“Investment responsibility” means full and unrestricted discretion to invest trust funds without direction from anyone as to any matter, including the terms of the trade or the identity of the broker.

“Person” has the meaning stated at A.R.S. § 1-215.

“Superintendent” has the meaning stated at A.R.S. § 6-851.

“Trust asset” means any property or property right held by a trust department or trust company for the benefit of another.

“Trust business” has the meaning stated at A.R.S. § 6-851.

“Trust company” has the meaning stated at A.R.S. § 6-851.

“Trust department” means a permittee under both A.R.S. § 6-201 et seq. and Article 2 of this Chapter that possesses a banking permit authorizing it to engage in trust business.

“Trust funds” means any money held by a trust department or trust company for the benefit of another.

“Trustor” means a person who creates or funds a trust, or both.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-801 recodified from R4-4-801 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-802. Reserved

R20-4-803. Reserved

R20-4-804. Repealed

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-804 recodified from R4-4-804 (Supp. 95-1). Repealed by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2).

R20-4-805. Reports

- A. Within 90 days following each December 31, each trust department and trust company shall file an annual report of trust assets with the Superintendent on the form prescribed by the Superintendent. The annual report shall include the current market value of all trust assets held by the trust department or trust company as of December 31. The report shall also identify and briefly describe all transactions conducted in the report period that are regulated by R20-4-812(E) through R20-4-812(G).
- B. Each trust company shall deliver a copy of its annual report and certificate of disclosure to the Superintendent within 10 days of filing the report and certificate at the Arizona Corporation Commission. A report or certificate covered by this subsection is one filed under the authority of A.R.S. §§ 10-202 or 10-1622. A copy delivered to the Superintendent, as required in this subsection, shall be date-stamped by the Arizona Corporation Commission to confirm the actual filing date.
- C. Each trust company shall notify the Superintendent of any change in the directors or officers of the company within 10

days of the change. Any trust company with more than 25 officers may, after obtaining the Superintendent’s written approval, limit the officers covered by this subsection to those with substantial involvement in the trust company’s corporate operations or in the trust company’s trust business in this state.

Historical Note

Adopted effective September 1, 1977 (Supp. 77-3). R20-4-805 recodified from R4-4-805 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-806. Records

- A. A trust company may use a computer recordkeeping system if the trust company gives the Superintendent advanced written notice that it intends to do so. Except for records required by subsections (B)(1)(a) and (B)(1)(b), the Department shall not require a trust company to keep a written copy of its records if the trust company can generate all information required by this Section in a timely manner for examination or other purposes. A trust company may add, delete, modify, or customize a computer recordkeeping system’s hardware or software components. When requested, or in response to a written notice of an examination, a trust company shall report to the Superintendent any alteration in the computer recordkeeping system’s fundamental character, medium, or function if the alteration changes the computer system to a paper-based system.
- B. A trust department or trust company shall keep books, accounts, and records adequate to provide clear and readily understandable evidence of all business conducted by the trust department or trust company, including the following:
 1. A file for each account that includes:
 - a. The original of the governing instrument,
 - b. The originals of all contracts and other legal documents,
 - c. Copies of all correspondence,
 - d. Accounting records disclosing all the financial transactions, and
 - e. A listing of all the account’s assets and liabilities.
 2. An investment file for each account that includes:
 - a. All original documentary evidence of the account’s assets; or
 - b. Copies of the original documentary evidence of the account’s assets, together with written evidence of custody or receipt of the originals by an authorized holder; and
 - c. A record of the initial and annual investment reviews for the account.
 3. The corporate general ledger kept current on a daily basis. This record shall identify and segregate all financial transactions conducted by the trust department or trust company for itself, distinguishing them from those relating to the trust department’s or trust company’s trust business;
 4. Unaudited financial statements. A trust department or trust company shall produce these statements quarterly or more frequently when directed by the Superintendent. The financial statements shall include at least:
 - a. A balance sheet; and
 - b. A statement of income, expenses, and retained earnings.
 5. Adequate records of all pending litigation that names the trust department or trust company as a party.
- C. A trust department shall keep its fiduciary records separate and distinct from the trust department’s corporate records.

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- D.** A trust department or trust company shall keep records described in subsections (B)(1) and (B)(2) for at least three years after closing an account. If litigation occurs concerning a particular account, the trust department or trust company shall keep that account's records, described in subsections (B)(1) and (B)(2), for three years after the litigation is resolved.

Historical Note

Adopted effective September 1, 1977 (Supp. 77-3). R20-4-806 recodified from R4-4-806 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-807. Unsafe or Unsound Condition

For purposes of A.R.S. §§ 6-863 and 6-865, a trust company conducts business in an unsafe manner or its affairs are in an unsound condition if it:

1. Violates any fiduciary duty or obligation, including those listed in R20-4-809 through R20-4-815;
2. Violates any state or federal requirement for operating or maintaining trusts, common trust funds, or other accounts;
3. Violates any applicable federal or state law or regulation regarding corporations or securities;
4. Employs an officer or director who violates a corporate fiduciary duty;
5. Is insolvent; or
6. Engages in any conduct that the Superintendent determines constitutes an unsafe or unsound business practice jeopardizing the trust company's financial condition or the interests of a stockholder, creditor, trustor, beneficiary, or trust company's principal.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-807 recodified from R4-4-807 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-808. Administration of Fiduciary Powers

- A.** The board of directors and the officers share responsibility for the exercise of fiduciary powers by a trust department or trust company. The board of directors is responsible for determining policy; investing and disposing of trust assets; and directing and reviewing the actions of all directors, officers, and committees of the board that exercise fiduciary powers. The board of directors may delegate the necessary power and authority to perform the trust department's or trust company's duties as a fiduciary to selected directors, officers, employees, or committees of the board if the delegation is consistent with the corporate charter. The minutes of the board's meetings shall duly reflect all those delegations.
- B.** A trust department or trust company shall not accept a new account without first obtaining the board's approval, or that of the directors, officers, or committees that the board may have authorized to approve new accounts. The trust department or trust company shall keep a written record of each new account approval and of the closing of each account. The trust department or trust company shall conduct an asset review within 60 days after it accepts each new account if it has investment responsibility for that account. The trust department's or trust company's board shall ensure that an annual review of account assets is conducted for any account in which the trust department or trust company has investment responsibility, to determine whether to retain or dispose of the assets.

- C.** A trust department or trust company exercising fiduciary powers shall use independent legal counsel admitted to practice in Arizona to advise and inform the trust department or trust company on fiduciary matters and all other legal issues presented to the trust department or trust company by the conduct of its trust business.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-808 recodified from R4-4-808 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-809. Fiduciary Duties

A trust department or trust company shall perform all fiduciary duties imposed upon it by law, including the following:

1. Administer accounts strictly according to the governing instrument and solely in the account beneficiary's interests;
2. Use reasonable care and skill to make the account productive;
3. Provide complete and accurate information of the nature and amount of assets held to each account's beneficiary or principal and permit the beneficiary, principal, or any person duly authorized by the beneficiary or principal to inspect the account's records at any time during normal business hours. The information provided in compliance with this subsection shall be delivered at least quarterly, unless:
 - a. The trust department or trust company and its account's beneficiary, principal, or authorized person agree otherwise in writing;
 - b. The governing instrument provides otherwise; or
 - c. A different frequency is established by a lawful course of dealing before the effective date of this rule; and
4. Comply with all lawful provisions of the governing instrument.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-809 recodified from R4-4-809 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-810. Funds Awaiting Investment or Distribution

- A.** Trust funds held by a trust department or trust company awaiting investment or distribution shall not remain uninvested or undistributed any longer than is reasonable for the account's proper management.
- B.** A trust department or trust company may keep trust funds in deposit accounts maintained by the trust department or trust company, unless prohibited by law or by the governing instrument. The trust department or trust company shall set aside collateral security for all deposited trust funds under a third party's control. The collateral shall be the following types of securities, in any combination:
1. Direct obligations of the United States or any agency, department, division, or administration of the federal government;
 2. Any other obligations fully guaranteed by the United States government as to principal and interest;
 3. Obligations of a Federal Reserve Bank;
 4. Obligations of any state, political subdivision of a state, or public authority organized under the laws of a state; or
 5. Readily marketable securities that either:

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- a. Qualify as investment securities under the Investment Securities regulations of the Comptroller of the Currency, 12 CFR, Chapter 1, Part 1; or
 - b. Satisfy state pledging requirements under A.R.S. § 6-245(C).
- C. The securities set aside under subsection (B) shall, at all times, have a market value no less than the amount of trust funds deposited. No collateral security is required to the extent the Federal Deposit Insurance Corporation, or its successor, insures the deposited trust funds.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-810 recodified from R4-4-810 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-811. Investment of Trust Funds

- A. A trust department or trust company shall invest trust funds according to:
1. The governing instrument; and
 2. All applicable laws, including A.R.S. §§ 6-862, 14-7402, and 14-7601 through 14-7611.
- B. A trust department or trust company shall make any collective investment of trust funds exclusively under the terms of R20-4-815.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-811 recodified from R4-4-811 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-812. Self-dealing

- A. A trust department or trust company shall not invest trust funds in the following types of property unless expressly authorized by the governing instrument, applicable state or federal law, or court order:
1. Its own securities;
 2. Other types of property acquired from the trust department or trust company;
 3. Property acquired from the trust department's or trust company's directors, officers, or employees;
 4. Property acquired from the trust department's or trust company's affiliates;
 5. Property acquired from its affiliates' directors, officers, or employees; or
 6. Property acquired from other individuals or organizations with an interest in the trust department or trust company if that interest might affect the trust department's or trust company's exercise of discretion to the detriment of its trust clients.
- B. A trust department or trust company may use trust funds to purchase its own securities, or its affiliates' securities:
1. If the trust department or trust company has authority under subsection (A), and
 2. If those securities are offered pro rata to all stockholders of the trust department or trust company.
- C. A trust department or trust company shall not sell or loan trust property to itself, or to the following types of persons, unless expressly authorized by the governing instrument, applicable state or federal law, or court order:
1. Its directors, officers, or employees;
 2. Its affiliates;
 3. Its affiliates' directors, officers, or employees; or

4. Other individuals or organizations with an interest in the trust department or trust company if that interest might affect the trust department's or trust company's exercise of discretion to the detriment of its trust clients.
- D. However, a trust department or trust company may sell or loan trust property to persons prohibited by subsection (C) if either:
1. Its counsel has advised in writing that, by holding certain property, the trust department or trust company has incurred a contingent or potential liability for breach of fiduciary duty; and
 - a. The proposed sale or loan avoids the contingent or potential liability;
 - b. Its board of directors authorizes the sale or loan by an action duly noted in the trust department's or trust company's minutes;
 - c. Its board of directors' action expressly authorizes reimbursement to the affected account; and
 - d. The affected account is reimbursed, in cash, at no loss to that account; or
 2. The Superintendent requires or approves, in writing, the sale or loan to otherwise prohibited parties.
- E. A trust department or trust company may sell trust property held in one account to another of its accounts if:
1. The transaction is fair to both accounts; and
 2. The transaction is not prohibited by the governing instruments, applicable state or federal law, or court order.
- F. A trust department or trust company may loan trust property held in one account to another of its accounts if:
1. The transaction is fair to both accounts; and
 2. The transaction is not prohibited by the governing instruments, applicable state or federal law, or court order.
- G. A trust department or trust company may make a loan to a trust account, taking trust assets of the borrowing account as security for repayment, if:
1. The transaction is fair to the borrowing account; and
 2. The transaction is not prohibited by the governing instrument, applicable state or federal law, or court order.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-812 recodified from R4-4-812 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-813. Custody of Investments

- A. A trust department or trust company shall keep each account's investments separate from its own assets. It shall place each account's assets in the joint control of at least two officers or employees of the trust department or trust company designated in writing for that purpose by:
1. The trust department's or trust company's board of directors, or
 2. One or more officers authorized by the trust department's or trust company's board of directors to make the designation.
- B. A trust department or trust company shall either:
1. Keep each account's investments separate from all other accounts' investments, except as provided in R20-4-815; or
 2. Adequately identify each account's property in the trust department's or trust company's records.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-813 recodified from R4-4-813 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000

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(Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-814. Compensation

- A. A trust department or trust company acting as a fiduciary may charge a reasonable fee for its services. It shall receive the fee allowed by the court when it is acting under a court appointment. Any agreement as to fees in the governing instrument shall control the fee unless contrary to law, regulation, or court order.
- B. A trust department or trust company shall not permit any of its officers or employees to take any compensation for acting as a co-fiduciary with the trust department or trust company in the administration of an account.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-814 recodified from R4-4-814 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-815. Collective Investments

- A. All collective investments made by a trust department or trust company shall be in a common trust fund established under A.R.S. § 6-871, and maintained by the trust department or trust company exclusively for the collective investment and reinvestment of funds contributed by the trust department or trust company acting as a fiduciary. A trust department or trust company shall not establish a common trust fund unless it first:
1. Prepares a written plan regarding the common trust fund; and
 2. Obtains its board of directors' approval of the plan, evidenced by a duly adopted resolution or the board's unanimous written consent.
- B. The plan shall describe the common trust fund's operational details, including a description of:
1. The trust department's or trust company's investment powers and investment policy over all funds deposited in the common trust fund,
 2. The manner for allocating the common trust fund's income and losses,
 3. The criteria for admission to or withdrawal from participating in the common trust fund, and
 4. The method for valuing assets in the common trust fund and the frequency of valuation.
- C. A trust department or trust company shall advise all persons having an interest in its common trust fund of the existence of the plan described in subsection (B), and shall provide a copy of the plan upon request.
- D. The annual report required under R20-4-805(A) shall include all common trust funds operated by the trust department or trust company.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-815 recodified from R4-4-815 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

R20-4-816. Termination of Trust or Fiduciary Powers and Duties

- A. Any trust department that wants to surrender its trust powers shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent. If, after investigation, the Superin-

tendent concludes that the trust department has no remaining fiduciary duties, the Superintendent shall notify the trust department that it no longer has authority to exercise trust powers.

- B. Any trust company that wants to surrender its certificate of authority to conduct trust business and wind up its affairs shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent. Upon receipt of the resolution or consent, the Superintendent shall cancel the trust company's certificate of authority, and the trust company shall not accept new trust accounts.
- C. After winding up its affairs, any trust company that wants to surrender its rights and obligations as a fiduciary and remove itself from the Superintendent's supervision shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent. If, after investigation, the Superintendent concludes that the trust company has no further fiduciary duties, the Superintendent shall notify the trust company that it no longer has authority to exercise fiduciary powers.
- D. Any trust department or trust company that surrenders its powers, rights, obligations, or certificate under this Section or that has them cancelled, suspended, or revoked shall continue to be regulated under A.R.S. § 6-864 and this Article until it winds up its affairs. No action under this Section impairs any liability or cause of action, existing or incurred, against any trust department or trust company or its stockholders, directors, or officers.

Historical Note

Adopted effective June 30, 1977 (Supp. 77-3). R20-4-816 recodified from R4-4-816 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2718, effective June 6, 2002 (Supp. 02-2).

Appendix A. Repealed**Historical Note**

Appendix A repealed by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2).

Appendix B. Repealed**Historical Note**

Appendix B repealed by final rulemaking at 6 A.A.R. 2471, effective June 8, 2000 (Supp. 00-2).

ARTICLE 9. MORTGAGE BROKERS**R20-4-901. Reserved****Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-901 recodified from R4-4-901 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-902. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-902 recodified from R4-4-902 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-903. Exemption for an Entity Regulated by an Agency of this State, Other States, or by the United States

- A. The exemption under A.R.S. § 6-902 (A)(1) only applies to a person whose offers to make or negotiate a mortgage loan, as

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defined in A.R.S. § 6-901, and all mortgage loans made or negotiated by the person are regulated directly by an agency of this state, any other state, or the United States.

- B.** The required regulation of the transactions listed in subsection (A) includes:
1. Rules governing a claimant's accounting and recordkeeping practices;
 2. The authority to examine a claimant's books and records relating to its mortgage lending activities; and
 3. The ability to place a claimant in a receivership or conservatorship with regard to the claimant's mortgage lending activities.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-903 recodified from R4-4-903 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-904. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-904 recodified from R4-4-904 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-905. Repealed**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-905 recodified from R4-4-905 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-906. Equivalent and Related Experience

- A.** An applicant may satisfy the three years' experience requirement of A.R.S. § 6-903 by the types of lending-related experience listed in this subsection. The Department counts each month in the following types of work experience toward the three years required for a mortgage broker license, under A.R.S. § 6-903(B), or as a responsible individual, under A.R.S. § 6-903(E). The Department counts a fractional month of experience, at least 15 days long, as a full month.
1. Mortgage broker with an Arizona license, responsible individual, or branch manager for a licensee;
 2. Mortgage banker with an Arizona license, responsible individual, or branch manager for a licensee;
 3. Loan officer with responsibility primarily for loans secured by lien interests on real property;
 4. Lender's branch manager with responsibility primarily for loans secured by lien interests on real property;
 5. Mortgage broker with license from another state, or responsible individual for a mortgage broker licensed in another state;
 6. Mortgage banker with license from another state, or responsible individual for a mortgage banker licensed in another state;
 7. Attorney certified by any state as a real estate specialist.
- B.** An applicant with insufficient actual experience of the types listed in subsection (A) may satisfy the remainder of the three years' experience requirement of A.R.S. § 6-903 by the types of related experience listed in this subsection. The Department counts each month in the following types of work experience according to the ratio listed below, of actual experience to equivalent experience, credited towards qualifying for a license, under A.R.S. § 6-903(B), or as a responsible individual, under A.R.S. § 6-903(E). The Department counts a fractional month of experience, at least 15 days long, as a full

month. An applicant receives credit in only one area listed and for not more than three years' actual experience. The remaining years of experience required to qualify for a license shall be obtained from types of work experiences listed in subsection (A).

1. Attorney without state bar certified real estate specialty...3:2
2. Paralegal with experience in real estate matters...3:2
3. Loan underwriter...3:2
4. Mortgage broker or mortgage banker from another state without license...3:2
5. Real estate broker with an Arizona license or license from a state with substantially equivalent licensing requirements...3:2
6. Escrow officer...3:2
7. Trust officer with a title company...3:2
8. Executive, supervisor, or policy maker involved in administering or operating a mortgage-related business...3:1.5
9. Title officer with a title company...3:1.5
10. Real estate broker, not qualified under subsection (B)(5)...3:1.5
11. Loan processor with responsibility primarily for loans secured by lien interests on real property...3:1.5
12. Lender's branch manager with responsibility primarily for loans not secured by lien interests on real property...3:1.5
13. Real property salesperson with an Arizona license or a license from a state with substantially equivalent licensing requirements...3:1
14. Loan officer, with responsibility primarily for loans not secured by lien interests on real property...3:1

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-906 recodified from R4-4-906 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-907. Course of Study

- A.** A course of study shall be satisfactorily completed if the applicant has:
1. Attended at least 24 hours of class, and
 2. Received a passing grade on the final exam.
- B.** A course of study shall meet all the following requirements:
1. The following items shall be submitted by the school to the Superintendent on an annual basis:
 - a. Course materials;
 - b. Class content outlines on a session-by-session basis; and
 - c. Sample final exam.
 2. The following subjects shall be taught:
 - a. Mortgage, deed of trust, and security agreement law;
 - b. Negotiable instrument law;
 - c. Mortgage broker law;
 - d. Escrow agent law;
 - e. Recordkeeping requirements of R20-4-917;
 - f. Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation requirements;
 - g. Ethics;
 - h. Principal and agent law;

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- i. Arithmetical computations common to mortgage brokerage;
 - j. Real estate lending principles;
 - k. Real estate law;
 - l. Real Estate Settlement Procedures Act, 12 U.S.C. 2601 through 2617, and Consumer Credit Protection Act, 15 U.S.C. 1601 through 1666j; and
 - m. Securities law.
3. A final exam shall be given that substantially tests the student's knowledge of the subjects described above.

- C. The Superintendent shall review the items submitted to the Department and determine within 60 days of submission whether the proposed course of study is satisfactory. The Superintendent may audit a course of study at any time. If the Superintendent finds that a course of study is unsatisfactory, or if the Superintendent has not received the course materials, course content outlines, and sample final exam within the prior 13 months, the Superintendent may withhold or suspend approval.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-907 recodified from R4-4-907 (Supp. 95-1).

R20-4-908. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-908 recodified from R4-4-908 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-909. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-909 recodified from R4-4-909 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-910. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-910 recodified from R4-4-910 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-911. Qualified Replacement Responsible Individual

If a licensee chooses an individual to serve as a replacement responsible individual and that individual has not satisfactorily completed the course of study required by A.R.S. § 6-903(B)(2) or passed the mortgage broker examination required by A.R.S. § 6-903(B)(3), and is not given the opportunity to do so prior to the expiration of the 90-day time period provided in A.R.S. § 6-903(F), but otherwise meets the requirements of A.R.S. § 6-903(B), the individual shall be qualified as a replacement responsible individual until the next course of study has been held and, if the person successfully completes the course of study, until the mortgage broker examination next following the completion of the course of study has been held and the results of the examination are available. If the individual fails to satisfactorily complete the course of study or fails the mortgage broker examination, the licensee shall then have a new 90-day time period within which to place itself under the active management of a qualified responsible individual. Notwithstanding the foregoing, a licensee shall have no longer than 180 days within which to place the license under the active management of a qualified responsible individual unless the Superintendent grants additional time to the licensee for good cause shown.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-911 recodified from R4-4-911 (Supp. 95-1).

R20-4-912. Restrictions on the Term of a Cash Alternative

If an applicant or a licensee elects to place with the Superintendent a deposit in the form of a certificate of deposit or investment certificate, in addition to the requirements of A.R.S. § 6-903(J), the certificate of deposit or investment certificate shall not be renewable, nor expire, earlier than 12 months from the date of issuance.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-912 recodified from R4-4-912 (Supp. 95-1).

R20-4-913. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-913 recodified from R4-4-913 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-914. Reserved**Historical Note**

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-914 recodified from R4-4-914 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-915. Requirements for a Person Intended to Oversee a Branch Office

A person designated to oversee the operations of a branch office shall be knowledgeable about the branch activities of the licensee, shall supervise compliance by the branch with applicable law and rules, and shall have sufficient authority to ensure such compliance. One person may oversee more than one branch.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-915 recodified from R4-4-915 (Supp. 95-1).

R20-4-916. Notification of Change of Address

If the address of the principal place of business or of any branch office is changed, the licensee shall notify the Superintendent of the change within five business days after the occurrence of the change of location. Together with such notice, the licensee shall provide to the Department the license for the office changing addresses together with the fee required by A.R.S. § 6-126 for changing the address of an office. A copy of such license shall continue to be displayed at the place of business until a new license is issued.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-916 recodified from R4-4-916 (Supp. 95-1).

R20-4-917. Recordkeeping Requirements

- A. The Superintendent shall approve a licensee's use of a computer or mechanical recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of the records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer or mechanical recordkeeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any alteration in the approved system's fundamental character, medium, or function if the alteration changes:

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1. Any approved computer or mechanical system back to a paper-based system;
 2. An approved mechanical system to a computer system; or
 3. An approved computer system to a mechanical system.
- B.** In addition to any statutory requirement regarding records, a record maintained by a mortgage broker shall include the following:
1. A list of all executed loan applications or executed fee agreements that includes the following information:
 - a. Applicant's name;
 - b. Application date;
 - c. Amount of initial loan request;
 - d. Final disposition date;
 - e. Disposition (funded, denied, etc.); and
 - f. Name of loan officer;
 2. A record, such as a cash receipts journal, of all money received in connection with a mortgage loan including:
 - a. Payor's name;
 - b. Date received;
 - c. Amount; and
 - d. Receipt's purpose, including identification of a related loan, if any;
 3. A sequential listing of checks written for each bank account relating to the mortgage broker business, such as a cash disbursement journal, including:
 - a. Payee's name;
 - b. Amount;
 - c. Date; and
 - d. Payment's purpose, including identification of a related loan, if any;
 4. Bank account activity source documents for the mortgage broker business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices.
 5. A trust subsidiary ledger for each borrower that deposits trust funds showing:
 - a. Borrower's name or co-borrowers' names;
 - b. Loan number, if any;
 - c. Amount received;
 - d. Purpose for the amount received;
 - e. Date received;
 - f. Date deposited into trust account;
 - g. Amount disbursed;
 - h. Date disbursed;
 - i. Disbursement's payee and purpose; and
 - j. Balance;
 6. A file for each application for a mortgage loan containing:
 - a. The agreement with the customer concerning the broker's services, whether as a loan application, fee agreement, or both;
 - b. Document showing the application's final disposition, such as a settlement statement, or a denial or withdrawal letter;
 - c. Correspondence sent, received, or both by the licensee;
 - d. Contract, agreement, and escrow instructions to or with any depository;
 - e. Documents showing compliance with the Consumer Credit Protection Act's (15 U.S.C. §§ 1601 through 1666j) and the Real Estate Settlement Procedures Act's (12 U.S.C. §§ 2601 through 2617) disclosure requirements, to the extent applicable;
 - f. If the loan is funded by an investor that is not a financial institution, an enterprise, a licensed real estate broker or salesman, a profit sharing or pension trust or, an insurance company, the documents provided to the investor under A.R.S. § 6-907, a copy of the executed note and executed deed of trust or mortgage, and any assignment by the broker to the investor;
 - g. If the loan is closed in the mortgage broker's name, a copy of all closing documents including: closing instructions, any applicable rescission notice, HUD-1 settlement statement, final truth-in-lending disclosure, executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the licensee; and
 - h. Itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee;
 7. Samples of every piece of advertising relating to the mortgage broker's business in Arizona;
 8. Copies of governmental or regulatory compliance reviews;
 9. If the licensee is not a natural person, a file containing:
 - a. Organizational documents for the entity;
 - b. Minutes;
 - c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
 - d. Annual report, if required by law;
 10. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction;
 11. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal, or other final order disposing of the action; and
 12. If the Superintendent has granted approval to maintain records outside this state, the specific address where the records are kept, and a person's name to contact for them.
- C.** If 10 or fewer transactions have occurred during the prior calendar quarter, a licensee shall reconcile and update all records specified in subsection (B) at least once each calendar quarter. A licensee shall reconcile and update all records specified in subsection (B) monthly if more than 10 transactions occurred during the prior calendar quarter. In addition to reconciling each trust bank account, a licensee shall verify each trust balance to each trust subsidiary ledger at each reconciliation.
- D.** A licensee shall retain the documents described in subsections (B)(1) and (B)(6) for the length of time provided in A.R.S. § 6-906. For the purposes of A.R.S. § 6-906, a mortgage loan's closing date, on a loan application that did not result in the making of a loan, is either:
1. The date a licensee receives a written cancellation notice from an applicant; or
 2. The date a licensee mails written notice to an applicant that the application has been denied, as required by federal law.
- E.** A licensee shall maintain all records described in this Section, and not included in subsection (D), for at least two years.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-917 recodified from R4-4-917 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-918. Repealed

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Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-918 recodified from R4-4-918 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-919. Deposit of Monies Received by a Mortgage Broker

All monies received by a mortgage broker which are required to be deposited into an escrow account with an escrow agent licensed pursuant to A.R.S. § 6-801 et seq. shall be so deposited by 5:00 p.m. on the next business day after receipt of the funds.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-919 recodified from R4-4-919 (Supp. 95-1).

R20-4-920. Requirements for the Testing Committee

- A.** No licensee shall submit more than five names as nominees to serve on the testing committee. The resumes of the nominees shall be included. The names and resumes shall be submitted to the Superintendent no later than August 1 of each even-numbered year. On or before September 30 of each even-numbered year, the Superintendent shall appoint four persons from the nominees submitted and one employee of the Department as members of the testing committee. A person may serve more than one two-year term. If the Superintendent does not find at least four persons from the list to be acceptable, the Superintendent shall solicit additional nominees from licensees.
- B.** In the event of a vacancy on the testing committee, the remaining members of the committee shall submit a list of nominees within 45 days of the vacancy to the Superintendent containing not less than two nominees for each vacancy. The Superintendent shall then appoint a nominee from the list to fill each vacancy for the remainder of the term. If the Superintendent does not find at least one person from the list to be acceptable to fill each vacancy, the remaining members of the committee shall, upon request, submit an additional list of nominees to the Superintendent.
- C.** The Superintendent may remove any member of the committee at any time without cause.
- D.** The committee shall review and revise questions on the test not less than once every two years. All questions used on the test shall first be submitted to and approved by the Superintendent.
- E.** The committee shall inform the applicant of the applicant's score on the test in writing within 30 days of administration of the test.
- F.** The handbook for mortgage brokers shall be updated by the committee as necessary to reflect changes in the law.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-920 recodified from R4-4-920 (Supp. 95-1).

R20-4-921. Authorizations to Complete Blank Spaces

An authorization, under A.R.S. § 6-909, allowing a licensee or escrow agent to complete certain blank spaces in a document after it is signed by a party to the transaction shall:

1. Specifically identify the document and the blank spaces to be completed;
2. Be in writing, dated, and signed by the authorizing parties; and
3. Contain the following notice, conspicuously printed on its face: YOUR SIGNATURE BELOW AUTHORIZES YOUR MORTGAGE BROKER OR ESCROW AGENT TO FILL IN SPACES YOU LEFT BLANK IN SPECI-

FIED LOAN DOCUMENTS YOU ARE ABOUT TO SIGN OR MAY HAVE ALREADY SIGNED. UNDER STATE LAW YOU CAN GIVE THIS AUTHORITY, BUT YOU ARE NOT REQUIRED TO DO SO. YOU CAN REFUSE TO SIGN ANY DOCUMENTS UNTIL ALL BLANKS ARE COMPLETELY FILLED IN.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-921 recodified from R4-4-921 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-922. Determining Loan Amounts

In determining the amount of a mortgage loan pursuant to A.R.S. § 6-909(D) or (G), only the principal amount of the loan shall be considered and not any points, interest, finance charges, insurance premiums of any kind, compensation paid to third parties or compensation retained by the mortgage broker or its agents.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-922 recodified from R4-4-922 (Supp. 95-1).

R20-4-923. Delay or Cause Delay

A mortgage broker shall not be deemed to have delayed or caused delay if such delay occurs due to events outside the control of the mortgage broker.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-923 recodified from R4-4-923 (Supp. 95-1).

R20-4-924. Receipt and Disbursement of Monies

A licensee is not receiving or disbursing monies in servicing or arranging a mortgage loan if the licensee, at the request of the lender or servicing agent, on an infrequent basis, assists in the collection or servicing of a mortgage loan by receiving from the borrower a check or draft payable to the lender or servicing agent and forwarding such instrument to the lender or servicing agent not later than 5:00 p.m. on the next business day after receipt by the licensee. For the purposes of this rule, an infrequent basis means, with regard to a particular loan, for not more than 25% of the regularly scheduled payments of the mortgage loan during any calendar year.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-3). R20-4-924 recodified from R4-4-924 (Supp. 95-1).

R20-4-925. Waiver of Examination and Course of Study

The Superintendent's waiver of the examination and course of study requirement under A.R.S. § 6-903 extends to a person designated as a responsible individual by either an applicant or a licensee under A.R.S. § 6-903.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-926. Acquisition of Additional Interest in Licensee by Majority Owner

A person that owns 51% or more of a licensee's outstanding voting equity interests, and that acquires the power to vote additional fractional equity interests, shall deliver written notice of the acquisition to the Superintendent. The person shall deliver the notice before completing the acquisition. Within 10 days after completing the acquisition, the person shall deliver documentation evidencing the acquisition to the Superintendent.

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Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-927. Conversion to Commercial Mortgage Broker License

- A. Under A.R.S. § 6-913, a mortgage broker licensee shall only be permitted to convert his or her license to a commercial mortgage broker license during the renewal period established by A.R.S. § 6-904.
- B. The licensee seeking conversion shall not be subject to the 12 continuing education units as prescribed by A.R.S. § 6-903(V).
- C. The licensee seeking conversion shall submit:
 - 1. The renewal fees required by A.R.S. § 6-126 for commercial mortgage brokers, and
 - 2. The information and documents required by A.R.S. § 6-903.

Historical Note

New Section adopted by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

R20-4-928. Certificate of Exemption Application and Renewal

- A. Under A.R.S. § 6-912(C), upon application for a certificate of exemption, an applicant shall pay a nonrefundable fee of \$300.
- B. A person holding a certificate of exemption shall pay a renewal fee of \$150.00 on or before December 31 of each year. Certificates of exemption not renewed by December 31 are automatically suspended, and the certificate holder shall not act as a registered exempt person until the certificate is renewed or a new certificate is issued pursuant to A.R.S. § 6-912. While the certificate is suspended, the licensed loan originators sponsored by the registered exempt person may not transact business as a loan originator. A registered exempt person may renew an automatically suspended certificate by paying the renewal fee plus \$25.00 for each day after December 31 that a renewal fee is not received by the Superintendent and applying for renewal as prescribed by the Superintendent. A certificate of exemption that is not renewed by January 31 expires. A certificate of exemption shall not be granted to the holder of an expired certificate of exemption except as provided in A.R.S. § 6-912 for the issuance of an original certificate of exemption. Each licensed loan originator that is sponsored by a registered exempt person whose certificate has expired shall have his or her license placed on inactive status and shall not transact business in Arizona as a loan originator pursuant to A.R.S. § 6-991.02(M).
- C. In addition to the application fee, on issuance of the certificate of exemption, the Superintendent shall collect the first year's renewal fee prorated according to the number of quarters remaining until the date of the next annual renewal, as required by A.R.S. § 6-126(B).
- D. The following fees are payable to the Department:
 - 1. To change the name of the federally chartered savings bank on a certificate of exemption: \$250.00.
 - 2. To change the responsible individual for the exempt entity: \$250.00.
 - 3. To issue a duplicate or replace a lost certificate of exemption: \$100.00.
 - 4. To change the address of the federally chartered savings bank on a certificate of exemption: \$50.00.

Historical Note

New Section adopted by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

ARTICLE 10. SAFE DEPOSIT AND SAFEKEEPING CODE**R20-4-1001. Notice of Change of Location of Safe Deposit Repository**

- A. A corporation or association that moves a repository shall give written notice of the location change to the Superintendent and to its customers.
 - 1. A corporation or association shall provide notice of the location change to the Superintendent by mailing the notice required under this subsection by first class mail no less than 30 days before the scheduled moving date. The corporation or association shall include a copy of the notice to customers required under subsection (B).
 - 2. A corporation or association shall provide notice of the location change to its customers by:
 - a. Publishing notice of the change of location in:
 - i. An English language newspaper of general circulation in the county where the repository will be closed,
 - ii. In a weekly newspaper for two consecutive publications, or
 - iii. In a daily newspaper for three consecutive days; and
 - b. Publishing the notice no more than 90 days, and no less than 30 days, before the scheduled moving date.
- B. The corporation or association shall include all the following information in the notice:
 - 1. The date the corporation or association intends to move the repository,
 - 2. The earliest date a customer can remove contents and transact other business related to the move,
 - 3. The latest date a customer can remove contents and transact other business related to the move,
 - 4. The street address of the repository to be closed, and
 - 5. The street address of the new repository.

Historical Note

Former Rule 1. R20-4-1001 recodified from R4-4-1001 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 5227, effective February 4, 2003 (Supp. 02-4). Preceding Historical Note entry corrected to read 2003 instead of 2002 (Supp. 03-1).

ARTICLE 11. PUBLIC DEPOSITORIES FOR PUBLIC MONIES**R20-4-1101. Capital structure of banks; defined**

"Capital structure" as the term is applied to banks under Article 2, Chapter 2, Title 35, Arizona Revised Statutes, means the sum of the following reserves and capital accounts of the institution as stated in the institution's report of condition required by the supervisory banking authority for the year end next preceding the institution's bid for deposit:

- 1. Reserve for bad debt losses on loans.
- 2. Other reserves on loans.
- 3. Reserves on securities.
- 4. Capital notes and debentures.
- 5. Preferred stock -- total par value.
- 6. Common stock -- total par value.
- 7. Surplus.
- 8. Undivided profits.
- 9. Reserve for contingencies and other capital reserves.

Historical Note

Adopted as an emergency effective July 29, 1975 (Supp. 75-1). Amended effective December 26, 1975 (Supp. 75-2). R20-4-1101 recodified from R4-4-1101 (Supp. 95-1).

R20-4-1102. Expired

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Historical Note

Adopted as an emergency effective July 29, 1975 (Supp. 75-1). Amended effective December 26, 1975 (Supp. 75-2). R20-4-1102 recodified from R4-4-1102 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 382, effective February 5, 2020 (Supp. 20-1).

ARTICLE 12. RULES OF PRACTICE AND PROCEDURE BEFORE THE SUPERINTENDENT**R20-4-1201. Scope of Article**

This Article governs procedures in all contested cases and appealable agency actions, including administrative appeals, filed with the Department. The Department shall use the authority of A.R.S. §§ 41-1092 through 41-1092.12, and the Office of Administrative Hearings' procedural rules to govern the initiation and conduct of proceedings. In a case or action, special procedural requirements in state statute or another Section in this Chapter shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. §§ 41-1092 through 41-1092.12 or the Office of Administrative Hearings' rules. This Article does not apply to rulemaking or to investigative proceedings before the Superintendent.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1201 recodified from R4-4-1201 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1202. Definitions

In this Article, unless the context otherwise requires:

“Administrative law judge” has the meaning stated at A.R.S. § 41-1092(1).

“Appealable agency action” has the meaning stated at A.R.S. § 41-1092 3).

“Contested case” has the meaning stated at A.R.S. § 41-1001(4).

“Department” means the Arizona State Department of Financial Institutions.

“License” has the meaning stated at A.R.S. § 41-1001(10).

“Party” means:

- The Department;
- The Superintendent;
- Each person either named or admitted as a party, and
- Each person properly seeking, and entitled, to be a party.

“Superintendent” has the meaning stated in A.R.S. § 6-101(16).

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1202 recodified from R4-4-1202 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1203. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1203 recodified from R4-4-1203 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1204. Filing; Service

A. A person shall either personally deliver all papers permitted or required to be filed with the Superintendent or shall mail them by first class, certified, or express mail, or send them by facsimile transmission (602-381-1225), to the Superintendent at

2910 N. 44th Street, Suite 310, Phoenix, AZ 85018-7270, or shall serve them by any method permitted under R2-19-108. The Department considers papers filed when actually received at the Superintendent's address stated in this subsection.

B. A party in a contested case or appeal from an agency action shall make any required or permitted service in the manner permitted under R2-19-108. A party shall make service upon each represented party's attorney unless the administrative law judge orders separate service on the actual party. A party shall make service upon each unrepresented party by service on the actual party.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1204 recodified from R4-4-1204 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3). Amended to correct a typographical error in subsection (B) (Supp. 01-4).

R20-4-1205. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1205 recodified from R4-4-1205 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1206. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1206 recodified from R4-4-1206 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1207. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1207 recodified from R4-4-1207 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1208. Commencement of Proceedings; Notice of Hearing

A person may obtain a hearing under A.R.S. § 41-1092.03 (B) on any appealable agency action or contested case, including the following, unless otherwise provided by law.

1. A letter or order granting or denying a license;
2. A license issued with restrictions or conditions;
3. A cease and desist order;
4. An order to remedy unsafe or unsound conditions;
5. An order to remedy an impairment of capital;
6. An order taking possession and control of a financial institution or enterprise;
7. An order assessing a fine;
8. Any other order or matter reviewable in a hearing either under the authority of these rules, a statute or an administrative rule enforced by the Superintendent, or by the order's express terms.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1208 recodified from R4-4-1208 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1209. Answer to Notice of Hearing

A. The Superintendent may, in a notice of hearing, direct one or more parties to file an answer to the assertions in the notice of

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hearing. Any party to the proceeding may file an answer without being directed to do so.

- B.** A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The Superintendent may require any party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.
- C.** An answer filed under this Section shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the assertions in the notice of hearing. An answering party that does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an assertion shall state that inability in its answer. That statement shall have the effect of a denial. A party admits each assertion that it does not deny. An answering party that intends to deny only a part or a qualification of an assertion, or to qualify an assertion, shall expressly admit as much of that assertion as is true and shall deny the remainder.
- D.** A party that fails to file an answer required by this Section within the time allowed is in default. The Superintendent may resolve the proceeding against a defaulting party. In doing so, the Superintendent may regard any assertions in the notice of hearing as admitted by the defaulting party.
- E.** An answering party waives all defenses not raised in its answer.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1209 recodified from R4-4-1209 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1210. Stays

A person aggrieved by the Department's action or order who files a timely written request for a hearing may ask, in the request for a hearing, that the Superintendent stay an action or any part of an order that will become effective before the Department can hold a hearing. The Superintendent may, in the Superintendent's discretion, stay the legal effectiveness of any action or order until the matter can be heard and finally decided if the aggrieved person's request demonstrates that:

1. The person has a reasonable defense that might prevail on the merits at the hearing,
2. The person will suffer irreparable injury unless the Superintendent grants the stay,
3. The stay would not substantially or irreparably harm other interested persons, and
4. The stay would not jeopardize the public interest or contravene public policy.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1210 recodified from R4-4-1210 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1211. Intervention

A person may only intervene in a proceeding if the person timely applies and:

1. A statute confers a right to intervene, or
2. The person's claim or defense shares a question of law or fact in common with the main proceeding.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1211 recodified from R4-4-1211 (Supp. 95-1). Amended

by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1212. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1212 recodified from R4-4-1212 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1213. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1213 recodified from R4-4-1213 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1214. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1214 recodified from R4-4-1214 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1215. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1215 recodified from R4-4-1215 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1216. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1216 recodified from R4-4-1216 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1217. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1217 recodified from R4-4-1217 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1218. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1218 recodified from R4-4-1218 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1219. Rehearing

- A.** Except as provided in subsection (H), any party in a contested case who is aggrieved by a decision rendered in that case may file with the Superintendent, within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for rehearing or review of the decision specifying the particular reason for rehearing.
- B.** A party requesting rehearing under this Section may amend a motion for rehearing at any time before the Superintendent rules on the motion. Any other party, or the Attorney General, may file a response to the motion for rehearing within 15 days after service of the motion for rehearing, or the amended motion for rehearing. The Superintendent may require a writ-

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ten brief of the issues raised in the motion and may allow oral argument.

- C. The Superintendent may grant a motion for rehearing for any of the following causes:
1. Irregularity in the proceedings before the Superintendent, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Superintendent, the Superintendent employees, the administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary care;
 4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing;
 7. The decision is not justified by the evidence or is contrary to law.
- D. The Superintendent may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (C). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.
- E. The Superintendent, within the time for filing a motion for rehearing, may without a motion order a rehearing or review of a decision for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.
- F. After giving the parties notice and an opportunity to be heard on the matter, the Superintendent may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.
- G. When a motion for rehearing is based on an affidavit, the moving party shall serve the affidavit with the motion. An opposing party or the Attorney General may serve opposing affidavits within 10 days after service of the motion for rehearing.
- H. The Superintendent may issue a final decision, subject only to judicial review, and without an opportunity for rehearing or administrative review if the Superintendent includes in the decision:
1. An express finding that the decision needs to be made immediately effective to preserve the public peace, health, and safety; and
 2. An express finding that a rehearing or review is:
 - a. Impossible,
 - b. Unnecessary, or
 - c. Contrary to the public interest.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1219 recodified from R4-4-1219 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

R20-4-1220. Consent Agreements

- A. The Department will enter into a consent agreement, either in litigation or in an administrative proceeding, only if the defendant or respondent admits to the allegations in the complaint, notice, or order relating to the jurisdiction of the Superintendent or the jurisdiction of the tribunal that will enter the judgment or order.

- B. A refusal to admit allegations is a denial. However, a defendant or respondent may consent to a judgment or order reciting that it does not admit or deny the allegations except those required by subsection (A). A consent agreement shall contain those additional provisions required by the Superintendent in a given matter, and may include:
1. Waiving any right to seek judicial review challenging the judgment's or order's validity,
 2. Waiving findings of fact and conclusions of law,
 3. Stating that the agreement is signed only to settle the matter and not as an admission that the defendant or respondent has violated the law.
- C. The Superintendent has sole discretion to decide whether to resolve a matter by consent agreement. Nothing in this Section gives the Superintendent a duty to approve a consent agreement in any matter.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). R20-4-1220 recodified from R4-4-1220 (Supp. 95-1). Amended by final rulemaking at 7 A.A.R. 4262, effective September 12, 2001 (Supp. 01-3).

ARTICLE 13. LOAN ORIGINATORS**R20-4-1301. Scope of Article**

This Article applies to:

1. All loan originating activities of any person licensed under Arizona law as a loan originator, and
2. The conduct of any applicant for a loan originator license.

Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking and amended at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1302. Course of Study to Qualify for Licensure

- A. The Superintendent shall, under the authority of A.R.S. § 6-991.03(B)(1), approve a course of study that includes only those courses reviewed and approved by the Nationwide Mortgage Licensing System pursuant to A.R.S. § 6-991.03(E) and (F) and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 U.S.C. 5101 through 5116).
- B. An applicant for a loan originator license shall satisfactorily complete a course of study by:
1. Attending at least 20 hours of instruction, and
 2. Receiving a passing grade of not less than 75 percent correct answers on both the national and Arizona state exam required by A.R.S. § 6-991.07 and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 U.S.C. 5101 through 5116).
- C. A pre-licensure course of study shall include 20 hours of instruction in the following areas:
1. Federal law and regulation, including the Real Estate Settlement Procedures Act ("RESPA"), the Truth in Lending Act ("TILA"), good faith estimates, federal privacy laws, fair lending laws including the Equal Credit Opportunity Act ("ECOA") and the Fair Credit Reporting Act ("FCRA"): Three hours;
 2. Business ethics, including fraud, consumer protection laws, and fair lending practices: Three hours;

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3. Non-traditional mortgage product lending standards: Two hours;
 4. Arizona real estate and mortgage lending law, including loan origination and processing, Arizona law relating to agency and the obligations between principal and agent, and state privacy laws: Four hours;
 5. The remaining eight hours should be comprised of instruction in:
 - a. The obligations between principal and agent;
 - b. The statutory and regulatory laws governing loan originators;
 - c. Arithmetical computations common to mortgage lending;
 - d. Principles of real estate lending;
 - e. The purpose and effect of mortgages, deeds of trust, and security agreements;
 - f. The terms and conditions of conforming and non-conforming residential mortgages;
 - g. Real estate appraisal; and
 - h. The principles of appraisal independence.
- D.** A continuing education course of study shall include eight hours of instruction each year in the following areas:
1. Federal law and regulation, including the Real Estate Settlement Procedures Act (“RESPA”), the Truth in Lending Act (“TILA”), good faith estimates, federal privacy laws, fair lending laws including the Equal Credit Opportunity Act (“ECOA”) and the Fair Credit Reporting Act (“FCRA”): Three hours;
 2. Business ethics, including fraud, consumer protection laws, and fair lending practices: Two hours;
 3. Non-traditional mortgage product lending standards: Two hours;
 4. Arizona real estate and mortgage lending law, including loan origination and processing, Arizona law relating to agency and the obligations between principal and agent, and state privacy laws: One hour.

Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking and amended at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1303. Financial Responsibility

An applicant for a loan originator license shall demonstrate financial responsibility, as required by A.R.S. § 6-991.03, by either:

1. Depositing with the Superintendent a bond as specified by A.R.S. § 6-991.03(B)(4) and paying to the Superintendent, for deposit into the Mortgage Recovery Fund, the sum of \$100 at the time of filing an original or a renewal application pursuant to A.R.S. § 6-991.03(B)(6); or
2. Depositing with the Superintendent a bond as specified by A.R.S. § 6-991.03(B)(4) and depositing with the Superintendent a bond as specified by A.R.S. § 6-991.03(B)(6).

Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401,

effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1304. Fees

Loan Originator program fees:

1. Initial application fee (non-refundable) pursuant to A.R.S. § 6-126(A)(33): \$350,
2. Initial license fee (prorated according to the number of quarters remaining until the next annual renewal) pursuant to A.R.S. § 6-126(B): \$150,
3. Annual renewal fee pursuant to A.R.S. § 6-126(C)(12) or fee for change to inactive status pursuant to A.R.S. §§ 6-126(C)(13) and 6-991.04(G): \$150,
4. Transfer license to new employer fee pursuant to A.R.S. § 6-126(A)(34): \$50,
5. Change of residence address fee pursuant to A.R.S. § 6-991.04(J): \$50,
6. Examination fee pursuant to A.R.S. § 6-991.07(E): the amount charged by the vendor,
7. Late renewal fee pursuant to A.R.S. § 6-991.04(E): \$25 per day after the filing deadline.

Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section renewed by emergency rulemaking and amended at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

R20-4-1305. Practice and Procedure

Loan originators shall follow the practice outlined in 20 A.A.C. 4, Article 12 (Rules of Practice and Procedure Before the Superintendent) for challenging information the Superintendent enters into the Nationwide Mortgage Licensing System and Registry pursuant to A.R.S. §§ 6-991.03(K) and 6-991.04(M).

Historical Note

New Section made by emergency rulemaking at 16 A.A.R. 839, effective April 27, 2010 for 180 days (Supp. 10-2). Section repealed; new Section made by renewed emergency rulemaking at 16 A.A.R. 2165, effective October 24, 2010 for 180 days (Supp. 10-4). Emergency expired April 21, 2011; new Section made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011 (Supp. 10-4). Since emergency expired, the emergency rulemaking has been removed. (Supp. 15-1).

ARTICLE 14. INVESTIGATIONS**R20-4-1401. Definitions**

In this Article, unless the context otherwise requires:

1. “Examination” means reviewing an applicant’s or licensee’s operations, books, and records for any lawful purpose, including those listed in A.R.S. § 6-124(A).
2. “Investigation” means an inquiry, other than an examination, into the affairs of a licensed or unlicensed entity including a review of the entity’s operations, books, and records, conducted by the Superintendent for any lawful purpose, including those listed in A.R.S. § 6-124(A).
3. “Licensee” means a financial institution or enterprise.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). Former Section R4-4-1401 repealed, new Section R4-4-1401 renumbered from R4-4-1402 and amended effective

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August 14, 1991 (Supp. 91-3). Amended effective August 14, 1991 (Supp. 91-3). R20-4-1401 recodified from R4-4-1401 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 4653, effective December 6, 2003 (Supp. 03-4).

R20-4-1402. Repealed**Historical Note**

Former Section R4-4-1402 renumbered to R4-4-1401, new Section R4-4-1402 adopted effective August 14, 1991 (Supp. 91-3). R20-4-1402 recodified from R4-4-1402 (Supp. 95-1). Section repealed by final rulemaking at 9 A.A.R. 4653, effective December 6, 2003 (Supp. 03-4).

R20-4-1403. Subpoenas: Service; Amendment; Investigation or Examination not a Condition of the Superintendent's Subpoena Power

The Superintendent may serve a subpoena either by personal delivery or by first class, certified, or express mail, or by facsimile transmission. A Department employee, or an attorney or agent of the Attorney General's office, may accomplish service for the Superintendent. The Superintendent may amend a subpoena at any time, and may serve the amended subpoena as provided in this Section. Under A.R.S. §§ 6-123(3), 6-124(B), and 12-2212, the Superintendent may compel testimony or document production, by subpoena or other means, regardless of whether an examination or investigation is in progress.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). Former Section R4-4-1403 repealed, new Section R4-4-1403 renumbered from R4-4-1407 and amended effective August 14, 1991 (Supp. 91-3). R20-4-1403 recodified from R4-4-1403 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 4653, effective December 6, 2003 (Supp. 03-4).

R20-4-1404. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). Repealed effective August 14, 1991 (Supp. 91-3). R20-4-1404 recodified from R4-4-1404 (Supp. 95-1).

R20-4-1405. Fingerprints; Background Information

- A.** In connection with an examination or investigation, the Superintendent may investigate the following persons' background:
1. An applicant or a licensee, or a person whom the Superintendent reasonably believes may be violating any statute or rule administered by the Superintendent; and
 2. An officer, director, agent, employee, partner, joint venturer, affiliate, or other person associated with a person described in subsection (A)(1), if the other person has or had any involvement in or control over the activities of the person described in subsection (A)(1).
- B.** In connection with an examination or investigation, the Superintendent may require a person described in A.R.S. § 6-123.01(A) or (E) to submit a statement of personal history and fingerprints to the Department.

Historical Note

Adopted effective February 7, 1978 (Supp. 78-1). Former Section R4-4-1405 repealed, new Section R4-4-1405 renumbered from R4-4-1409 and amended effective August 14, 1991 (Supp. 91-3). R20-4-1405 recodified from R4-4-1405 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 4653, effective December 6, 2003 (Supp. 03-4).

R20-4-1406. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). Repealed effective August 14, 1991 (Supp. 91-3). R20-4-1406 recodified from R4-4-1406 (Supp. 95-1).

R20-4-1407. Renumbered**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). Renumbered to R4-4-1403 effective August 14, 1991 (Supp. 91-3). R20-4-1407 recodified from R4-4-1407 (Supp. 95-1).

R20-4-1408. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). Repealed effective August 14, 1991 (Supp. 91-3). R20-4-1408 recodified from R4-4-1408 (Supp. 95-1).

R20-4-1409. Renumbered**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). Renumbered to R4-4-1405 effective August 14, 1991 (Supp. 91-3). R20-4-1409 recodified from R4-4-1409 (Supp. 95-1).

R20-4-1410. Repealed**Historical Note**

Adopted effective February 7, 1978 (Supp. 78-1). Repealed effective August 14, 1991 (Supp. 91-3). R20-4-1410 recodified from R4-4-1410 (Supp. 95-1).

ARTICLE 15. COLLECTION AGENCIES**R20-4-1501. Definitions**

In this Article, unless the context otherwise requires:

1. "Account" means a contractual arrangement between a client and a collection agency that obligates the collection agency to attempt to collect one or more debts on the client's behalf.
2. "Active Manager" means the person who is in active management of the conduct of the collection agency's business, and who meets the qualifications listed in A.R.S. § 32-1023(A).
3. "Client" means a person who has hired a collection agency to collect a debt.
4. "Collection agency" has the meaning in A.R.S. § 32-1001(A)(2).
5. "Contact" means to communicate with, and includes attempted communications.
6. "Credit bureau" or "credit reporting agency" means any person engaged exclusively in the business of gathering, recording, and disseminating information about the credit-worthiness, financial responsibility, paying habits, and character of persons being considered for credit extension.
7. "Creditor" means a person who offers or extends credit creating a debt, or to whom a debt is owed. The term does not include a person that receives an assignment or transfer of a defaulted debt solely for use in collecting the debt for someone else.
8. "Debt" means a debtor's actual or claimed obligation to pay money, whether or not the obligation has been reduced to judgment.
9. "Debtor" means a person obligated to pay a debt. The term also means a person claimed to be obligated to pay a debt.
10. "Superintendent" has the meaning in A.R.S. § 6-101.

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Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1501 recodified from R4-4-1501 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1502. Applications

- A.** An applicant for a license shall complete and file an application, as required by the Department, by delivering the application to the Superintendent, together with the following documents and payment:
1. The bond required by A.R.S. § 32-1021;
 2. The nonrefundable investigation fee and original license fee required by A.R.S. § 32-1028 and stated in A.R.S. § 6-126;
 3. A current financial statement in the form required by the Department;
 4. A certified copy of the current articles of incorporation, by-laws, partnership agreement, or other organizational documents under which the applicant proposes to conduct business; and
 5. A statement of personal history for each principal officer, partner, and manager of the applicant, in the form required by the Department.
- B.** An out-of-state collection agency applying for a license under A.R.S. § 32-1024 shall complete and file the application required by subsection (A), together with a signed statement declaring that:
1. The requirements for securing the out-of-state license were, when issued, substantially the same or equivalent to the requirements imposed under A.R.S. Title 32, Chapter 9, Article 2. The statement shall also contain a complete description of those requirements.
 2. The state issuing the out-of-state license extends reciprocity to Arizona licensees under similar circumstances. The statement shall also contain a complete description of the conditions for reciprocity in the other state.
- C.** A licensee applying for license renewal shall complete and file an application, as required by the Department, by delivering the renewal application to the Superintendent before January 1, together with the renewal fee required by A.R.S. § 32-1028 and stated in A.R.S. § 6-126. An application for renewal shall also include a current financial statement in the form required by the Department.
- D.** An applicant for a provisional license under A.R.S. § 32-1027 shall complete and file an application as required by the Department, by delivering the application to the Superintendent within 30 days of the event justifying a provisional license. The applicant shall deliver the application together with each of the following:
1. A bond that satisfies the requirements of A.R.S. § 32-1022;
 2. A current financial statement as required by the Department;
 3. A detailed description of the facts justifying the issuance of a provisional license; and
 4. Evidence that the licensee notified the Superintendent as required by A.R.S. § 32-1023, in the event the licensee has terminated its active manager.
- E.** An applicant for a provisional license shall, in each instance, be appropriate to the circumstances justifying the provisional license, as follows:
1. A licensee's personal representative, or the personal representative's appointee, shall complete and file an application if the licensee, a natural person, has died;

2. The surviving partners shall complete and file an application if the licensee, a partnership, has dissolved;
 3. A licensee shall complete and file an application if an active manager's employment was terminated.
- F.** An applicant for a provisional license shall clearly label the top of the first page with the heading "APPLICATION FOR PROVISIONAL LICENSE UNDER A.R.S. § 32-1027."
- G.** The Superintendent may require additional information the Superintendent considers necessary in connection with any application under this rule.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1502 recodified from R4-4-1502 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4).

R20-4-1503. Reports

- A.** A collection agency shall notify the Superintendent in writing of any change in the officers, directors, partners, or active manager of the collection agency not more than ten days after the change. With the notice, the collection agency shall provide the Superintendent with a Statement of Personal History for each new officer, director, partner, or active manager on a form obtained from the Department.
- B.** A collection agency shall notify the Superintendent in writing of any change in its place of business not more than 10 days after the change.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1503 recodified from R4-4-1503 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1504. Records

- A.** A licensee may use a computer recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of its books, accounts, and records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may modify a computer recordkeeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any modification that changes a computer system back to a paper-based recordkeeping system;
- B.** All licensees shall keep and maintain books, accounts, and records adequate to provide a clear and readily understandable record of all business conducted by the collection agency, including:
1. Records or books of account listing all clients' accounts in numerical order, or in alphabetical order according to the clients' names. If a collection agency keeps books of accounting in numerical order, the collection agency shall alphabetically cross-index each client name with the corresponding account's number. Each account shall reflect its true condition at each calendar month's end, and shall include:
 - a. The client's name and address;
 - b. Each debtor's name worked for collection in that month;
 - c. The amount, description, and date of each debit and each credit to the account; and
 - d. The balance due to, or owing from, the client.

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2. A record and history of each debt for collection that clearly shows:
- The debtor's name;
 - The debt's principal amount;
 - The interest charged or collected;
 - The amount, and a description of any other charges;
 - The amount, and date, of each payment received or collected; and
 - The current balance due on the debt.
3. An original of each written contract, between the licensee and a client, including any contract amendments.
4. A trust general ledger reflecting all deposits to and payments from a trust account. A licensee shall post transactions to its trust general ledger at least every five business days. A licensee shall bring its trust general ledger current within 24 hours when requested by the Superintendent.
5. The licensee's trust account reconciliation, prepared at least once a month.
6. Books, records, and files maintained so that the Superintendent can easily conduct an unannounced spot check, as well as the examinations and investigations required by A.R.S. §§ 6-122 and 6-124.
7. A copy of all pleadings in pending litigation that names the collection agency as a defendant.
8. A record of fictitious names used by the agency's debt collectors as required by R20-4-1520.
- C.** A person issuing a receipt for a collection agency shall sign the receipt using that person's true name. Each receipt shall also show the collection agency's name.
- D.** A licensee shall maintain all records required under this Section and shall make them available for examination, investigation, or audit in Arizona within three working days after the Superintendent demands the records.
- E.** A licensee shall retain the records required by this Section for the following periods:
- A licensee shall retain all records described in subsections (B)(1), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), and (B)(8) for at least six years following their creation.
 - A licensee shall retain all records described in subsection (B)(2) for at least three years from an account's assignment to the licensee. If a licensee collects any money on an account, the licensee shall retain the records described in subsection (B)(2) for at least three years from the last collection date.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). Amended effective December 18, 1979 (Supp. 79-6). R20-4-1504 recodified from R4-4-1504 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4).

R20-4-1505. Trust Account

- A.** A licensee that maintains an office in Arizona shall deposit all funds collected for a client in a trust account with an Arizona bank or savings and loan association. A licensee that does not maintain an office in Arizona shall deposit all funds collected for a client in a trust account at a depository in the state where the licensee maintains its principal office. A licensee shall deposit all client funds before the close of its business on the third business day after the licensee receives the funds. Client funds shall remain on deposit as required by this Section until:
- Paid over to a client, or
 - Otherwise paid as provided in this Section.

- B.** A licensee shall pay funds from the trust account either:
- By prenumbered printed checks, or
 - By electronic payment.
- C.** A licensee shall deposit in its trust account only the funds it has collected for its client. A licensee, its officers, directors, partners, managers, members, or employees shall not commingle, or permit the commingling of, their own funds with client funds. This prohibition includes any funds that a licensee, or any officer, director, partner, manager, member, or employee claims an interest in if that interest arises outside the licensee's contract with a client.
- D.** A licensee shall keep unpaid client funds in its trust account. A licensee may maintain a separate trust account for dormant accounts into which the licensee deposits unpaid funds such as those of a client that cannot be located, or any trust account check issued to a client that is returned without being negotiated. As to all those unpaid funds, under A.R.S. § 44-317, a licensee shall file an abandoned property report at the Arizona Department of Revenue as and when required by law.
- E.** A licensee shall withdraw from its trust account all fees and commissions due the licensee under its contract with a client and deposit them directly into its own operating account.
- F.** A licensee shall not pay funds from its trust account except as:
- Provided in this Section,
 - Expressly authorized in its contract with a client, or
 - Authorized in writing by the Superintendent.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1505 recodified from R4-4-1505 (Supp. 95-1). Amended by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4).

R20-4-1506. Articles of Incorporation; Bylaws; Organizing Documents

- A.** A collection agency organized as a corporation shall file with the Superintendent a copy of each amendment to its articles of incorporation within 30 days after the amendment is adopted. Before filing with the Superintendent, an officer of the collection agency shall:
- Certify the copy filed in compliance with this Section, in writing, signed by the certifying officer, attesting to the completeness, accuracy, and authenticity of the certified copy; and
 - Ensure the copy bears a stamp affixed by the Arizona Corporation Commission to evidence filing with the Commission.
- B.** A collection agency organized as a corporation shall file with the Superintendent a copy of each amendment to its bylaws within 10 days after the amendment is adopted. An officer of the collection agency shall certify the copy filed in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.
- C.** A collection agency not organized as a corporation shall file with the Superintendent a copy of each amendment to its organizing documents within 10 days after the amendment is adopted. A partner, active manager, or agent of the collection agency shall certify the copy filed in compliance with this Section, in writing, attesting to the completeness, accuracy, and authenticity of the certified copy.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1506 recodified from R4-4-1506 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1507. Representations of Collection Agency's Identity

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In all communications with debtors, either orally or in writing, all the following rules apply:

1. A collection agency shall represent itself as a collection agency.
2. A collection agency shall not directly or indirectly claim to be a credit reporting agency or credit bureau if it is not.
3. A collection agency shall not directly or indirectly claim to be a law enforcement agency.
4. A collection agency shall not directly or indirectly claim to be a law firm.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1507 recodified from R4-4-1507 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1508. Representations of the Law

A collection agency shall not:

1. Misrepresent the state of the law to a debtor,
2. Send a debtor written material that simulates legal process, or
3. Represent or imply that a debtor is, or may be, subject to criminal prosecution or arrest because of a failure to pay the debt.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1508 recodified from R4-4-1508 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1509. Representations as to Fees, Costs, and Legal Proceedings; Disinterested Counsel Required

- A. A collection agency shall neither threaten to collect, nor attempt to collect, an attorney's fee, collection cost, or other fee that the debtor is not obliged to pay under the debtor's contract with the collection agency's creditor client.
- B. A collection agency shall not inform a debtor that legal proceedings have been started unless, in fact, a lawsuit has been filed against the debtor.
- C. A collection agency shall not threaten to start legal proceedings against a debtor unless the collection agency actually intends, at the time of the threat, to sue.
- D. A collection agency shall not threaten to turn an account over to a lawyer unless the collection agency actually intends to do so at the time of the threat.
- E. A collection agency shall not file a lawsuit against a debtor unless the lawsuit is filed by an attorney who has no personal or financial interest in that collection agency.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1509 recodified from R4-4-1509 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1510. Representations as to Rights Waived or Remedies Available

- A. A collection agency shall not inform a debtor that the debtor waives any legal right or legal defense by a failure to contact the collection agency.

- B. A collection agency shall not inform a debtor that the collection agency has the power or right to bypass the legal process.
- C. A collection agency shall not misrepresent the remedies available to the collection agency.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1510 recodified from R4-4-1510 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1511. Prohibition of Harassment

- A. A collection agency shall not use unauthorized or oppressive tactics designed to harass any person to pay a debt.
- B. A collection agency shall not use written or oral communications that either ridicule, disgrace, or humiliate any person or tend to ridicule, disgrace, or humiliate any person.
- C. A collection agency shall not state, imply, or tend to imply, in written or oral communications that any person is guilty of fraud or any other crime.
- D. A collection agency shall not permit its agents, employees, representatives, debt collectors, or officers to use obscene or abusive language in efforts to collect a debt.
- E. A collection agency or its agents, employees, representatives or officers are subject to penalties listed in A.R.S. § 32-1056(B) for any violation of this Article, as well as other liabilities imposed under any other provision of law.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1511 recodified from R4-4-1511 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1512. Contacts with Debtors and Others

- A. A collection agency shall contact a debtor by telephone only during reasonable hours. A collection agency shall make a reasonable attempt to contact a debtor at the debtor's residence. A collection agency may contact a debtor at the debtor's place of employment if a reasonable attempt to contact the debtor at the debtor's residence has failed.
- B. A collection agency shall not contact a third party, including a debtor's friend, relative, neighbor, or employer and:
 1. Inform the third party of the debt;
 2. Ask the third party to pressure the debtor into paying the debt, or;
 3. Ask the third party to pay the debt, unless the third party is legally obligated to pay the debt.
- C. A collection agency shall not threaten to contact a third party listed in subsection (B) for any purpose listed in subsection (B).
- D. Despite the other provisions of this Section, a collection agency may make lawful service on third parties, including employers, of a writ of garnishment or other writ in aid of execution after judgment has been entered against a debtor.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1512 recodified from R4-4-1512 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1513. Cessation of Communication with the Debtor

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- A. A collection agency shall stop contacting a debtor, directly or indirectly, if the debtor tells the collection agency that the debtor is represented by a lawyer and wants the collection agency to communicate with the debtor through that lawyer. The collection agency may later contact the debtor if the collection agency contacts the lawyer named by the debtor and learns that the lawyer does not represent the debtor.
- B. A collection agency shall stop contacting a debtor, directly or indirectly, if the debtor gives the collection agency written notice that the debtor:
1. Refuses to pay the debt, or;
 2. Wants the collection agency to stop all further communication with the debtor.
- C. Despite the provisions of subsection (B), a collection agency may contact a debtor to inform the debtor that:
1. The collection agency has stopped trying to collect the debt, or
 2. The collection agency or the creditor may invoke specific remedies that are customarily used by the collection agency or the creditor.
- D. The debtor's written notice under subsection (B) is effective upon receipt by the collection agency if delivered by mail.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). Amended effective December 18, 1979 (Supp. 79-6). R20-4-1513 recodified from R4-4-1513 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1514. Disclosure of Information to Debtor

- A. Within five days after the initial communication with the debtor, a collection agency shall obtain, and be able to inform the debtor of:
1. The name of the creditor;
 2. The time and place of the creation of the debt;
 3. The merchandise, services, or other value provided in exchange for the debt; and
 4. The date when the account was turned over to the collection agency by the creditor.
- B. A collection agency shall give the debtor access to any of the collection agency's records that contain the information listed in subsection (A).
- C. At the debtor's request, the collection agency shall give the debtor, free of charge, a copy of any document from its records that contains the information listed in subsection (A).

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1514 recodified from R4-4-1514 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1515. Aiding and Abetting

- A collection agency shall not help or encourage, directly or indirectly, any other person to evade or violate any provision of:
1. This Article, or
 2. A.R.S. Title 32, Chapter 9.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1515 recodified from R4-4-1515

(Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1516. Advertising

A collection agency shall not use any form of communication to state or imply that it is:

1. Approved, bonded by, or affiliated with the state of Arizona;
2. A state agency;
3. The director of any state agency; or
4. Authorized to practice law.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1516 recodified from R4-4-1516 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1517. Repealed**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1517 recodified from R4-4-1517 (Supp. 95-1). Section repealed by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1518. Agreements with Clients

A collection agency's records shall document each client's account in writing. The records for an account shall include either a written agreement between the client creditor and the collection agency, or a written direction from the creditor to the collection agency concerning a specific debt placed for collection. The collection agency shall keep records that are specific, easily understood, and unambiguous. A provision of a written agreement or written direction that suggests the collection agency has authority to represent the client in court or to practice law in any other way is void and prohibited by this Section. The records for an account shall separately state:

1. The names of the parties to the agreement or written direction,
2. The terms or rate of compensation paid to the collection agency,
3. The length of time the agreement or written direction is intended to be in effect, and
4. Any conditions regarding collection of a particular debt.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1518 recodified from R4-4-1518 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1519. Licensee Names and Control

- A. The Department shall not issue a license with a name that is:
1. Similar to, or that may be confused with, any federal, state, county, or municipal government function or agency;
 2. Descriptive of any business activity that the applicant does not actually conduct;
 3. The same as, or similar to, the name of any existing collection agency, or;
 4. Otherwise deceptive or misleading.
- B. The Department may permit the use of a name otherwise prohibited under subsection (A)(3) based on its analysis of

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whether the name includes geographic or other information that distinguishes it from the other collection agency.

- C. A collection agency shall not use a collection agency license to do business under more than one name. Each collection agency shall apply for and obtain a separate license for each business name it intends to use in Arizona.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1519 recodified from R4-4-1519 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1520. Representations of Collection Agency Employees' Identity or Position

- A. A collection agency shall not allow its debt collector, agent, representative, employee, or officer to:
1. Misrepresent the person's true position with the collection agency,
 2. Claim to be, or imply that the person is, an attorney unless the person is licensed to practice law, or
 3. Claim to be, or imply that the person is, a public official, peace officer, or any other type of public employee, or
 4. Claim to be, or imply that the person is, any other third party.
- B. In any communication with a debtor, a person working for a collection agency shall indicate that the person is a debt collector.
- C. A collection agency shall keep a record of all fictitious names used by its debt collectors during their employment. The collection agency shall record the information required by this subsection before permitting the use of a fictitious name. The collection agency shall file a copy of the record of fictitious names with the Department on July 1 and December 31 of each year. After filing the initial report, a collection agency shall identify all changes to the record on July 1 and December 31 of each year. The collection agency's record of fictitious names shall include:
1. The true name of each debt collector that uses a fictitious name,
 2. Each fictitious name used by the debt collector, together with the dates when the name is used, and
 3. The residential street address and residential mailing address of each debt collector that uses a fictitious name.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1520 recodified from R4-4-1520 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1521. Duty of Investigation

A collection agency shall give copies of its evidence of the debt to the debtor or the debtor's attorney on request. After providing the evidence, but before continuing its collection efforts against the debtor, the collection agency shall investigate any claim by the debtor or the debtor's attorney that:

1. The debtor has been misidentified,
2. The debt has been paid,
3. The debt has been discharged in bankruptcy, or
4. Based on any other reasonable claim, the debt is not owed.

Historical Note

Adopted effective December 18, 1979 (Supp. 79-6). R20-4-1521 recodified from R4-4-1521 (Supp. 95-1).

Amended by final rulemaking at 12 A.A.R. 1331, effective June 4, 2006 (Supp. 06-2).

R20-4-1522. Reserved

R20-4-1523. Reserved

R20-4-1524. Reserved

R20-4-1525. Reserved

R20-4-1526. Reserved

R20-4-1527. Reserved

R20-4-1528. Reserved

R20-4-1529. Reserved

R20-4-1530. Repealed

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective December 6, 1978 (Supp. 78-6). R20-4-1530 recodified from R4-4-1530 (Supp. 95-1). Section repealed by final rulemaking at 6 A.A.R. 4742, effective November 13, 2000 (Supp. 00-4).

ARTICLE 16. ACQUIRING CONTROL OF FINANCIAL INSTITUTIONS**R20-4-1601. Definitions**

In this Article, unless the context otherwise requires:

"Acquiring party" means a person who intends to acquire control of a bank, trust company, savings and loan association, or controlling person under A.R.S. Title 6, Chapter 1, Article 4.

"Acquisition of control" has the meaning stated in A.R.S. § 6-141.

"Bank" has the meaning stated in A.R.S. § 6-101.

"Control" has the meaning stated in A.R.S. § 6-141.

"Controlling person" has the meaning stated in A.R.S. § 6-141.

"Person" has the meaning stated in A.R.S. § 6-141.

"Savings and loan association" means a person required to possess a permit issued by the Superintendent under A.R.S. Title 6, Chapter 3.

"Superintendent" has the meaning stated in A.R.S. § 6-101.

"Target company" means a bank, savings and loan association, trust company, or controlling person to be acquired by an acquiring party.

"Trust company" has the meaning stated in A.R.S. § 6-851.

"Voting security" has the meaning stated in A.R.S. § 6-141.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1601 recodified from R4-4-1601 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4).

R20-4-1602. Application for Approval to Acquire Control of Financial Institution

- A. An applicant seeking approval to acquire control of a bank, savings and loan association, or controlling person of a bank or savings and loan association, under A.R.S. Title 6, Chapter

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1, Article 4, shall file with the Superintendent copies of all application documents filed with federal regulatory agencies in connection with the planned acquisition of control.

- B.** As used in this subsection, “executive officer” includes the chairman of the board, president, each vice president, cashier, secretary, treasurer, and every other person who participates in major policymaking functions of the applicant. Under A.R.S. § 6-145(A), an applicant seeking approval to acquire control of a trust company or controlling person of a trust company, under A.R.S. Title 6, Chapter 1, Article 4 shall supply all information the Superintendent requires under this subsection. The Superintendent may require an applicant to supplement or amend its application based on issues raised by the initial submission. The initial application shall consist of the following items:
1. A copy of the signed purchase agreement,
 2. The applicant’s audited financial statement,
 3. A personal history statement, on a form supplied by the Department, for each executive officer and each director of the acquiring party,
 4. Each executive officer’s and each director’s audited financial statement,
 5. A fingerprint card for each executive officer and each director, and
 6. A copy of each executive officer’s and each director’s driver’s license.

Historical Note

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1602 recodified from R4-4-1602 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4).

R20-4-1603. Repealed**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1603 recodified from R4-4-1603 (Supp. 95-1). Section repealed by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4).

R20-4-1604. Repealed**Historical Note**

Adopted as an emergency effective September 6, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Adopted effective January 12, 1979 (Supp. 79-1). R20-4-1604 recodified from R4-4-1604 (Supp. 95-1). Section repealed by final rulemaking at 9 A.A.R. 5055, effective January 3, 2004 (Supp. 03-4).

ARTICLE 17. ARIZONA INTERSTATE BANK AND SAVINGS AND LOAN ASSOCIATION ACT**R20-4-1701. Definitions**

In this Article, unless the context otherwise requires:

- “Acquire” has the meaning stated at A.R.S. § 6-321(1).
- “Applicant” means an out-of-state financial institution that intends to acquire control of an in-state financial institution.
- “Control” has the meaning stated at A.R.S. § 6-321(2).
- “In-state financial institution” has the meaning stated at A.R.S. § 6-321(5).
- “Out-of-state financial institution” has the meaning stated at A.R.S. § 6-321(6).

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1701 recodified from R4-4-1701 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1702. Notice to the Superintendent of Intent to Acquire Control of an In-state Financial Institution; Surrender of an Acquired Financial Institution’s Charter

- A.** An applicant shall give written notice of an acquisition to the Superintendent in the form of a courtesy copy of its federal application. The acquiring entity shall ensure that the notice is delivered to the Superintendent not less than ten days before the effective date of the acquisition. No other application is required under the provisions of A.R.S. Title 6, Chapter 2, Article 7, the Arizona Interstate Bank and Savings and Loan Association Act. The Superintendent may impose conditions on an acquisition under the authority of A.R.S. §§ 6-324 and 6-328.
- B.** An acquired in-state financial institution shall surrender, by delivery to the Superintendent, all permits and certificates issued by the Superintendent within ten days after the effective date of the acquisition unless the acquired institution intends to continue operating, after the acquisition, as a stand alone subsidiary under the authority of its existing Arizona banking permit.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1702 recodified from R4-4-1702 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1703. Repealed**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1703 recodified from R4-4-1703 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1704. Public Notice

- A.** An applicant shall transmit to the Superintendent of Banks two copies of each notice and the publisher’s affidavit of publication required by the Federal Reserve Board, Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, or other regulatory authority that has concurrent jurisdiction.
- B.** An applicant shall provide the Superintendent of Banks copies of any protests known to have been received by the Federal Reserve Board, Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, or other regulatory authority that has concurrent jurisdiction.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1704 recodified from R4-4-1704 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1705. Repealed**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1705 recodified from R4-4-1705 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

R20-4-1706. Repealed

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Historical Note

Adopted effective October 1, 1986 (Supp. 86-5). R20-4-1706 recodified from R4-4-1706 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 2031, effective July 2, 2005 (Supp. 05-2).

ARTICLE 18. MORTGAGE BANKERS**R20-4-1801. Exemption for an Entity Regulated by an Agency of this State, Other States, or by the United States**

- A. The exemption under A.R.S. § 6-942(A)(1) only applies to a person whose offers to make or negotiate a “mortgage banking loan” or a “mortgage loan,” as those terms are defined in A.R.S. § 6-941, and all mortgage banking loans and mortgage loans made or negotiated by the person are regulated directly by an agency of this state, any other state, or the United States.
- B. The required regulation of the transactions listed in subsection (A) includes:
1. Rules governing a claimant’s accounting and recordkeeping practices;
 2. The authority to examine a claimant’s books and records relating to its mortgage banking activities or mortgage lending activities, or both; and
 3. The ability to place a claimant in a receivership or conservatorship with regard to the claimant’s mortgage banking activities, mortgage lending activities, or both.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1802. Equivalent and Related Experience

- A. An applicant may satisfy the three years’ experience requirement of A.R.S. § 6-943 by the types of lending-related experience listed in this subsection. The Department counts each month in the following types of work experience toward the three years required either for a mortgage banker license, or as a responsible individual, both under A.R.S. § 6-943(C). The Department counts a fractional month of experience, at least 15 days long, as a full month.
1. Mortgage banker with an Arizona license, responsible individual, or branch manager for a licensee;
 2. Mortgage broker with an Arizona license, responsible individual, or branch manager for a licensee;
 3. Loan officer with responsibility primarily for loans secured by lien interests on real property;
 4. Lender’s branch manager with responsibility primarily for loans secured by lien interests on real property;
 5. Mortgage banker with license from another state, or responsible individual for the mortgage banker;
 6. Mortgage broker with license from another state, or responsible individual for the mortgage broker;
 7. Attorney certified by any state as a real estate specialist.
- B. An applicant with insufficient actual experience of the types listed in subsection (A) may satisfy the remainder of the three years’ experience requirement of A.R.S. § 6-943 by the types of related experience listed in this subsection. The Department counts each month in the following types of work experience according to the ratio listed below, of actual experience to equivalent experience, credited toward qualifying for a license, or as a responsible individual, both under A.R.S. § 6-943(C). The Department counts a fractional month of experience, at least 15 days long, as a full month. An applicant receives credit in only one area listed and for not more than three years’ actual experience. The remaining years of experience required to qualify for a license shall be obtained from types of work experiences listed in subsection (A).
1. Attorney without state bar

- certified real estate specialty...3:2
2. Paralegal with experience in real estate matters...3:2
3. Loan underwriter...3:2
4. Mortgage banker or mortgage broker from another state without license...3:2
5. Real estate broker with an Arizona license or license from a state with substantially equivalent licensing requirements...3:2
6. Escrow officer...3:2
7. Trust officer with a title company...3:2
8. Executive, supervisor, or policy maker involved in administering or operating a mortgage-related business...3:1.5
9. Title officer with a title company...3:1.5
10. Real estate broker, not qualified under subsection (B)(5)...3:1.5
11. Loan processor with responsibility primarily for loans secured by lien interests on real property...3:1.5
12. Lender’s branch manager with responsibility primarily for loans not secured by lien interests on real property...3:1.5
13. Real property salesperson, with an Arizona license or a license from a state with substantially equivalent licensing requirements...3:1
14. Loan officer, with responsibility primarily for loans not secured by lien interests on real property...3:1

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1803. Restrictions on the Term of a Cash Alternative to a Surety Bond

A licensee or applicant shall not place a certificate of deposit or investment certificate as a cash alternative to a surety bond with the Superintendent that is renewable or expires earlier than 12 months from the date of issuance.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1804. Requirements for a Person Intended to Oversee a Branch Office

A person designated to oversee the operations of a branch office shall be knowledgeable about the branch activities of the licensee, supervise compliance by the branch with applicable law and rules, and have sufficient authority to ensure such compliance. One person may oversee more than one branch.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1805. Notification of Change of Address

If a licensee changes the licensee’s principal place of business, or the location of a branch office, the licensee shall notify the Superintendent at least five business days before the address change. With the notice, a licensee shall provide the Superintendent with the license for the office changing its address and the fee required by A.R.S. § 6-126 for changing an office address. A copy of the license shall continue to be displayed at the place of business until a new license is issued.

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Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2). Amended by final rulemaking at 8 A.A.R. 145, effective December 10, 2001 (Supp. 01-4).

R20-4-1806. Recordkeeping Requirements

- A.** The Superintendent shall approve a licensee's use of a computer or mechanical recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of the records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer or mechanical recordkeeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any alteration in the approved system's fundamental character, medium, or function if the alteration changes:
1. Any approved computer or mechanical system back to a paper-based system; or
 2. An approved mechanical system to a computer system; or
 3. An approved computer system to a mechanical system.
- B.** In addition to any statutory requirement regarding records, a record maintained by a mortgage banker shall include the following:
1. A list of all executed loan applications or executed fee agreements that includes the following information:
 - a. Applicant's name;
 - b. Application date;
 - c. Amount of initial loan request;
 - d. Final disposition date;
 - e. Disposition (funded, denied); and
 - f. Name of loan officer;
 2. A record, such as a cash receipts journal, of all money received in connection with mortgage banking loans or mortgage loans including:
 - a. Payor's name;
 - b. Date received;
 - c. Amount; and
 - d. Receipt's purpose including identification of a related loan, if any;
 3. A sequential listing of checks written for each bank account relating to the mortgage banker business, such as a cash disbursement journal, including:
 - a. Payee's name;
 - b. Amount;
 - c. Date; and
 - d. Payment's purpose including identification of a related loan, if any;
 4. Bank account activity source documents for the mortgage banker business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices;
 5. A trust subsidiary ledger for each borrower that deposits trust funds showing:
 - a. Borrower's name or co-borrowers' names;
 - b. Loan number, if any;
 - c. Amount received;
 - d. Purpose for the amount received;
 - e. Date received;
 - f. Date deposited into trust account;
 - g. Amount disbursed;
 - h. Date disbursed;
 - i. Disbursement's payee and purpose; and
 - j. Balance;
 6. A file for each application for a mortgage banking loan or a mortgage loan containing:
 - a. The agreement with the customer concerning the mortgage banker's services, whether as a loan application, fee agreement, or both;
 - b. Document showing the application's final disposition, such as a settlement statement, or a denial or withdrawal letter;
 - c. Correspondence sent, received, or both by the licensee;
 - d. Contract, agreement and escrow instructions to or with any depository;
 - e. Documents showing compliance with the Consumer Credit Protection Act's (15 U.S.C. §§ 1601 through 1666j) and the Real Estate Settlement Procedures Act's (12 U.S.C. §§ 2601 through 2617) disclosure requirements, to the extent applicable;
 - f. If the loan is closed in the licensee's name, and funded by a lender that is not an institutional investor as defined at A.R.S. § 6-943, a copy of the executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the licensee, if any. If any of the documents listed in this subsection have been recorded, the file shall also contain legible copies of the recorded documents, and;
 - g. Itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee;
 7. Samples of every piece of advertising relating to the mortgage banker's business in Arizona;
 8. Copies of governmental or regulatory compliance reviews;
 9. If the licensee is not a natural person, a file containing:
 - a. Organizational documents for the entity;
 - b. Minutes;
 - c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
 - d. Annual report, if required by law;
 10. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction;
 11. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal or other final order disposing of the action;
 12. If the Superintendent has granted approval to maintain records outside this state, the specific address where the records are kept, and a person's name to contact for them;
 13. If a licensee does business in other states, it must be able to separate Arizona loan information from information relating to other states to enable the Superintendent to conduct an examination.
 14. A licensee shall produce a trial balance of the general ledger monthly to evidence the mortgage banker's net worth.
- C.** If 10 or fewer transactions have occurred during the prior calendar quarter, a licensee shall reconcile and update all records specified in subsection (B) at least once each calendar quarter. A licensee shall reconcile and update all records specified in subsection (B) monthly if more than 10 transactions occurred during the prior calendar quarter. In addition to reconciling each trust bank account, a licensee shall verify each trust balance to each trust subsidiary ledger at each reconciliation.

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- D. A licensee shall retain the documents described in subsections (B)(1) and (6) for the length of time provided in A.R.S. § 6-946. For the purposes of A.R.S. § 6-946, the mortgage banking loan's closing date, on a loan application that did not result in the making of a loan, is either:
1. The date a licensee receives a written cancellation notice from an applicant; or
 2. The date a licensee mails written notice to an applicant that an application has been denied, as required by federal law.
- E. A licensee shall maintain all other records described in this Section, and not included in subsection (D), for at least two years.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1807. Providing Copies of Records

For each loan closed in an Arizona mortgage broker's name with a concurrent assignment of beneficial interest to a mortgage banker, the mortgage banker licensee shall provide to the mortgage broker in whose name the loan closed a copy of:

1. The closing instructions;
2. Any applicable rescission notice;
3. The HUD-1 settlement statement;
4. The final truth-in-lending disclosure;
5. The note;
6. The executed deed of trust or mortgage; and
7. Each assignment of beneficial interest by the mortgage banker licensee.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1808. Authorization to Complete Blank Spaces

An authorization, under A.R.S. § 6-947, allowing a licensee or escrow agent to complete certain blank spaces in a document after it is signed by a party to the transaction shall:

1. Specifically identify the document and the blank spaces to be completed;
2. Be in writing, dated, and signed by the authorizing parties, and
3. Contain the following notice, conspicuously printed on its face: YOUR SIGNATURE BELOW AUTHORIZES YOUR MORTGAGE BANKER OR ESCROW AGENT TO FILL IN SPACES YOU LEFT BLANK IN SPECIFIED LOAN DOCUMENTS YOU ARE ABOUT TO SIGN OR MAY HAVE ALREADY SIGNED. UNDER STATE LAW YOU CAN GIVE THIS AUTHORITY, BUT YOU ARE NOT REQUIRED TO DO SO. YOU CAN REFUSE TO SIGN ANY DOCUMENTS UNTIL ALL BLANKS ARE COMPLETELY FILLED IN.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1809. Determining Loan Amounts

The amount of a mortgage banking loan or a mortgage loan under A.R.S. § 6-947(E) or 6-947(K), is the principal amount of the loan and does not include any points, interest, finance charges, insurance premiums of any kind, compensation paid to third parties, or compensation retained by a mortgage banker or its agents.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1810. Delay or Cause Delay

A mortgage banker does not delay or cause delay if the delay occurs due to events outside the control of the mortgage banker.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1811. Impound Account

The total of all funds retained by a mortgage banker from all periodic payments made by a borrower to maintain a cushion, as defined in R20-4-102, shall not exceed 1/6th of the estimated total annual payments from the impound account.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1812. Acquisition of Additional Interest in Licensee by Majority Owner

A person that owns 51% or more of a licensee's outstanding voting equity interests, and that acquires the power to vote additional fractional equity interests, shall deliver written notice of the acquisition to the Superintendent. The person shall deliver the notice before completing the acquisition. Within 10 days after completing the acquisition, the person shall deliver documentation evidencing the acquisition to the Superintendent.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1813. Conversion to Mortgage Broker License

Under A.R.S. § 6-949 to apply for a conversion from a mortgage banker license to a mortgage broker license, the applicant shall submit during the renewal period all applicable renewal documents and renewal fees required by A.R.S. §§ 6-126 and 6-903 for mortgage brokers.

Historical Note

New Section adopted by final rulemaking at 18 A.A.R. 2622, effective December 2, 2012 (Supp. 12-4).

ARTICLE 19. COMMERCIAL MORTGAGE BANKERS**R20-4-1901. Exemption for an Institutional Investor**

- A. The exemption from the licensure requirement for an institutional investor, solely as that term is used in A.R.S. §§ 6-971, 6-972, and this Article, applies only if a person claiming the exemption meets all the following criteria:
1. The claimant originates or directly or indirectly makes, negotiates, or offers to make or negotiate commercial mortgage loans that are all exclusively funded by the claimant's own resources, as defined in A.R.S. § 6-971;
 2. The claimant does so in the regular course of business;
 3. The claimant makes only commercial mortgage loans, as defined in A.R.S. § 6-971;
 4. The claimant makes each loan on the security of commercial property, as defined in A.R.S. § 6-971; and
 5. The claimant makes only loans of more than \$250,000.
- B. If a claimant makes even one commercial mortgage loan that does not satisfy all the above criteria, any claim of exemption is invalid, and that person shall not engage in any lending activity before obtaining a license.

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Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1902. Exemption for an Entity Regulated by an Agency of this State, Other States, or by the United States

- A. The exemption under A.R.S. § 6-972(9) only applies to a person whose offers to make or negotiate a “commercial mortgage loan,” as that term is defined in A.R.S. § 6-971, and all commercial mortgage loans made or negotiated by the person are regulated directly by an agency of this state, any other state, or the United States.
- B. The required regulation of the transactions listed in subsection (A) includes:
1. Rules governing a claimant’s accounting and recordkeeping practices;
 2. The authority to examine a claimant’s books and records relating to its commercial mortgage lending activities;
 3. The ability to place a claimant in a receivership or conservatorship with regard to the claimant’s commercial mortgage lending activities.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1903. Equivalent and Related Experience

- A. An applicant may satisfy the three years’ experience requirement of A.R.S. § 6-973 by the types of lending-related experience listed in this subsection. The Department counts each month in the following types of work experience towards the three years required either for a commercial mortgage banker license, or as a responsible individual, both under A.R.S. § 6-973(D). The Department counts a fractional month of experience, at least 15 days long, as a full month.
1. Commercial mortgage banker with an Arizona license, or Responsible Individual or branch manager for a licensee;
 2. Mortgage broker with Arizona license, or Responsible Individual or branch manager for a licensee;
 3. Mortgage banker with an Arizona license, or Responsible Individual or branch manager for a licensee;
 4. Loan officer, with responsibility primarily for loans secured by lien interests on commercial real property;
 5. Lender’s branch manager, with responsibility primarily for loans secured by lien interests on commercial real property;
 6. Commercial mortgage banker with license from another state, or Responsible Individual for the commercial mortgage banker;
 7. Mortgage broker with license from another state, or Responsible Individual for the mortgage broker;
 8. Mortgage banker with license from another state, or responsible individual for the mortgage banker;
 9. Attorney certified by any state as a real estate specialist.
- B. The experience of an applicant with insufficient actual experience of the types listed in subsection (A) is reviewed and evaluated on a case by case basis.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1904. Restrictions on the Term of a Cash Alternative to a Surety Bond

A licensee or applicant shall not place a certificate of deposit or investment certificate as a cash alternative to a surety bond with the Superintendent that is renewable or expires earlier than 12 months from the date of issuance.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1905. Requirements for a Person Intended to Oversee a Branch Office

A Person designated to oversee the operations of a branch office shall be knowledgeable about the branch activities of the licensee, supervise compliance by the branch with applicable law and rules, and have sufficient authority to ensure such compliance. One Person may oversee more than one branch.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1906. Notification of Change of Address

If a licensee changes the licensee’s principal place of business, or the location of a branch office, the licensee shall notify the Superintendent within five business days after the address change. With the notice, a licensee shall provide the Superintendent with the license for the office changing its address and the fee required by A.R.S. § 6-126 for changing an office address. A copy of the license shall continue to be displayed at the place of business until a new license is issued.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1907. Recordkeeping Requirements

- A. The Superintendent shall approve a licensee’s use of a computer or mechanical recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. The Department shall not require a licensee to keep a written copy of the records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize an approved computer or mechanical recordkeeping system’s hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any material alteration in the approved system’s fundamental character, medium, or function if the alteration changes:
1. Any approved computer or mechanical system back to a paper-based system; or
 2. An approved mechanical system to a computer system; or
 3. An approved computer system to a mechanical system.
- B. In addition to any statutory requirement regarding records, a record maintained by a commercial mortgage banker shall include the following:
1. A list of all executed loan applications or executed fee agreements that includes the following information:
 - a. Applicant’s name;
 - b. Application date;
 - c. Amount of initial loan request;
 - d. Final disposition date;
 - e. Disposition (funded, denied); and
 - f. Name of loan officer;
 2. A record, such as a cash receipts journal, of all money received in connection with commercial mortgage loans including:
 - a. Payor’s name;
 - b. Date received;
 - c. Amount; and
 - d. Receipt’s purpose including identification of a related loan, if any;

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3. A sequential listing of checks written for each bank account relating to the commercial mortgage banker business, such as a cash disbursement journal, including:
 - a. Payee's name;
 - b. Amount;
 - c. Date; and
 - d. Payment's purpose including identification of a related loan, if any;
 4. Bank account activity source documents for the commercial mortgage banker business including receipted deposit tickets, numbered receipts for cash, bank account statements, paid checks, and bank advices.
 5. A trust subsidiary ledger for each borrower that deposits trust funds showing:
 - a. Borrower's name or co-borrowers' names;
 - b. Loan number, if any;
 - c. Amount received;
 - d. Purpose for the amount received;
 - e. Date received;
 - f. Date deposited into trust account;
 - g. Amount disbursed;
 - h. Date disbursed;
 - i. Disbursement's payee and purpose, and
 - j. Balance.
 6. A file for each application for a commercial mortgage loan containing:
 - a. The agreement with the customer concerning the commercial mortgage banker's services, whether as a loan application, fee agreement, or both;
 - b. The documents showing the application's final disposition, such as a settlement statements, a denial or withdrawal letter, or internal memorandum;
 - c. Correspondence sent, received, or both by the licensee;
 - d. Contract, agreement, and escrow instructions to or with any depository;
 - e. If the loan is closed in the licensee's name, a copy of all closing documents including: closing instructions, copy of the executed note, executed deed of trust or mortgage, and each assignment of beneficial interest by the licensee, if any. If any of the documents listed in this subsection have been recorded, the file shall also contain legible copies of the recorded documents, and
 - f. Itemized list of all fees taken in advance including appraisal fee, credit report fee, and application fee.
 7. Samples of every piece of advertising relating to the commercial mortgage banker's business in Arizona;
 8. Copies of governmental or regulatory reviews;
 9. If the licensee is a not a natural person, a file containing:
 - a. Organizational documents for the entity;
 - b. Minutes;
 - c. A record, such as a stock or ownership transfer ledger, showing ownership of all proportional equity interests in the licensee, ascertainable as of any given record date; and
 - d. Annual report, if required by law;
 10. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction.
 11. If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal or other final order disposing of the action.
 12. If the Superintendent has granted approval to maintain records outside this state, the specific address where the records are kept, and a person's name to contact for them.
 13. If a licensee does business in other states, it must be able to separate Arizona loan information from information relating to other states to enable the Superintendent to conduct an examination.
 14. A licensee shall produce a trial balance of the general ledger monthly to evidence the commercial mortgage banker's net worth.
- C.** If 10 or fewer transactions have occurred during the prior calendar quarter, a licensee shall reconcile and update all records specified in subsection (B) at least once each calendar quarter. A licensee shall reconcile and update all records specified in subsection (B) monthly if more than 10 transactions occurred during the prior calendar quarter. In addition to reconciling each trust bank account, a licensee shall verify each trust balance to each trust subsidiary ledger at each reconciliation.
- D.** A licensee shall retain the documents described in subsections (B)(1) and (6) for the length of time provided in A.R.S. § 6-983. For the purposes of A.R.S. § 6-983, the commercial mortgage loan's closing date, on a loan application that did not result in the making of a loan, is either:
1. The date a licensee receives a written cancellation notice from the applicant; or
 2. The date a licensee mails written notice to an applicant that an application has been denied; or
 3. The date of a licensee's internal memorandum closing a loan file.
- E.** A licensee shall maintain all other records described in this Section, and not included in subsection (D), for at least two years.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1908. Impound Accounts

The total of all funds, if any, retained by the commercial mortgage banker from all periodic payments made by the borrower to maintain a Cushion, as defined in R20-4-102, is limited only by the written agreement of the parties, if at all.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1909. Authorization to Complete Blank Spaces

An authorization, under A.R.S. § 6-984, allowing a licensee or escrow agent to complete certain blank spaces in a document after it is signed by a party to the transaction shall:

1. Specifically identify the document and the blank spaces to be completed;
2. Be in writing, dated, and signed by the authorizing party, and
3. Contain the following notice, conspicuously printed on its face: YOUR SIGNATURE BELOW AUTHORIZES YOUR COMMERCIAL MORTGAGE BANKER OR ESCROW AGENT TO FILL IN SPACES YOU LEFT BLANK IN SPECIFIED LOAN DOCUMENTS YOU ARE ABOUT TO SIGN OR MAY HAVE ALREADY SIGNED. UNDER STATE LAW YOU CAN GIVE THIS AUTHORITY, BUT YOU ARE NOT REQUIRED TO DO SO. YOU CAN REFUSE TO SIGN ANY DOCUMENTS UNTIL ALL BLANKS ARE COMPLETELY FILLED IN.

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Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1910. Delay or Cause Delay

A commercial mortgage banker does not delay or cause delay if the delay occurs due to events outside the control of the commercial mortgage banker.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

R20-4-1911. Acquisition of Additional Interest in Licensee by**Majority Owner**

A person that owns 51% or more of a licensee's outstanding voting equity interests, and that acquires the power to vote additional fractional equity interests, shall deliver written notice of the acquisition to the Superintendent. The person shall deliver the notice before completing the acquisition. Within 10 days after completing the acquisition, the person shall deliver documentation evidencing the acquisition to the Superintendent.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2094, effective June 10, 1999 (Supp. 99-2).

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE CHAPTER 4. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS – FINANCIAL INSTITUTIONS

Authorizing Statute: A.R.S. § 6-123

Implementing Statute: A.R.S. §§ 6-123(2), 6-138

6-123. Deputy director: powers

In addition to the other powers, express or implied, the deputy director may:

1. Exercise all powers that are necessary for the administration and enforcement of the laws and rules relating to financial institutions and enterprises.
2. In accordance with title 41, chapter 6, adopt rules that are necessary or appropriate to administer, enforce and accomplish the purposes of this title and adopt rules and issue orders that limit transactions between financial institutions or enterprises and the directors, officers or employees of the financial institutions or enterprises.
3. Require appropriate records, documents, information and reports from any financial institution or enterprise.
4. Submit to the department of public safety, or the nationwide mortgage licensing system and registry established by the secure and fair enforcement for mortgage licensing act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116) or its successor, the name and fingerprints of any applicant, licensee, active manager or responsible individual or the name and fingerprints of any organizer, director or officer of any corporate applicant or licensee for:
 - (a) A banking permit.
 - (b) Permission to organize a savings and loan association or credit union.
 - (c) Any license.
 - (d) Any certificate.
 - (e) Authority to engage in interstate banking and branching in this state.

The department of public safety shall report the criminal record, if any, of such applicant, licensee or organizer, director or officer of such corporate applicant or licensee within ninety days after receipt of the deputy director's request.

5. Employ appraisers to appraise any property that is owned or held as security by any financial institution or enterprise. The reasonable expenses and compensation of such appraisers shall be paid by the financial institution or enterprise.
6. Hold membership in, pay dues to and attend the convention of the national and regional organizations of state officials occupying like offices or performing similar functions.

7. Cooperate with other regulatory agencies and professional associations to promote the efficient, safe and sound operation and regulation of interstate banking and branching activities, including the formulation of interstate examination policies and procedures and the drafting of model rules and agreements.

8. Participate in the nationwide mortgage licensing system and registry established by the secure and fair enforcement for mortgage licensing act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116) or its successor. The deputy director may allow the system to collect licensing fees on behalf of the deputy director, to collect a processing fee for the services of the system directly from each applicant for a license or licensee and to process and maintain records on behalf of the deputy director, including information collected pursuant to this section and section 6-123.01. This paragraph does not affect the records disclosure requirements and limitations prescribed in section 6-129.01.

6-138. Hearings

The deputy director or an administrative law judge shall conduct hearings, including hearings relating to orders of the deputy director granting, denying, revoking or suspending a permit, certificate or license provided for under this title, in accordance with title 41, chapter 6, article 10.

C-6

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

Title 20, Chapter 6

Amend: Article 1, R20-6-101, R20-6-102, R20-6-103, R20-6-106, R20-6-114, R20-6-160

Repeal: R20-6-115



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - REGULAR RULEMAKING

MEETING DATE: November 1, 2022

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

FROM: Council Staff

DATE: October 12, 2022

SUBJECT: DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS
Title 20, Chapter 6

Amend: Article 1, R20-6-101, R20-6-102, R20-6-103, R20-6-106,
R20-6-114, R20-6-160

Repeal: R20-6-115

Summary:

This regular rulemaking from the Department of Insurance and Financial Institutions (Department) seeks to amend six (6) rules and repeal one (1) rule in Title 20, Chapter 6, Article 1 related to Hearing Procedures and Rulemaking Petitions before the Insurance Division.

Specifically, this rulemaking updates the Insurance Division's hearing rules to synchronize the administrative hearing rules between the two divisions (Insurance and Financial Institutions). Formerly, when these divisions were separate agencies, they had their own hearing rules. The Department states synchronizing these sets of rules will promote efficiency for the agency when administering hearings for both divisions. The Department states these changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

This rulemaking also adds provisions for public comment hearings that Title 20 requires the Director to conduct and to produce an order upon (“Director’s Hearings”). These Director’s Hearings are not administrative hearings (i.e. appealable agency actions or contested cases) and fall outside the purview of the APA. Lastly it rewrites the Section on Rulemaking Petitions to provide greater clarity to petitioners filing petitions with the Department pursuant to A.R.S. § 41-1033(A).

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 did not review or rely on any study in conducting this rulemaking.

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

The rulemaking is not designed to change any conduct. Instead, it is designed to streamline and coordinate the rules governing administrative hearings before the Director. It does not address any harm resulting from any conduct by licensees. Because this rulemaking is not made in response to a perceived problem caused by the conduct of licensees, it is not intended to reduce the frequency of any potentially volatile conduct.

This rulemaking is anticipated to result in a benefit to the Insurance Division of the Department by synchronizing the Financial Institution Division’s and Insurance Division’s hearing rules which should result in less confusion and greater efficiency for the Department. No costs or benefits are anticipated to businesses directly affected by the proposed rulemaking because this rulemaking only updates the rules and synchronizes them with the Financial Institutions Division’s hearing rules. It does not add any new requirements for licensees that do not already exist in statute. These rules augment the Administrative Hearing Procedures Act (APA) which governs administrative hearings before the Department.

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 believes that the current rulemaking offers the least intrusive and least costly alternative method to achieve the purpose of the proposed rulemaking.

6. What are the economic impacts on stakeholders?

Licenses subject to regulation by the Insurance Division under A.R.S. Title 20 (insurers, insurance professionals, risk retention groups, service companies, rating and rate service organizations, third party administrators, and utilization review agents) are directly affected by this rulemaking.

This rulemaking is anticipated to result in a benefit to the Insurance Division of the Department by synchronizing the Financial Institution Division's and Insurance Division's hearing rules which should result in less confusion and greater efficiency for the Department. No new full-time employees are necessary to implement and enforce the revised rules.

The only new provisions proposed for the Insurance Division hearing rules is the definition for Director's Hearings found at Section R20-6-101 and the hearing procedures proposed for those hearings at Section R20-6-102. Although the new language may have an impact on some small businesses in some rare cases, the Department believes that the new procedures are the least stringent and simplest approach to allow it to conduct a Director's Hearing.

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

The Department indicates it amended rule R20-6-101(B)(5) to remove a citation to an Arizona Attorney General Opinion (Ariz. Att'y Gen. Op. I92-007) because it does not conform with rule writing standards as set by the Secretary of State's Office.

Additionally, the Department indicates "Hearing Officer" has been capitalized throughout because it is a defined term.

Council staff does not believe these changes between the Notice of Proposed Rulemaking and the Notice of Final Rulemaking make the rules "substantially different" as described in A.R.S. § 41-1025.

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

The Department indicates it received no 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, 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?

The Department indicates there are no corresponding federal laws applicable to the subject of this rulemaking.

11. Conclusion

This regular rulemaking from the Department seeks to amend six (6) rules and repeal one (1) rule in Title 20, Chapter 6, Article 1 related to Hearing Procedures and Rulemaking Petitions before the Insurance Division. Specifically, this rulemaking updates the Insurance Division's hearing rules to synchronize the administrative hearing rules between the two divisions (Insurance and Financial Institutions). This rulemaking also seeks to add provisions for public comment hearings that Title 20 requires the Director to conduct and to produce an order upon ("Director's Hearings"). Lastly this rulemaking seeks to rewrite the Section on Rulemaking Petitions to provide greater clarity to petitioners filing petitions with the Department pursuant to A.R.S. § 41-1033(A).

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.



Director's Office
Arizona Department of Insurance and Financial Institutions
100 North 15th Avenue, Suite 261, Phoenix, AZ 85007-2624
Phone: (602) 364-3100 | Web: <https://difi.az.gov>

Douglas A. Ducey, Governor
Evan G. Daniels, Director

September 20, 2022

VIA EMAIL: grrc@azdoa.gov
Nicole Sornsins, Chairperson
Governor's Regulatory Review Council
100 North 15th Ave., Suite 305
Phoenix, AZ 85007

RE: Arizona Department of Insurance and Financial Institutions
Insurance Division
A.A.C. Title 20, Chapter 6, Article 1 – Hearing Procedures and
Rulemaking Petitions (“Hearing Rules”)

Dear Chairperson Sornsins:

Please find enclosed the Final Rulemaking for the Insurance Division's Hearing Rules being submitted by the Arizona Department of Insurance and Financial Institutions (“Department”).

Pursuant to A.A.C. R1-6-201(A)(1), the Department responds as follows:

- a. The Department closed the record on this rulemaking on August 14, 2022.
- b. This rulemaking does not relate to a five-year review report. Instead, this rulemaking is being initiated with two other rulemakings by the Department that are designed to revise its rules pertaining to hearings to comport with the recent structural changes in the Department, to update the Hearing Rules, and to synchronize the rules governing hearings between the two divisions of the Department. This rulemaking will also address certain public comment hearings mandated by A.R.S. Title 20. The three rulemakings are designed to occur simultaneously and to have the same effective date.
- c. The rulemaking does not establish a new fee.
- d. The rulemaking does not contain a fee increase.
- e. The rulemaking does not request an immediate effective date under A.R.S. § 41-1032.
- f. The Department certifies that the preamble discloses a reference to any study relevant to the rule that it reviewed and either did or did not rely on in its evaluation of or justification for the rulemaking. The Department did not review or rely on any study relevant to the rulemaking.
- g. No new full-time employees are necessary to implement and enforce the rule.
- h. The following documents are also submitted to the Council with this cover letter:
 - i. The Notice of Final Rulemaking;

- ii. An economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055; and
- iii. The general and specific statutes authorizing the rulemaking.

By this submission, the Department is requesting approval of this rulemaking from the Council.

For questions about this rulemaking, please contact Mary Kosinski at (602) 364-3476 or mary.kosinski@difi.az.gov.

Sincerely,

A handwritten signature in blue ink that reads "Evan G. Daniels". The signature is written in a cursive style.

Evan G. Daniels
Director

NOTICE OF PROPOSED RULEMAKING
TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE
CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS –
INSURANCE DIVISION

PREAMBLE

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

Article 1	Amend
R20-6-101	Amend
R20-6-102	Amend
R20-6-103	Amend
R20-6-106	Amend
R20-6-114	Amend
R20-6-115	Repeal
R20-6-160	Amend

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

Authorizing statute: A.R.S. § 20-143

Implementing statute: A.R.S. § 20-161

3. The effective date of the rule:

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 proposed rule:

Notice of Rulemaking Docket Opening: 28 A.A.R. 1661, July 15, 2022

Notice of Proposed Rulemaking: 28 A.A.R. 1652, July 15, 2022

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

Name: Mary E. Kosinski
Address: Department of Insurance and Financial Institutions
100 N. 15th Ave., Suite 261
Phoenix, Arizona 85007-2630
Telephone: (602)364-3476
E-mail: mary.kosinski@difi.az.gov
Web site: <https://difi.az.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:

This rulemaking is being initiated with two other rulemakings by the Arizona Department of Insurance and Financial Institutions ("Department"). One rulemaking is to revise the hearing rules of the Department's Financial Institutions Division ("Financial Institutions Division") (A.A.C. R20-4-1201 through R20-4-1220) and the other is to repeal the redundant Real Estate Appraisal hearing rules (A.A.C. R4-46-301.01 through R4-46-307.01). The three rulemakings are designed to occur simultaneously and to have the same effective date.

These rulemakings are necessary for a number of reasons. First, to update the rules. The Department's Insurance Division ("Insurance Division") most recently updated its hearing rules in 2011 and some of the rules conflict with the Arizona Uniform Administrative Hearing Procedures Act ("APA") (A.R.S. §§ 41-1092 through 41-1092.12). The Financial Institutions Division has not updated its hearing rules since 2001. At the very least, the Financial Institutions Division needs to remove any references to "Superintendent" in its rules because that position no longer exists.

Secondly, these rulemakings are necessary to synchronize the hearing rules between the two divisions of the Department: Insurance and Financial Institutions. Formerly, when these divisions were separate agencies, they had their own hearing rules. Synchronizing these sets of rules will promote efficiency for the agency when administering hearings for both divisions. These changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

The third reason is to eliminate the separate rules applying to Real Estate Appraisal hearings. This will repeal a separate, unnecessary set of hearing rules and will allow Real Estate Appraisal hearings to be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of that division.

This rulemaking updates the Insurance Division's hearing rules to synchronize the administrative hearing rules between the two divisions (Insurance and Financial Institutions). It also adds provisions for public comment hearings that Title 20 requires the Director to conduct and to produce an order upon ("Director's Hearings"). These Director's Hearings are not administrative hearings (i.e. appealable agency actions or contested cases) and fall outside the purview of the APA. Lastly it rewrites the Section on Rulemaking Petitions to provide greater clarity to petitioners filing petitions with the Department pursuant to A.R.S. § 41-1033(A).

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 and does not propose to rely on any study relevant to 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:

The rulemaking does not diminish a previous grant of authority granted to the Department.

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

Pursuant to A.R.S. § 41-1055(A):

- The rulemaking is not designed to change any conduct. Instead, it is designed to streamline and coordinate the rules governing administrative hearings before the Director.
- The rulemaking does not address any harm resulting from any conduct by licensees.
- Because this rulemaking is not made in response to a perceived problem caused by the conduct of licensees, it is not intended to reduce the frequency of any potentially violative conduct.
- This rulemaking is anticipated to result in a benefit to the Insurance Division of the Department by synchronizing the Financial Institution Division's and Insurance Division's hearing rules which should result in less confusion and greater efficiency for the Department.
- No costs or benefits are anticipated to businesses directly affected by the proposed rulemaking because this rulemaking only updates the rules and synchronizes them with the Financial Institutions Division's hearing rules. It does not add any new requirements for licensees that do not already exist in statute. These rules augment the APA which governs administrative hearings before the Department.

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

The citation in Section R20-6-101(B)(5) to an Arizona Attorney General Opinion (Ariz. Att’y Gen. Op. I92-007) has been eliminated because it does not conform with rule writing standards. “Hearing Officer” has been capitalized throughout because it is a defined term.

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

The Department did not receive any 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:

No other matters prescribed by statute are applicable to the Department or to any specific rule or class of rules.

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

The rule does not require a permit and does not use a general permit. Instead, the rule is designed to provide guidance on conducting administrative hearings.

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

No federal law is applicable to the subject of the rule.

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 formal analysis has been submitted to the Department that compares the rule’s impact of the competitiveness of business in this state to the impact of business in other states.

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

The rule does not incorporate any reference material into the rule as specified at A.R.S. § 41-1028.

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, amended or repealed as an emergency rule.

15. The full text of the rules follows:

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE
CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS –
INSURANCE DIVISION
ARTICLE 1. HEARING PROCEDURES AND RULEMAKING PETITIONS**

Section

R20-6-101. Scope of Article; Definitions

R20-6-102. Appearance and Practice before the Director for Administrative and Director's Hearings

R20-6-103. Filing; Service

R20-6-106. Answer to Notice of ~~Hearing~~ an Administrative Hearing

R20-6-114. Request for Hearing or Review

~~R20-6-115. Response to Request for Rehearing~~

R20-6-160. Petition for Rulemaking Action

**ARTICLE 1. ~~HEARING PROCEDURES AND RULEMAKING PETITIONS~~ RULES OF
PRACTICE AND PROCEDURE BEFORE THE DIRECTOR**

R20-6-101. Scope of Article; Definitions

A. Scope. ~~This Article and Title 20 of the Arizona Revised Statutes govern contested cases before the Department. Except as otherwise provided in R20-6-160 for rulemaking petitions, this Article does not apply to rulemaking or investigative proceedings before the Department. Unless expressly applicable by rule or statute, the Arizona Rules of Civil Procedure do not apply to contested cases.~~

1. Administrative Hearings. This Article and Title 20 of the Arizona Revised Statutes govern administrative hearings before the Department. The Department shall use the authority of A.R.S. Title 41, Chapter 6, Article 10, the Office of Administrative Hearings' procedural rules, and this Article to govern the initiation and conduct of administrative hearings. In an administrative

hearing, special procedural requirements in state statute or another Section in this Article shall also govern the proceedings unless the requirements are inconsistent with either A.R.S. Title 41, Chapter 6, Article 10, the Office of Administrative Hearings' rules or this Article.

2. Director's Hearings. Director's Hearings are governed by this Article and Title 20 of the Arizona Revised Statutes.

3. Rulemaking and Investigative Proceedings. Except as otherwise provided in Section R20-6-160 for rulemaking petitions, this Article does not apply to rulemaking or investigative proceedings before the Director.

4. Arizona Rules of Civil Procedure. Unless expressly applicable by rule or statute, the Arizona Rules of Civil Procedure do not apply to administrative or Director's hearings.

B. ~~Definitions. In this Article, the following definitions apply:~~ In addition to the definitions provided in A.R.S. §§ 41-1001 and 41-1092, the following terms apply to this Article:

1. ~~"Attorney General" means the Attorney General of Arizona, and the Attorney General's assistants or special agents.~~

"Administrative Hearing" means an appealable agency action as defined by A.R.S. § 41-1092(3) or a contested case as defined by A.R.S. § 41-1001(5) subject to A.R.S. § 20-161 and A.R.S. Title 41, Chapter 6, Article 10.

2. ~~"Contested case" means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by the Director after an opportunity for hearing.~~

"Attorney General" means the Attorney General of Arizona, and the Attorney General's assistants or special agents.

3. ~~"Department" means the Arizona Department of Insurance; and Financial Institutions, Division of Insurance.~~

4. ~~"Hearing Officer" means a person appointed by the Director to hear a contested case and make recommendations.~~

"Director" has the meaning stated at A.R.S. § 20-102 or a Hearing Officer or any deputy, assistant, or examiner of the Director acting in the Director's name in accordance with A.R.S. § 20-150.

5. ~~"Party" has the meaning prescribed in A.R.S. § 41-1001(12).~~

"Director's Hearing" means a hearing required by Title 20 to be conducted by the Director that is not an administrative hearing. A Director's hearing is not subject to the Arizona Open Meeting

law. Director's hearings are required for, but not limited to, the following:

- a. Taking comments to determine whether the cooperation among rating organizations and insurers is unfair or unreasonable or otherwise inconsistent with the provisions of Title 20 under A.R.S. § 20-365.
- b. Taking comments to determine whether a reasonable degree of price competition exists at the consumer level with respect to a particular class of business or to determine an allowable percentage of increase in a proposed rate level for a particular line, subline, or class of business under A.R.S. § 20-383(B);
- c. Taking comments to exempt rate filings or to find that a particular market is noncompetitive for purposes of rate filing under A.R.S. §§ 20-385(E) and (G);
- d. Taking comments to determine recognized surplus lines under A.R.S. § 20-409;
- e. Taking comments regarding acquisitions within a holding company system if the acquisition would require the approval of other states under A.R.S. § 20-481.07(G);
- f. Taking comments to establish criteria for third parties who are eligible to provide credit enhancement for separate accounts and to accept assets that are pledged under A.R.S. § 20-536.01(C);
- g. Taking comments to prescribe standards to allow investments in separate accounts to exceed established limits under A.R.S. § 20-536.01(D);
- h. Taking comments in order to prescribe an investment grade rating, to recognize rating agencies for purposes of investment, or to prescribe standards by which obligations of insurers who have not received an investment grade rating may be eligible for investment under A.R.S. §§ 20-544 and 20-545;
- i. Taking comments from parties affected by a proposed corporate acquisition, merger or consolidation of title insurers under A.R.S. §§ 20-1576(A)(1) and 20-1577(A);
- j. Taking comments to establish a loss ratio standard for credit property and credit unemployment insurance under A.R.S. § 10-1621.05(B);
- k. Taking comments for the purpose of exempting certain forms from the application of Title 20, Chapter 6, Article 14: Cancellation or Non-Renewal of Commercial Insurance under A.R.S. § 20-1671(12); and
- l. Taking comments to establish prima facie rates for credit life and credit disability insurance under Section R20-6-604.03(A).

6. ~~"Person" has the meaning prescribed in A.R.S. § 41-1001(13).~~

“Hearing Officer” means a person appointed by the Director to conduct a Director’s hearing.

7. ~~“Director” means the Director of the Department or a hearing officer or any deputy, assistant or examiner of the Director acting in the Director’s name in accordance with A.R.S. § 20-150.~~

“Party” has the meaning prescribed at A.R.S. § 41-1001(16) and includes any person or entity subject to the jurisdiction of the Department under A.R.S. Title 20.

R20-6-102. Appearance and Practice before the Director for Administrative and Director’s Hearings

- A. ~~Any person~~ A party may appear in ~~his~~ their own behalf or through counsel. An insurer may appear through legal counsel or through a duly authorized officer of the corporation.
- B. When an attorney other than the Attorney General appears or intends to appear before the Director, ~~he or the Department,~~ they shall promptly ~~advise the Director of his~~ disclose their name, ~~address and telephone number~~ and contact information and the name and ~~address~~ contact information of the person on whose behalf ~~he intends~~ they intend to appear.
- C. Conduct at any Director’s hearing which, in the discretion of the Director, ~~or Hearing Officer~~ is deemed contemptuous shall be grounds for exclusion from the hearing. Contemptuous conduct shall include ~~willful noncompliance with an order of the Director or hearing officer,~~ willful disruption or obstruction of any Director’s hearing, or any other willful conduct during any Director’s hearing which lessens the dignity or authority of the Director or Hearing Officer.
- D. Notice of a Director’s Hearing is subject to Title 20 and shall contain at a minimum:
1. The subject matter on which the Director intends to take comments including the specific statutory sections authorizing the Director to conduct the hearing;
 2. The date, time and place of the Director’s hearing;
 3. The guidelines for interested parties to submit comments to the Director and to participate in the hearing; and
 4. Any other information the Director deems appropriate.
- E. Notice of a Director’s Hearing shall be posted on the Department’s website and in compliance with A.R.S. § 38-431.02. The Director may additionally notify interested persons as the Director deems appropriate.

R20-6-103. Filing; Service

- A. ~~No paper shall be deemed filed until received by the Director.~~ A document filed by a party with the Department is filed on the date it is received by the Department as established by the Department's earliest stamped date on the face of the document or by some other method of affixing a received date by the Department.
- B. ~~Unless otherwise provided by these rules, copies of all papers filed shall, at or before the time of filing, be served on the hearing officer, the Attorney General, and all parties to the proceeding.~~ If a party is represented by an attorney, service is effectuated by service upon the attorney unless additional service upon the represented party is required by an administrative law judge or the Department.
- C. ~~Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney.~~ A document is served upon a party as provided for under A.R.S. § 41-1092.04 and Section R2-19-108. A party effectuating service is responsible for producing proof of service if requested by the Department.
- D. ~~Service upon the attorney, or upon a party, shall be made personally in accordance with Rule 5(e) of the Arizona Rules of Civil Procedure, or by mail by enclosing a copy thereof in a sealed envelope and depositing same, postage prepaid, in the United States mail, addressed to the party to be served or his attorney at the address as shown by the records of the Director. Service by mail is complete upon deposit in the United States Mail.~~
- E. ~~All notices of hearing and final decisions issued by the Director shall be served by mail.~~
- F. ~~Proof of service shall be made by filing with the Director a written statement that service was made.~~

R20-6-106. Answer to Notice of Hearing an Administrative Hearing

- A. ~~In any notice of hearing, the The Director Department may, in a notice of hearing, require direct that one or more parties shall to file a written answer to the allegations contained in the notice of hearing. Even if not directed to do so, any party to the proceeding may file such an answer.~~
- B. ~~Except where a different period is provided by the notice of hearing, a party directed to file a written answer shall do so within 20 days after issuance of the notice of hearing. Where amendments to the assertions contained in the notice of hearing are made subsequent to service of the notice of hearing, one or more of the parties may be required to answer within a reasonable time the amended assertions.~~ A party directed to file an answer shall do so within 20 days after issuance of a notice of hearing, unless the notice of hearing states a different period for the answer. The Department may require any

party to answer, in a reasonable time, amendments to the assertions in the notice made after service of the original notice.

- C. ~~Unless otherwise directed by the Director, an~~ An answer filed under this rule ~~Section~~ shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the ~~assertions contained~~ allegations in the notice of hearing. ~~If the answering party is without or is unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an assertion, he shall so state, which shall have the effect of a denial. An answering party who does not have, or cannot easily obtain, knowledge or information sufficient to admit or deny an allegation shall state that inability which shall have the effect of a denial. Any assertion-allegation not denied shall be deemed to be~~ is admitted. ~~When answering party intends in good faith to deny only a part of an assertion, he shall specify so much of it as is true and shall deny only the remainder. A party who intends to deny only a part of an allegation shall expressly admit as much of that allegation as is true and shall deny the remainder.~~
- D. ~~If a party fails to file an answer required by the Director within the time provided, such person shall be deemed in default and the proceeding may be determined against him by the Director and one or more of the assertions contained in the notice of hearing may be deemed to be admitted. A party who fails to file an answer required by this Section within the time allowed is in default. The Director may resolve the proceeding against the defaulting party. In doing so, the Director may regard any allegations in the notice of hearing as admitted by the defaulting party.~~
- E. ~~Any defenses~~ Defenses not raised in the answer ~~shall be deemed to be~~ are waived.

R20-6-114. Request for Rehearing or Review

- A. ~~Within 30 days after service of the Director's order on the hearing, any aggrieved party may request a rehearing or review of the order. The request shall be in writing and shall be served upon the Director as provided by R20-6-103, and a copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the request. Any party aggrieved by an administrative decision may file with the Director, within time limits and other procedural guidelines contained in A.R.S. § 41-1092.09, a written motion for a rehearing or review of the decision specifying the particular reason for the request.~~
- B. ~~A request for rehearing or review shall be based upon one or more of the following grounds which have materially affected the rights of a party:~~

- ~~1. Irregularity in the hearing proceedings, or any order or abuse of discretion whereby the party seeking rehearing or review was deprived of a fair hearing;~~
- ~~2. Misconduct by the Director, the hearing officer or any party to the hearing;~~
- ~~3. Accident or surprise which could not have been prevented by ordinary prudence;~~
- ~~4. Newly discovered material evidence which could not have been discovered with reasonable diligence and produced at the hearing;~~
- ~~5. Excessive or insufficient sanctions or penalties imposed;~~
- ~~6. Error in the admission or rejection of evidence, or errors of law occurring at the hearing or during the course of the hearing;~~
- ~~7. Bias or prejudice of the Director or hearing officer;~~
- ~~8. That the order, decision, or findings of fact are not justified by the evidence or are contrary to law.~~

A party filing a motion under this Section may amend the motion at any time before a response to the motion is filed. An amended motion tolls the time for filing a response and the time for rendering a decision on the motion.

- C. ~~A request for rehearing or review shall specify which of the grounds listed in subsection (B) it is based upon and shall set forth specific facts and laws in support of the request. A request may cite relevant portions of testimony from the hearing by referring to the pages or lines of the reporter's transcript of the hearing and may cite hearing exhibits by reference to the exhibit number. A request for rehearing or review which is not timely filed is deemed waived for the purpose of judicial review.~~
- D. ~~A request for rehearing shall specify the relief sought by the request, such as a different finding of fact, conclusion of law or order. A request for rehearing or review may seek multiple forms of relief in the alternative. A motion for rehearing shall specify which of the grounds listed in subsection (G) it is based upon and shall set forth the specific facts and laws in support of the motion. A motion may cite relevant portions of testimony from the hearing if a transcript is provided with the motion and may cite hearing exhibits by reference to the exhibit number. The motion shall specify the relief sought by the request, such as a different finding of fact, conclusion of law or order and may seek multiple forms of relief in the alternative. When a motion for rehearing or review is based on an affidavit, the moving party shall attach the affidavit to the motion.~~
- E. ~~When a request for rehearing is based upon affidavits, they shall be attached to and filed with the request unless leave for later filing of affidavits is granted by the Director or hearing officer. Leave may be granted ex parte. A party may file a separate request for a stay of the Director's decision~~

pursuant to A.R.S. § 20-162(B). Filing a stay request or a motion for rehearing does not stay an order filed by the Director. The Director may stay an order pending the resolution of a motion for rehearing or review.

- F. ~~A request for rehearing or review of the Director's order on the hearing which is not timely made is deemed waived for the purpose of judicial review. A party who fails to request rehearing or review of the Director's order on the hearing shall be barred from raising a claim in any proceeding in which the Director, the hearing officer or the Department of Insurance is a party, except as otherwise required by law.~~ Each party served with a motion for rehearing or review shall be permitted to file a written response within 15 days after the motion has been filed. Affidavits may be attached to and filed with a response. A response may cite relevant portions of testimony from the hearing if a transcript is provided with the response and may cite hearing exhibits by reference to the exhibit number. The Director has the discretion to hear oral argument to consider a request for rehearing or review.
- G. ~~A party may file a written request for a stay of the Director's decision. An order entered by the Director shall not be stayed by the filing of a stay request or a request for rehearing or review. The Director may stay an order pending the resolution of a request for rehearing or review or when justice requires.~~ The Director may grant a motion for rehearing or review for any of the following causes:
1. Irregularity in the proceedings before the Department, in any order, or any abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct by the Department, the administrative law judge, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary care;
 4. Newly discovered material evidence that could not reasonably have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in admitting or rejecting evidence or other legal errors occurring at the hearing; and
 7. The decision is not justified by the evidence or is contrary to law.
- H. The Director may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any reason listed in subsection (G). An order granting a rehearing shall specify the reason for granting the rehearing, and the rehearing shall cover only those matters specified.
- I. The Director, within the time for filing a motion for rehearing, may without a motion for rehearing, order a rehearing for any reason that would allow the granting of a motion for rehearing by a party. The order for rehearing, granted without a motion, shall specify the reason for granting the rehearing.

J. The Director may grant a motion for rehearing, timely served, for a reason not stated in the motion. The order for rehearing, granted for a reason not stated in the motion, shall specify the reason for granting the rehearing.

~~R20-6-115. Response to Request for Rehearing~~

A. ~~Each party served with a request for rehearing pursuant to R20-6-114 shall be permitted to file a response within 15 days after the request for rehearing has been filed. This response shall be designated as a “response to request for rehearing or review” and shall be in writing. Affidavits may be attached to and filed with the response. If not filed in this manner, an affidavit shall be filed only if leave for later filing of affidavits is granted by the hearing officer or Director. Leave may be granted ex parte. The original response shall be filed with the Department as provided in R20-6-103, and one copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the response.~~

B. ~~The hearing officer or Director has the discretion to convene a hearing or hear oral argument to consider a request for rehearing.~~

R20-6-160. Petition for Rulemaking Action

A. The following definitions apply in this Section.

- ~~1. “Department” means the Arizona Department of Insurance. “Petitioner” means a person who petitions the Department for Rulemaking action as authorized under A.R.S. § 41-1033(A).~~
- ~~2. “Director” means the Director of the Department. “Rule” has the meaning stated at A.R.S. § 41-1001 and is enforceable by the Department.~~
- ~~3. “Petitioner” means a person who petitions the Department for rulemaking action. “Rulemaking action” means the process for formulation and finalization of a new rule, or amendment or repeal of an existing rule.~~
- ~~4. “Rulemaking action” means the process for formulation and finalization of a new rule, or amendment or repeal of an existing rule. “Substantive Policy Statement” has the meaning stated at A.R.S. § 41-1001, is advisory only, and is not enforceable by the Department.~~

B. Any person may petition the Department under ~~A.R.S. § 41-1033~~ A.R.S. § 41-1033(A) ~~for rulemaking action. to either:~~

1. Make, amend, or repeal a final Rule;
2. Review an existing agency practice or Substantive Policy Statement that the Petitioner alleges to constitute a Rule.

C. A person who ~~seeks rulemaking action shall file, with the Director,~~ files a petition pursuant to A.R.S. § 41-1033(A), shall include ~~with~~ the following information: in the petition:

1. The ~~petitioner's~~ Petitioner's name, ~~address, and telephone number;~~ and contact information;
2. The name and address of any organization the ~~petitioner~~ Petitioner represents;
3. ~~A statement of the rulemaking action the petitioner seeks, including:~~
 - a. ~~A citation to any existing rule, substantive policy statement, or Department practice to be amended or repealed; and~~
 - b. ~~The specific language of a proposed new rule or rule amendment; and~~

Whether the Petitioner is petitioning the Department to:

- a. Make, amend, or repeal a final Rule; or
 - b. Review an existing agency practice or Substantive Policy Statement that the Petitioner alleges to constitute a Rule;
4. ~~The reasons for the rulemaking action, including an explanation of why an existing rule, substantive policy statement, or Department practice is inadequate, unreasonable, unduly burdensome, or unlawful; and,~~

A detailed explanation of Petitioner's basis for submitting the petition;

5. ~~The petitioner's dated signature.~~

If the Petitioner is petitioning the Department to make a Rule, the language of the proposed new Section and the specific authority for the requested Rulemaking action;
6. If the Petitioner is petitioning the Department to amend an existing Rule, a citation to the existing Section to be amended, the language of the proposed Rule amendment, and the specific authority for the requested Rulemaking action;
7. If the Petitioner is petitioning the Department to repeal an existing Rule, a citation to the existing Section or subsection to be repealed, and an explanation of why the Rule should be repealed including, if applicable, how the Rule does not meet the requirements of A.R.S. § 41-1030;
8. If the Petitioner is petitioning the Department to review an existing agency practice that the Petitioner alleges to constitute a Rule, a description of the Department's practice, an explanation of how the Department's practice constitutes a Rule being enforced by the Department, the

language of the proposed new Rule, and the specific authority for the requested Rulemaking action;

9. If the Petitioner is petitioning the Department to review a Substantive Policy Statement that the Petitioner alleges to constitute a Rule, a citation to the Substantive Policy Statement, an explanation of how the Substantive Policy Statement is being enforced by the Department as a Rule, the language of the proposed new Rule, and the specific authority for the requested Rulemaking action; and

10. The Petitioner's dated signature.

D. The petitioner may submit additional supporting information, including:

1. Statistical data; and
2. A list of other persons and entities likely to be affected by the proposed ~~rulemaking~~ Rulemaking action, with an explanation of the likely effects.

E. Within 60 days of the date the Department receives the petition, the Department shall send the ~~petitioner~~ Petitioner a written decision indicating whether the Department is denying the petition or will initiate the requested ~~rulemaking~~ Rulemaking action, with the reasons for the decision.

A.R.S. § 41-1055(B) Economic, Small Business, And Consumer Impact Statement

Title 20. Commerce, Financial Institutions, and Insurance

Chapter 6. Department of Insurance and Financial Institutions

– Insurance Division

Article 1. Hearing Procedures and Rulemaking Petitions

A.R.S. § 41-1055(B)(1): An identification of the proposed rulemaking.

This rulemaking is being initiated with two other rulemakings by the Arizona Department of Insurance and Financial Institutions (“Department”). One rulemaking is to revise the hearing rules of the Department’s Financial Institutions Division (“Financial Institutions Division”) (A.A.C. R20-4-1201 through R20-4-1220) and the other is to repeal the redundant Real Estate Appraisal hearing rules (A.A.C. R4-46-301.01 through R4-46-307.01). The three rulemakings are designed to occur simultaneously and to have the same effective date.

These rulemakings are necessary for a number of reasons. First, to update the rules. The Department’s Insurance Division (“Insurance Division”) most recently updated its hearing rules in 2011 and some of the rules conflict with the Arizona Uniform Administrative Hearing Procedures Act (“APA”) (A.R.S. §§ 41-1092 through 41-1092.12). The Financial Institutions Division has not updated its hearing rules since 2001. At the very least, the Financial Institutions Division needs to remove any references to “Superintendent” in its rules because that position no longer exists.

Secondly, these rulemakings are necessary to synchronize the hearing rules between the two divisions of the Department: Financial Institutions and Insurance. Formerly, when these divisions were separate agencies, they had their own hearing rules. Synchronizing these sets of rules will promote efficiency for the agency when administering hearings for both divisions. These changes will still allow for some of the unique procedures germane to each division while eliminating insignificant differences.

The third reason is to eliminate the redundant rules applying to Real Estate Appraisal hearings. This will repeal a separate, unnecessary set of hearing rules and will allow Real Estate Appraisal hearings to be governed by the Financial Institutions Division's hearing rules because Real Estate Appraisal is part of that division.

This rulemaking updates the Insurance Division's hearing rules to synchronize the administrative hearing rules between the two divisions (Insurance and Financial Institutions). It also adds provisions for public comment hearings that Title 20 requires the Director to conduct and to produce an order upon ("Director's Hearings"). These Director's Hearings are not administrative hearings (i.e. appealable agency actions or contested cases) and fall outside the purview of the APA. Lastly it rewrites the Section on Rulemaking Petitions to provide greater clarity to petitioners filing petitions with the Department pursuant to A.R.S. § 41-1033(A).

Questions about this Economic Impact Statement can be directed to: Mary E. Kosinski (mary.kosinski@difi.az.gov).

A.R.S. § 41-1055(B)(2): An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking.

Licenses subject to regulation by the Insurance Division under A.R.S. Title 20 (insurers, insurance professionals, risk retention groups, service companies, rating and rate service organizations, third party administrators, and utilization review agents) are directly affected by this rulemaking.

A.R.S. § 41-1055(B)(3): A cost benefit analysis of the following:

(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.

This rulemaking is anticipated to result in a benefit to the Insurance Division of the Department by synchronizing the Financial Institution Division's and Insurance Division's hearing rules which should result in less confusion and greater efficiency for the Department. No new full-time employees are necessary to implement and enforce the revised 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.

No political subdivision of this state is directly affected by the implementation and enforcement of the proposed rulemaking.

(c) The 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.

No costs or benefits are anticipated to businesses directly affected by the proposed rulemaking because this rulemaking only updates the rules and synchronizes them with the Financial Institutions Division's hearing rules. It does not add any new requirements for licensees that do not already exist in statute. These rules augment the APA which governs administrative hearings before the Department and clarify petition requirements under A.R.S. § 41-1033(A).

A.R.S. § 41-1055(B)(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 is not aware of any impact on the private employment of licensees who are subject to regulation by the Insurance Division. Likewise, the Department does not anticipate any impact on public employment in the Department.

A.R.S. § 41-1055(B)(5): A statement of the probable impact of the proposed rulemaking on small businesses. The statement shall include:

(a) An identification of the small businesses subject to the proposed rulemaking.

“Small business” is defined as a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. A.R.S. § 41- 1001(23). Many of the licensees regulated by the Insurance Division may fall within this definition.

(b) The administrative and other costs required for compliance with the proposed rulemaking.

No new costs are required for compliance with the proposed rulemaking. The rulemaking accomplishes the following:

1. The rulemaking consolidates two rules which eliminates one rule for the Insurance Division.
2. The rulemaking retains existing rules that augment the APA.
3. The rulemaking addresses and adds hearing procedures particular to the Insurance Division for hearings that are mandated by A.R.S. Title 20. These hearings, called “Director’s Hearings” in the rulemaking, are not subject to the APA because they are not administrative hearings (i.e. contested cases or appealable agency actions) within the meaning of the APA. Instead, they are hearings that allow the Director to take public comment for the purpose of issuing an order on various issues such as:
 - a. Taking comments to determine whether the cooperation among rating organizations and insurers is unfair or unreasonable or otherwise inconsistent with the provisions of Title 20 under A.R.S. § 20-365;
 - b. Taking comments to determine whether a reasonable degree of price competition exists at the consumer level with respect to a particular class of business or to determine an allowable percentage of increase in a proposed

- rate level for a particular line, subline, or class of business under A.R.S. § 20-383(B);
- c. Taking comments to exempt rate filings or to find that a particular market is noncompetitive for purposes of rate filing under A.R.S. §§ 20-385(F) and (G);
 - d. Taking comments to determine recognized surplus lines under A.R.S. § 20-409;
 - e. Taking comments regarding acquisitions within a holding company system if the acquisition would require the approval of other states under A.R.S. § 20-481.07(G);
 - f. Taking comments to establish criteria for third parties who are eligible to provide credit enhancement for separate accounts and to accept assets that are pledged under A.R.S. § 20-536.01(C);
 - g. Taking comments to prescribe standards to allow investments in separate accounts to exceed established limits under A.R.S. § 20-536.01(D);
 - h. Taking comments in order to prescribe an investment grade rating, to recognize rating agencies for purposes of investment, or to prescribe standards by which obligations of insurers who have not received an investment grade rating may be eligible for investment under A.R.S. §§ 20-544 and 20-545;
 - i. Taking comments from parties affected by a proposed corporate acquisition, merger or consolidation of title insurers under A.R.S. §§ 20-1576(A)(1) and 20-1577(A);
 - j. Taking comments to establish a loss ratio standard for credit property and credit unemployment insurance under A.R.S. § 10-1621.05(B);
 - k. Taking comments for the purpose of exempting certain forms from the application of Title 20, Chapter 6, Article 14: Cancellation or Non-Renewal of Commercial Insurance under A.R.S. § 20-1671(12); and
 - l. Taking comments to establish prima facie rates for credit life and credit disability insurance under Section R20-6-604.03(A).

5. The rulemaking rewrites subsections of Section R20-6-160 to better identify what the Department requires from petitioners filing pursuant to A.R.S. §41-1033(A). This comports with the requirement, under A.R.S. § 41-1033(B) that “An agency shall prescribe the form of the petition and the procedures for the petition’s submission, consideration and disposition.” The Department believes that the revised Section provides better guidance to persons seeking to file a petition with the Department than the previous version of the Section. Better guidance should not increase compliance costs because it provides clarity and eliminates confusion for petitioners.

Many of the other changes made to the Insurance Division’s hearing rules are to mirror the Financial Institutions Division’s hearing rules. These changes are either linguistic or rearrange provisions to synchronize with the Financial Institutions Division’s rules and have no impact on the costs required for compliance with the proposed rulemaking.

(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 only new provisions proposed for the Insurance Division hearing rules is the definition for Director’s Hearings found at Section R20-6-101 and the hearing procedures proposed for those hearings at Section R20-6-102. Although the new language may have an impact on some small businesses in some rare cases, the Department believes that the new procedures are the least stringent and simplest approach to allow it to conduct a Director’s Hearing.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.

The proposed rulemaking has no probable impact on private persons and consumers because it only applies to licensees regulated by the Insurance Division.

A.R.S. § 41-1055(B)(6): A statement of the probable effect on state revenues.

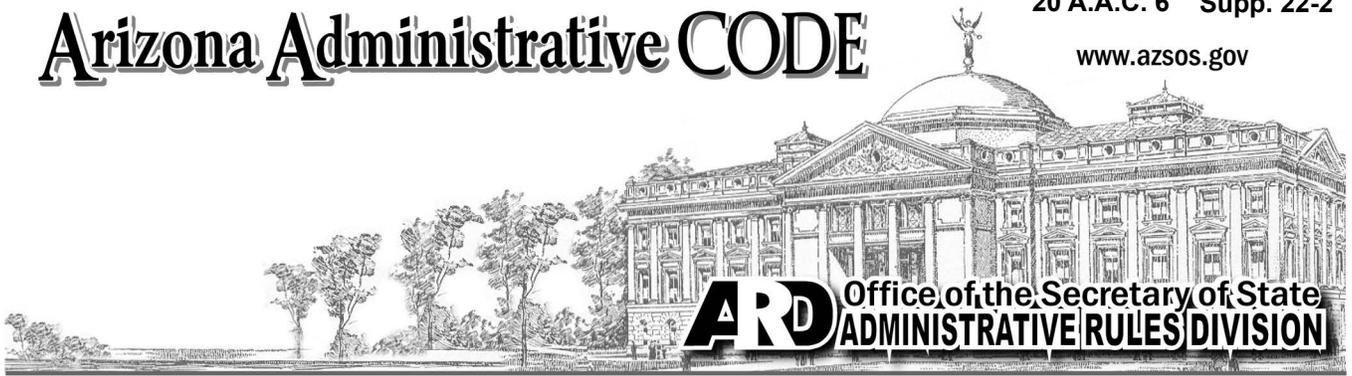
No impact on state revenues is anticipated.

A.R.S. § 41-1055(B)(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 believes that the current rulemaking offers the least intrusive and least costly alternative method to achieve the purpose of the proposed rulemaking.

A.R.S. § 41-1055(B)(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 rule is not based on any data.



TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

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*.

The name of the Arizona Department of Insurance was changed to the Department of Insurance and Financial Institutions, Insurance Division under Laws 2019, Ch. 252. No changes have been made to this Chapter since Supp. 22-1.

Questions about these rules? Contact:

Department: Department of Insurance and Financial Institutions
Insurance Division
Address: 100 N. 15th Ave., Suite 261
Phoenix, AZ 85007-2630
Website: www.difi.az.gov
Name: Mary E. Kosinski
Telephone: (602) 364-3476
Email: mary.kosinski@difi.az.gov

The release of this Chapter in Supp. 22-2 replaces Supp. 22-1, 1-159 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. 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 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, 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.

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Authority: A.R.S. § 20-101 et seq.

Supp. 22-2

Editor’s Note: The name of the Arizona Department of Insurance was changed to the Department of Insurance and Financial Institutions - Insurance Division under Laws 2019, Ch. 252, effective July 1, 2020 (Supp. 22-2).

Editor’s Note: 20 A.A.C. 6, consisting of R20-6-101 through R20-6-159, R20-6-201 through R20-6-218, R20-6-301 through R20-6-308, R20-6-401 through R20-6-409, R20-6-501, R20-6-601 through R20-6-607, R20-6-701 through R20-6-709, R20-6-801 through R20-6-802, R20-6-901, R20-6-1001 through R20-6-1016, R20-6-1101 through R20-6-1120, R20-6-1201 through R20-6-1205, R20-6-1401 through R20-6-1408, R20-6-1601 through R20-6-1607, and R20-6-1701 through R20-6-1704 recodified from 4 A.A.C. 14, consisting of R4-14-101 through R4-14-159, R4-1 R4-14-301 through R4-14-308, R4-14-401 through R4-14-409, R4-14-501, R4-14-601 through R4-14-607, R4-14-701 through R4-14-709, R4-201 through R4-14-218, R4-14-801 through R4-14-802, R4-14-901, R4-14-1001 through R4-14-1016, R4-14-1101 through R4-14-1120, R4-14-1201 through R4-14-1205, R4-14-1401 through R4-14-1408, R4-14-1601 through R4-14-1607, and R4-14-1701 through R4-14-1704, pursuant to R1-1-102 (Supp. 95-1).

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Article 11, consisting of Sections R4-14-1101 through R4-14-1120 and Appendices A through E, adopted again by emergency effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).

Article 11, consisting of Sections R4-14-1101 through R4-14-1120 and Appendices A through E, adopted by emergency effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). R20-6-1101 through R20-6-1120 recodified from

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Article 16, consisting of Sections R20-6-1601 through R20-6-1608, renumbered to Article 16, Part 1, R20-6A1601 through R20-6A1608; Article 16, consisting of Sections R20-6-1610 through R20-6-1612, renumbered to Article 16, Part 2; by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

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CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

ARTICLE 1. HEARING PROCEDURES AND RULEMAKING PETITIONS**R20-6-101. Scope of Article; Definitions**

- A.** Scope. This Article and Title 20 of the Arizona Revised Statutes govern contested cases before the Department. Except as otherwise provided in R20-6-160 for rulemaking petitions, this Article does not apply to rulemaking or investigative proceedings before the Department. Unless expressly applicable by rule or statute, the Arizona Rules of Civil Procedure do not apply to contested cases.
- B.** Definitions. In this Article, the following definitions apply:
1. "Attorney General" means the Attorney General of Arizona, and the Attorney General's assistants or special agents.
 2. "Contested case" means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by the Director after an opportunity for hearing.
 3. "Department" means the Arizona Department of Insurance.
 4. "Hearing Officer" means a person appointed by the Director to hear a contested case and make recommendations.
 5. "Party" has the meaning prescribed in A.R.S. § 41-1001(12).
 6. "Person" has the meaning prescribed in A.R.S. § 41-1001(13).
 7. "Director" means the Director of the Department or a hearing officer or any deputy, assistant or examiner of the Director acting in the Director's name in accordance with A.R.S. § 20-150.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-101 recodified from R4-14-101 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 618, effective February 4, 1999 (Supp. 99-1).

R20-6-102. Appearance and Practice before the Director

- A.** Any person may appear in his own behalf or through counsel. An insurer may appear through legal counsel or through a duly authorized officer of the corporation.
- B.** When an attorney other than the Attorney General appears or intends to appear before the Director, he shall promptly advise the Director of his name, address and telephone number and the name and address of the person on whose behalf he intends to appear.
- C.** Conduct at any hearing which, in the discretion of the Director, is deemed contemptuous shall be grounds for exclusion from the hearing. Contemptuous conduct shall include willful noncompliance with an order of the Director or hearing officer, willful disruption or obstruction of any hearing, or any other willful conduct during any hearing which lessens the dignity or authority of the Director or hearing officer.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-102 recodified from R4-14-102 (Supp. 95-1).

R20-6-103. Filing; Service

- A.** No paper shall be deemed filed until received by the Director.
- B.** Unless otherwise provided by these rules, copies of all papers filed shall, at or before the time of filing, be served on the hearing officer, the Attorney General, and all parties to the proceeding.
- C.** Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney.

- D.** Service upon the attorney, or upon a party, shall be made personally in accordance with Rule 5(c) of the Arizona Rules of Civil Procedure, or by mail by enclosing a copy thereof in a sealed envelope and depositing same, postage prepaid, in the United States mail, addressed to the party to be served or his attorney at the address as shown by the records of the Director. Service by mail is complete upon deposit in the United States Mail.
- E.** All notices of hearing and final decisions issued by the Director shall be served by mail.
- F.** Proof of service shall be made by filing with the Director a written statement that service was made.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-103 recodified from R4-14-103 (Supp. 95-1).

R20-6-104. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-104 recodified from R4-14-104 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-105. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-105 recodified from R4-14-105 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-106. Answer to Notice of Hearing

- A.** In any notice of hearing, the Director may require that one or more parties shall file a written answer to the allegations contained in the notice of hearing. Even if not directed to do so, any party may file such an answer.
- B.** Except where a different period is provided by the notice of hearing, a party directed to file a written answer shall do so within 20 days after issuance of the notice of hearing. Where amendments to the assertions contained in the notice of hearing are made subsequent to service of the notice of hearing, one or more of the parties may be required to answer within a reasonable time the amended assertions.
- C.** Unless otherwise directed by the Director, an answer filed under this rule shall briefly state the party's position or defense to the proceeding and shall specifically admit or deny each of the assertions contained in the notice of hearing. If the answering party is without or is unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an assertion, he shall so state, which shall have the effect of a denial. Any assertion not denied shall be deemed to be admitted. When answering party intends in good faith to deny only a part of an assertion, he shall specify so much of it as is true and shall deny only the remainder.
- D.** If a party fails to file an answer required by the Director within the time provided, such person shall be deemed in default and the proceeding may be determined against him by the Director and one or more of the assertions contained in the notice of hearing may be deemed to be admitted.
- E.** Any defenses not raised in the answer shall be deemed to be waived.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-106 recodified from R4-14-106 (Supp. 95-1).

R20-6-107. Expired

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Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-107 recodified from R4-14-107 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-108. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-108 recodified from R4-14-108 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-109. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-109 recodified from R4-14-109 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-110. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-110 recodified from R4-14-110 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-111. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-111 recodified from R4-14-111 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3374, effective May 31, 2016 (Supp. 16-4).

R20-6-112. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-112 recodified from R4-14-112 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3374, effective May 31, 2016 (Supp. 16-4).

R20-6-113. Expired**Historical Note**

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-113 recodified from R4-14-113 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 1421, effective May 31, 2011 (Supp. 11-3).

R20-6-114. Request for Rehearing or Review

- A. Within 30 days after service of the Director's order on the hearing, any aggrieved party may request a rehearing or review of the order. The request shall be in writing and shall be served upon the Director as provided by R20-6-103, and a copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the request.
- B. A request for rehearing or review shall be based upon one or more of the following grounds which have materially affected the rights of a party:
 1. Irregularity in the hearing proceedings, or any order or abuse of discretion whereby the party seeking rehearing or review was deprived of a fair hearing;
 2. Misconduct by the Director, the hearing officer or any party to the hearing;
 3. Accident or surprise which could not have been prevented by ordinary prudence;

4. Newly discovered material evidence which could not have been discovered with reasonable diligence and produced at the hearing;
5. Excessive or insufficient sanctions or penalties imposed;
6. Error in the admission or rejection of evidence, or errors of law occurring at the hearing or during the course of the hearing;
7. Bias or prejudice of the Director or hearing officer;
8. That the order, decision, or findings of fact are not justified by the evidence or are contrary to law.

- C. A request for rehearing or review shall specify which of the grounds listed in subsection (B) it is based upon and shall set forth specific facts and laws in support of the request. A request may cite relevant portions of testimony from the hearing by referring to the pages or lines of the reporter's transcript of the hearing and may cite hearing exhibits by reference to the exhibit number.
- D. A request for rehearing shall specify the relief sought by the request, such as a different finding of fact, conclusion of law or order. A request for rehearing or review may seek multiple forms of relief in the alternative.
- E. When a request for rehearing is based upon affidavits, they shall be attached to and filed with the request unless leave for later filing of affidavits is granted by the Director or hearing officer. Leave may be granted ex parte.
- F. A request for rehearing or review of the Director's order on the hearing which is not timely made is deemed waived for the purpose of judicial review. A party who fails to request rehearing or review of the Director's order on the hearing shall be barred from raising a claim in any proceeding in which the Director, the hearing officer or the Department of Insurance is a party, except as otherwise required by law.
- G. A party may file a written request for a stay of the Director's decision. An order entered by the Director shall not be stayed by the filing of a stay request or a request for rehearing or review. The Director may stay an order pending the resolution of a request for rehearing or review or when justice requires.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-114 recodified from R4-14-114 (Supp. 95-1). Amended effective June 15, 1998 (Supp. 98-2).

R20-6-115. Response to Request for Rehearing

- A. Each party served with a request for rehearing pursuant to R20-6-114 shall be permitted to file a response within 15 days after the request for rehearing has been filed. This response shall be designated as a "response to request for rehearing or review" and shall be in writing. Affidavits may be attached to and filed with the response. If not filed in this manner, an affidavit shall be filed only if leave for later filing of affidavits is granted by the hearing officer or Director. Leave may be granted ex parte. The original response shall be filed with the Department as provided in R20-6-103, and one copy shall be served upon all other parties to the hearing, including the Attorney General if the Attorney General is not the party filing the response.
- B. The hearing officer or Director has the discretion to convene a hearing or hear oral argument to consider a request for rehearing.

Historical Note

Adopted effective January 23, 1992 (Supp. 92-1). R20-6-115 recodified from R4-14-115 (Supp. 95-1). Amended effective June 15, 1998 (Supp. 98-2).

R20-6-116. Reserved**R20-6-117. Reserved**

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R20-6-118. Reserved
 R20-6-119. Reserved
 R20-6-120. Reserved
 R20-6-121. Reserved
 R20-6-122. Reserved
 R20-6-123. Reserved
 R20-6-124. Reserved
 R20-6-125. Reserved
 R20-6-126. Reserved
 R20-6-127. Reserved
 R20-6-128. Reserved
 R20-6-129. Reserved
 R20-6-130. Reserved
 R20-6-131. Reserved
 R20-6-132. Reserved
 R20-6-133. Reserved
 R20-6-134. Reserved
 R20-6-135. Reserved
 R20-6-136. Reserved
 R20-6-137. Reserved
 R20-6-138. Reserved
 R20-6-139. Reserved
 R20-6-140. Reserved
 R20-6-141. Reserved
 R20-6-142. Reserved
 R20-6-143. Reserved
 R20-6-144. Reserved
 R20-6-145. Reserved
 R20-6-146. Reserved
 R20-6-147. Reserved
 R20-6-148. Reserved
 R20-6-149. Reserved
 R20-6-150. Reserved
 R20-6-151. Reserved
 R20-6-152. Reserved
 R20-6-153. Reserved
 R20-6-154. Reserved
 R20-6-155. Reserved
 R20-6-156. Reserved
 R20-6-157. Reserved
 R20-6-158. Reserved
 R20-6-159. Repealed

Historical Note

Adopted effective February 17, 1977 (Supp. 77-1). R20-6-159 recodified from R4-14-159 (Supp. 95-1). Repealed effective June 15, 1998 (Supp. 98-2).

R20-6-160. Petition for Rulemaking Action

- A.** The following definitions apply in this Section.
1. "Department" means the Arizona Department of Insurance.
 2. "Director" means the Director of the Department of Insurance.
 3. "Petitioner" means a person who petitions the Department for rulemaking action.
 4. "Rulemaking action" means the process for formulation and finalization of a new rule, or amendment or repeal of an existing rule.
- B.** Any person may petition the Department under A.R.S. § 41-1033 for rulemaking action.
- C.** A person who seeks rulemaking action shall file, with the Director, a petition with the following information:
1. The petitioner's name, address, and telephone number;
 2. The name and address of any organization the petitioner represents;
 3. A statement of the rulemaking action the petitioner seeks, including:
 - a. A citation to any existing rule, substantive policy statement, or Department practice to be amended or repealed; and
 - b. The specific language of a proposed new rule or rule amendment;
 4. The reasons for the rulemaking action, including an explanation of why an existing rule, substantive policy statement, or Department practice is inadequate, unreasonable, unduly burdensome, or unlawful; and
 5. The petitioner's dated signature.
- D.** The petitioner may submit additional supporting information, including:
1. Statistical data; and
 2. A list of other persons and entities likely to be affected by the proposed rulemaking action, with an explanation of the likely effects.
- E.** Within 60 days of the date the Department receives the petition, the Department shall send the petitioner a written decision indicating whether the Department is denying the petition or will initiate the requested rulemaking action, with the reasons for the decision.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 618, effective February 4, 1999 (Supp. 99-1). Section heading corrected at Department Request, Office File No. M11-401, filed October 27, 2011 (Supp. 11-3).

ARTICLE 2. TRANSACTION OF INSURANCE**R20-6-201. Advertisements of Health**

- A.** Definitions. The following definitions apply to this Section and to R20-6-201.01, R20-6-201.02, and R20-6-203:
1. "Advertisement" means materials and information used by an insurer to generate insurance business.
 - a. Advertisement includes the following information:
 - i. Printed and published material, audio visual material, or other forms of electronic communication that an insurer uses or displays in direct mail, newspapers, magazines, radio, television, billboards, Internet web sites, and similar media to inform the public about the insurer or its products;

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- ii. Descriptive literature and sales aids an insurer issues or releases for presentation to members of the public, including circulars, leaflets, booklets, depictions, illustrations, and form letters;
 - iii. Prepared sales talks and presentations and material for use by an insurer or prepared by an insurer for use by authorized producers; and
 - iv. Material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements;
- b. "Advertisement" does not include the following:
- i. Material used solely for training and educating an insurer's employees or producers;
 - ii. Material used in-house by insurers;
 - iii. Communications within an insurer's own organization not intended for dissemination to the public;
 - iv. Individual communications with current policy holders regarding a member's personal information other than material urging the policyholders to increase or expand coverages;
 - v. Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;
 - vi. Court-approved material ordered by a court to be disseminated to policyholders;
 - vii. Material in connection with promotion or sponsorship of a charitable event in which only the name of the insurer is displayed;
 - viii. A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged. The announcement shall clearly indicate that it is preliminary to the issuance of a booklet and that does not describe the specific benefits under the contract or program nor the advantages as to the purchase of the contract or program;
 - ix. A general announcement by the sponsor that endorses the program;
 - x. Health and wellness material with general health and wellness information; or
 - xi. Press releases and news releases not intended to generate business.
2. "Disability insurance" has the same meaning prescribed in A.R.S. § 20-253.
3. "Elimination period" means the time between the date a loss occurs and the date that benefits begin to accrue for that loss.
4. "Exclusion" means a policy term stating a risk that an insurer has not assumed.
5. "Health insurance" means:
- a. Disability insurance;
 - b. Insurance provided by a service corporation regulated under A.R.S. § 20-821 et seq.;
 - c. Insurance provided by a prepaid dental plan organization regulated under A.R.S. § 20-1001 et seq.; and
 - d. Insurance provided by a health care services organization regulated under A.R.S. § 20-1051 et seq.
6. "Insurance administrator" or "administrator" has the meaning prescribed in A.R.S. § 20-485(A)(1).
7. "Insurer" has the same meaning prescribed in A.R.S. § 20-104.
8. "Limitation" means a policy term, other than an exclusion or reduction, that decreases the risk assumed by the insurer or the insurer's obligation to provide benefits.
9. "Person" has the meaning in A.R.S. § 20-105.
10. "Policy" means any plan, certificate, contract, agreement, statement of coverage, evidence of coverage, subscription contract, membership coverage, rider, or endorsement that provides disability benefits, health insurance, medical, surgical or hospital expense benefits, long-term care benefits, or Medicare supplement benefits in the form of a cash indemnity, reimbursement, or service.
11. "Reduction" means a policy term that reduces the amount of an insured's benefits. A reduction means that the insurer has assumed the risk of a particular loss, but the amount or period of the insurer's coverage is less than what the insurer would have paid for the loss without the reduction.
12. "Spokesperson" means a person making a testimonial about or an endorsement of an insurer's product who:
- a. Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or independent contractor;
 - b. Has been formed by the insurer, is owned or controlled by the insurer or its employees, or is a person who owns or controls an insurer;
 - c. Is in a policy-making position and affiliated with the insurer in any capacity described in subsections (a) or (b); or
 - d. Is directly or indirectly compensated for making the testimonial or endorsement.
- B. Scope.**
- 1. This Section applies to all advertisements for health insurance.
 - 2. This Section applies to the conduct of insurers, producers, and third-party administrators.
- C. General requirements.** Insurers, producers, and third-party administrators shall ensure that health insurance advertisements meet the requirements of this Section.
- 1. Advertisements shall be truthful and not misleading. The insurer shall not use words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology.
 - 2. An advertisement shall not omit information or use words, phrases, statements, references, or illustrations if the omission of information or use of words, phrases, statements, references, or illustrations may mislead or deceive purchasers or prospective purchasers.
 - 3. The words and phrases used to describe a policy shall accurately describe the benefits of the policy and not exaggerate any benefit through the use of phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will pay your hospital and surgical bills" or "this policy will replace your income," or similar words and phrases.
 - 4. If a policy covers only one disease or a list of specified diseases, any advertisement for the policy shall not imply coverage beyond the specified diseases.
 - 5. If a policy pays varying amounts for the same loss occurring under different conditions or pays benefits only when a loss occurs under certain conditions, any advertisement for the policy shall disclose the limited conditions.
 - 6. If an advertisement specifies payment of a particular dollar amount for hospital room and board expenses, the advertisement shall also include the maximum daily ben-

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efit and the maximum time limit for which those expenses are covered.

7. An advertisement that refers to any dollar amount, period of time for which a benefit is payable, cost of policy, or specific policy benefit or the loss for which a benefit is payable shall also disclose any related exclusions, reductions, and limitations without which the advertisement would have the capacity and tendency to mislead or deceive.
 8. An advertisement covered by subsection (C)(7) shall disclose the existence of a waiting period if a policy contains a period between the effective date of the policy and the effective date of coverage under the policy. The advertisement shall disclose the existence of an elimination period.
 9. An advertisement shall disclose any exclusion, reduction, or limitation applicable to a pre-existing condition; however, an insurer is not required to make disclosure in an advertisement that does not reference specific product information, benefit level, or dollar amounts.
 10. If a policy has an exclusion, reduction, or limitation applicable to a preexisting condition, an advertisement shall not state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim and shall not use the phrase "no medical examination required" or other similar phrase.
 11. If an advertisement refers to renewability, cancellation, or termination of a policy, or states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, the advertisement shall disclose the provisions relating to renewability, cancellation, and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner that does not minimize or obscure the qualifying conditions.
 12. An advertisement shall not make any offer prohibited under A.R.S. § 20-452(4).
 13. An advertisement shall not advertise any health insurance policy or form that has not been approved by the Department, unless the policy or form being advertised is exempt from approval or not subject to approval by order or statute.
 14. An advertisement shall not state or imply that a product being offered is an introductory, special, or initial offer that will entitle the applicant to receive advantages not described in the policy by accepting the offer.
 15. An advertisement designed to produce leads either by use of a coupon, a request to write or call the company, or subsequent advertisement before contact, shall disclose that a producer may contact the potential applicant.
- D.** Method of disclosure of required information. If an insurer is required by law to disclose particular information, the information shall be conspicuous and in close proximity to the statements to which the information relates, or under a prominent caption so that the required disclosure is not minimized, obscured, presented in an ambiguous fashion, or intermingled with the content of the advertisement.
- E.** Testimonials.
1. Testimonials used in advertisements shall be genuine, represent the current opinion of the author, be applicable to the policy advertised, and be accurately reproduced. The insurer shall provide the Department with the full name of the author and a copy of the full testimonial if the advertisement is filed with the Department or requested by the Department. If an insurer uses a testimonial, the insurer adopts the statements in the testimonial as the insurer's own statements. If a testimonial or endorsement is used more than one year after it is given, the insurer shall obtain a written confirmation from the author that the testimonial represents the current opinion of the author.
 2. The insurer shall disclose that a spokesperson has a financial interest or the proprietary or representative capacity of a spokesperson in an advertisement in the introductory portion of a testimonial or endorsement in the same form and with equal prominence as the endorsement. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, the insurer shall disclose that fact in the advertisement by language that states, "Paid Endorsement," or words of similar import in type, style, and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. For television or radio advertising, the insurer shall place the required disclosure prominently in the introductory portion of the advertisement.
- F.** Statistics. An advertisement with information on the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not use facts that are irrelevant to the sale of insurance and shall accurately reflect all of the relevant facts specific to the advertised policy or insurer. An advertisement shall not state or imply that statistics are derived from the policy being advertised unless that is true. The insurer shall identify in the advertisement the source of any statistics used.
- G.** Inspection of policy. An offer in an advertisement of free inspection of a policy or offer of a premium refund does not cure misleading or deceptive statements in the advertisement.
- H.** Identification of plan or number of policies.
1. If an advertisement offers a choice in the amount of benefits the advertisement shall disclose that the amount of benefits depends on the policy selected and that the premium will vary with the amount of the benefits.
 2. If an advertisement refers to benefits contained in more than one policy, other than a group master policy, the advertisement shall disclose that the benefits are provided only if multiple policies are purchased.
- I.** Disparaging comparisons and statements. An advertisement shall not make unfair, incomplete, or unsubstantiated comparisons of other insurers' policies or benefits or falsely disparage other insurers' policies, services, or business methods. A comparison is unsubstantiated if the insurer has no empirical study, analysis, or documentation supporting the comparative statement or comparison of policies or benefits.
- J.** Jurisdictional limits. If an insurer has an advertisement that is meant to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed, the advertisement shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states, by use of language such as "This Company is licensed only in State A" or "This Company is not licensed in State B."
- K.** Identity of insurer. The insurer shall state the name of the actual insurer in all of its advertisements. An advertisement shall clearly identify the insurer and shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device that may mislead or deceive the public as to the insurer's identity.
- L.** Group insurance. An advertisement shall not state or imply that prospective policyholders become group or quasi-group members and enjoy special rates or underwriting privileges,

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unless it is true. An advertisement to join an association, trust, or group that is also an invitation to contract for insurance coverage shall disclose that the applicant will be purchasing both membership in the association, trust, or group and insurance coverage.

- M.** Government approval. An advertisement shall not state or imply any of the following:
1. That a governmental agency or regulator is connected with or has provided or endorsed a policy or endorsed an insurer;
 2. That a governmental agency or regulator has examined an insurer's financial condition and found it satisfactory. This subsection does not apply if an insurer is responding to a specific documented, public, false allegation about its financial condition.
- N.** Endorsements. An advertisement may state that an individual, group, society, association, or other organization has approved or endorsed the insurer or its policy if the organization or group has done so in writing and if any proprietary relationship between the organization and the insurer is disclosed.
- O.** Claims handling. An advertisement shall not contain false statements about the time within which claims are paid or statements that imply that claim settlements will be liberal or generous beyond the terms of the policy.
- P.** Statements about the insurer. An advertisement shall not contain false or misleading statements about an insurer's assets, corporate structure, financial standing, length of time in business, or relative position in the insurance business.

Historical Note

Former General Rule Number 2. R20-6-201 recodified from R4-14-201 (Supp. 95-1). Amended by final rulemaking at 13 A.A.R 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-201.01. Insurer Advertising Responsibility and Records

- A.** An insurer shall establish, and at all times maintain, a system of control over the content, form, and method of dissemination of all advertisements. The insurer whose policies are advertised is responsible for the advertisements, regardless of who writes, creates, designs, or presents the advertisement, except the insurer is not responsible for any advertisement placed by a person to whom the insurer gave no actual or apparent authority. Before using an advertisement about an insurer or its products, a producer shall get written approval from the insurer for use of advertisements that were not supplied by the insurer.
- B.** An insurer shall maintain, at its home or principal office, the following:
1. Advertisements disseminated by the insurer in Arizona or any other state, including:
 - a. Each printed, published, recorded, or prepared advertisement of individual policies; and
 - b. Typical printed, published, recorded, or prepared advertisements of blanket, franchise, and group policies.
 2. A notation attached to each advertisement specifying the manner and extent of distribution and the form number of any policy advertised; and
 3. Documentation supporting any testimonials, statistical claims, or comparisons shown in the advertising.
- C.** An insurer shall maintain the advertisements, notations, and supporting documentation for at least three years from the date of first dissemination.

Historical Note

New Section made by final rulemaking at 13 A.A.R 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-201.02. Procedures for Filing Advertising Materials; Transmittal Form

- A.** An insurer that is required to file a health insurance advertisement with the Department as specified in A.R.S. §§ 20-826(T), 20-1018, 20-1057(X), 20-1110(E), or 20-1662 shall file the advertisement with a transmittal form prescribed by the Department.
- B.** The transmittal form shall include the following information:
1. Identifying information of the insurer, including name, address, National Association of Insurance Commissioners' identification number, and type of insurer;
 2. A contact person at the insurer with whom the Department can communicate about the advertisement;
 3. Description of the type of advertisement being filed;
 4. Planned use and dissemination of the advertisement, including date of first use, or a statement that the advertisement will not be used any earlier than a specified date;
 5. Description of product being advertised;
 6. Form number and name for the advertised product;
 7. A certification from an officer of the insurer that the advertisement complies with applicable laws; and
 8. The dated signature of the insurer's officer.

Historical Note

New Section made by final rulemaking at 13 A.A.R 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-202. Advertising, Solicitation, and Transaction of Life Insurance

- A.** The definitions in R20-6-201(A) and the following definition apply in this Section:
- "Life insurance" means a life insurance contract, including all benefits payable under the policy.
- B.** Applicability
1. This Section applies to:
 - a. All persons subject to regulation under A.R.S. Title 20; and
 - b. Advertising, promotion, solicitation, negotiation, and sale of life insurance policies, regardless of the form of dissemination.
 2. This Section does not apply to group insurance, franchise insurance, or to annuities without life contingencies.
- C.** General provisions. A life insurance advertisement shall not mislead the public by:
1. Omitting information that fairly describes the subject matter as a life insurance policy and the benefits available under the policy;
 2. Placing undue emphasis on facts that, even if true, are not relevant to the sale of life insurance; or
 3. Placing undue emphasis on features of incidental or secondary importance to the life insurance aspects of the policy.
- D.** The Department deems the following acts misleading and deceptive:
1. Using any statement, including phrases such as "investment," "investment plan," "founders plan," "charter plan," "expansion plan," "profit," "profits," or "profit sharing," in a context or under circumstances or conditions that may mislead a purchaser or prospective purchaser to believe that the insurer is selling something other than a life insurance policy or will provide some benefit not included in the policy, or not available to other persons of the same class and equal expectation of life;

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2. Using any phrase as the name or title of a life insurance policy if the phrase does not include the words "life insurance," unless other language in the same document expressly provides that the contract is a life insurance policy;
3. Making any statement relating to the growth or earnings of the life insurance industry or to the tax status of life insurance companies in a context that would reasonably be understood as attempting to interest a prospective applicant in the purchase of shares of stock in the insurance company rather than in the purchase of a life insurance policy;
4. Making any statement that reasonably tends to imply that the insured will enjoy a status common to a stockholder or will acquire a stock ownership interest in the insurance company by purchasing the policy, unless the statement is made with reference to policies of domestic life insurers engaged in a program allowed under A.R.S. § 20-453;
5. Providing a policyholder with a premium receipt book, policy jacket, return envelope, or other printed or electronic material referring to the insurer's "investment department," "insured investment department," or similar terminology in a manner implying that the policy is sold, issued, or serviced by the insurer's investment department;
6. Making any statement that reasonably tends to imply that, by purchasing a policy, the purchaser or prospective purchaser will become a member of a limited group of persons who may receive the payment of dividends, special advantages, benefits, or favored treatment unless the insurance contract specifically provides for the described payment of dividend, special advantages, benefits, or favored treatment;
7. Stating or implying that only a limited number of persons or limited class of persons may buy a particular kind of policy, unless the limitation is related to recognized underwriting practices or specifically stated in the policy or rider;
8. Describing premium payments in language that states the payment is a "deposit," unless:
 - a. The payment establishes a debtor-creditor relationship between the insurance company and the policyholder; or
 - b. The term is used with the word "premium" in a manner as to clearly indicate the true character of the payment;
9. Providing any illustration or projection of future dividends that:
 - a. Is not based on the company's actual scale for payment of current dividends, and
 - b. Does not clearly indicate that the dividends are not guarantees;
10. Using the words "dividends," "cash dividends," "surplus," or similar phrases in a manner that states or implies that the payment of dividends is guaranteed or certain to occur;
11. Stating, without qualification, that a purchaser of a policy will share in a stated percentage or portion of the insurer's earnings;
12. Making any statement that projected dividends under a participating policy will be or can be sufficient at any future time to assure the receipt of benefits such as a paid-up policy without further payment of premiums unless the statement also explains:
 - a. The benefits or coverage that would be provided at the future time, and
 - b. The conditions under which the receipt of benefits without further payment of premiums would occur;
13. Describing a life insurance policy or premium payments in terms of "units of participation," unless accompanied by other language clearly indicating that the references are to a life insurance policy or to premium payments, as applicable.
14. Advising producers to avoid disclosing that life insurance is the subject of the solicitation or sale;
15. Stating that an insured is guaranteed certain benefits if the policy is allowed to lapse, without explaining the non-forfeiture benefits;
16. Using a dollar amount in printed material to be shown to a prospective policyholder, unless the amount is accompanied by language that:
 - a. States the nature of the dollar amount,
 - b. Prohibits including the use of dollar amounts not related to guaranteed values and properly projected dividend figures, and
 - c. Prohibits the use of figures showing growth of stock values, or other values not a part of the life insurance contract.
17. Stating that a policy provides features not found in any other insurance policy, unless the insurer can demonstrate that other policies do not have the same feature;
18. Making any statement or implication about an insurance policy that cannot be verified by reference to the policy contract, a sample of the policy being described, or the company's officially published rate book and dividend illustrations;
19. Stating that life insurance is "loss proof" or "depression proof," except that an insurer may make statements that life insurance benefits, other than dividends, are guaranteed by the company regardless of economic conditions;
20. Making any statement that a company makes a profit as a result of policy lapses or surrenders;
21. Making comparisons to the past experience of other life insurance companies as a means of projecting possible experience for the company issuing the advertising; and
22. Conduct or statements designed to mislead a prospective applicant or purchaser.

Historical Note

Former General Rule Number 68-14. R20-6-202 recodified from R4-14-202 (Supp. 95-1). Amended by final rulemaking at 13 A.A.R 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-203. Form Filings; Translations

- A. An insurer, rate service organization, or rating organization shall provide to the Department, at the time of filing, an English language translation of each form, advertisement, or other document or material that the insurer is required by statute or rule to file with the Department, if the filed document or material contains communication in a language other than English.
- B. The translation filed under subsection (A) shall compare the foreign language version in a side-by-side format with the English language translation. An insurer, rate service organization, or rating organization shall ensure that the translation is performed by a person with formal college-level or specialized training in the foreign language, including training in grammar and sentence syntax.
- C. With each translation, an insurer, rate service organization, or rating organization shall also provide to the Department a sworn statement signed by the translator who translated the document that includes the qualifications of the translator

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under subsection (B) and attests that the translation is identical in substance to the English document or material.

- D. If an insurer, rate service organization, or rating organization files a foreign language version of a document or material that the insurer has previously filed in English, the insurer is not required to refile the English version, but shall identify the English version, provide the side-by-side comparison under subsection (B), and file the sworn statement required under subsection (C).

Historical Note

Former General Rule Number 71-23; Repealed effective January 1, 1981 (Supp. 80-6). R20-6-203 recodified from R4-14-203 (Supp. 95-1). New Section made by final rulemaking at 13 A.A.R 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-204. Expired**Historical Note**

Former General Rule Number 71-24; Former Section R4-14-204 repealed, new Section R4-14-204 adopted effective January 1, 1981 (Supp. 80-6). R20-6-204 recodified from R4-14-204 (Supp. 95-1). Amended effective July 14, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 475, effective January 5, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R 2061, effective August 4, 2007 (Supp. 07-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 136, effective December 15, 2016 (Supp. 16-4).

R20-6-205. Local or Regional Retaliatory Tax Information**A. Definitions.**

1. "Addition to the rate of tax" means the tax rate determined under subsection (D) to be applied under A.R.S. 20-230(A) and this Section to foreign or alien insurers domiciled in a foreign country or other state that impose local or regional taxes.
2. "Alien insurer" has the meaning prescribed in A.R.S. § 20-201.
3. "Arizona life insurer" means a domestic insurer authorized to issue life insurance policies in this state within the meaning of A.R.S. § 20-254 or annuities within the meaning of A.R.S. § 20-254.01, regardless of whether the insurer is authorized to transact disability insurance in this state.
4. "Department" means the Arizona Department of Insurance.
5. "Director" has the meaning prescribed in A.R.S. § 20-102.
6. "Domestic insurer" has the meaning prescribed in A.R.S. § 20-203.
7. "Foreign insurer" has the meaning prescribed in A.R.S. § 20-204.
8. "Foreign or alien life insurer" means a foreign or alien insurer authorized to issue life insurance policies in this state within the meaning of A.R.S. § 20-254 or annuities within the meaning of A.R.S. § 20-254.01, regardless of whether the insurer is authorized to transact disability insurance in this state.
9. "Local or regional taxes" means any tax, license, or other obligation imposed upon domestic insurers or their producers by any:
 - a. City, county, or other political subdivision of a foreign country or other state; or
 - b. Combination of cities, counties, or other political subdivisions of a foreign country or other state.

10. "Other Arizona insurer" means a domestic insurer authorized to transact one or more lines of insurance in this state but not authorized to transact life insurance or annuities in this state.
11. "Other foreign or alien insurer" means a foreign or alien insurer authorized to transact one or more lines of insurance in this state but not authorized to transact life insurance or annuities in this state.
12. "Other state" means any state in the United States, the District of Columbia, and territories or possessions of the United States, excluding Arizona.
13. "Premium Tax and Fees Report," includes the "Survey of Arizona Domestic Insurers" and the "Retaliatory Taxes and Fees Worksheet," and means the form prescribed by the Director and filed annually by insurers under A.R.S. § 20-224.

- B.** Scope. This Section applies to all foreign, alien, and domestic insurers and to Premium Tax and Fees Reports filed by all insurers.
- C.** Data to be reported by domestic insurers. As a part of its Premium Tax and Fees Report, each domestic insurer shall file a Survey of Arizona Domestic Insurers that reports the following data for the calendar year covered by the insurer's Premium Tax and Fees Report with respect to each foreign country or other state in which the insurer was required to pay any local or regional taxes:
1. Total local or regional taxes paid; and
 2. Total premiums taxed under the premium taxing statute of the foreign country or other state, as reported by the insurer in any premium tax report filed under the laws of the foreign country or other state.
- D.** Computation of statewide and foreign countrywide additions to the rate of tax. For each foreign country or other state having one or more local or regional taxes on domestic insurers, the Department shall compute on a statewide or foreign countrywide basis an addition to the rate of tax. The Department shall compute the addition to the rate of tax payable by Arizona life insurers separately from the addition to the rate of tax payable by other Arizona insurers. The addition to the rate of tax payable by each category of Arizona domestic insurers shall be the quotient of:
1. The aggregate local or regional taxes reported as paid to the foreign country or other state by domestic insurers in each category for the calendar year covered by the Premium Tax and Fees Report divided by,
 2. The aggregate statewide or foreign countrywide premiums taxed under the premium taxing statute of the other state or foreign country reported by domestic insurers in each category for the calendar year covered by the Premium Tax and Fees Report.
- E.** Publication of additions to the rate of tax. The Department shall publish additions to the rate of tax determined under A.R.S. § 20-230(A) and this Section, based upon the survey information gathered from domestic insurers for the preceding calendar year under subsection (C). The Department shall publish the information annually on the Department web site, on or before November 1, and in the Retaliatory Taxes and Fees Worksheet for the next year's Premium Tax and Fees Report.
- F.** Foreign and Alien Insurers' Report of the Effect of Local or Regional Taxes. Each foreign or alien insurer domiciled in a foreign country or other state for which the Department publishes an addition to the rate of tax shall include in the "State or Country of Incorporation" column of its Retaliatory Taxes And Fees Worksheet for the calendar year covered by its Premium Tax and Fees Report an amount equal to:

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1. The total premiums received in Arizona that would be taxed under the laws of the domiciliary jurisdiction, as reported in the "State or Country of Incorporation" column of its premium tax and fees report multiplied by,
 2. The applicable addition to the rate of tax published by the Department for the calendar year covered by the insurer's Premium Tax and Fees Report.
- G.** Contesting computation. A foreign or alien insurer subject to this Section may preserve the right to contest the computation of the addition to the rate of tax by submitting a notice of appeal under A.R.S. Title 41, Chapter 6, Article 10 before or at the time the retaliatory tax is paid. Subject to A.R.S. § 20-162, the filing of a notice of appeal to contest the computation of the applicable addition to the rate of tax does not relieve a foreign or alien insurer of the obligation to timely pay the retaliatory tax, and does not stay accrual of any applicable interest and penalties.

Historical Note

Former General Rule Number 71-25; Repealed effective March 19, 1976 (Supp. 76-2). R20-6-205 recodified from R4-14-205 (Supp. 95-1). Section R20-6-205 renumbered from R20-6-206 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-206. Expired**Historical Note**

Former General Rule Number 72-30. Repealed effective February 22, 1993 (Supp. 93-1). R20-6-206 recodified from R4-14-206 (Supp. 95-1). New Section adopted effective December 29, 1995 (Supp. 95-4). Amended effective November 5, 1998 (Supp. 98-4). Former R20-6-206 renumbered to R20-6-205; new R20-6-206 renumbered from R20-6-207 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3374, effective May 31, 2016 (Supp. 16-4).

R20-6-207. Gender Discrimination

- A.** The following definitions apply to this Section:
1. "Applicant" means a person who is applying for a policy.
 2. "Policy" means an insurance policy, plan, contract, certificate, evidence of coverage, subscription contract, or binder, including a rider or endorsement offered by an insurer.
 3. "Insurer" means any company that issues a policy.
- B.** Applicability and scope. This Section applies to any policy or certificate delivered or issued for delivery in this state.
- C.** Availability requirements.
1. An insurer shall not deny availability of any insurance policy on the basis of the gender or marital status of the insured or prospective insured.
 2. An insurer shall not restrict, modify, exclude, reduce, or limit the amount of benefits payable, or any term, conditions or type of coverage on the basis of an applicant's or insured's gender or marital status, except to the extent the amount of benefits, term, conditions, or type of coverage vary as a result of the application of rate differentials permitted under A.R.S. Title 20.
 3. An insurer may consider marital status to determine whether a person is eligible for dependent coverage or benefits.
- D.** Prohibited practices. The following practices and any other practice that treats similarly situated persons differently based on gender unless the different treatment is specifically allowed by law, is prohibited.

1. Denying coverage to a person of one gender who is self-employed, employed part-time, or employed by relatives, if coverage is offered to a person of the opposite gender who is similarly employed;
2. Denying a policy rider to a person of one gender if the rider is available to a person of the opposite gender;
3. Denying maternity benefits to an applicant or insured who buys a policy for individual coverage if the insurer offers comparable family coverage policies with maternity benefits;
4. Denying, under group policies, dependent coverage to an employee of one gender if dependent coverage is available to an employee of the opposite gender;
5. Denying a disability income policy to an employed person of one gender if a policy is offered to a person of the opposite gender who is similarly employed;
6. Treating complications of pregnancy differently from any other illness or sickness covered under a policy;
7. Restricting, reducing, modifying, or excluding benefits relating to coverage involving the genital organs of only one gender;
8. Offering lower maximum monthly benefits to a person of one gender than to a person of the opposite gender who is in the same classification under a disability income policy;
9. Offering more restrictive benefit periods or more restrictive definitions of disability to a person of one gender than to a person of the opposite gender who is in the same classification under a disability income policy;
10. Establishing different conditions for a policyholder of one gender to exercise benefit options contained in the policy than for a person of the opposite gender;
11. Limiting the amount of coverage an insured or prospective insured may purchase based upon the insured's or prospective insured's marital status unless the limitation is for the purpose of defining persons eligible for dependent's benefits; and
12. Otherwise restricting, modifying, excluding or reducing the availability of any insurance contract, the amount of benefits payable, or any term, condition or type of coverage on account of gender or marital status in all lines of insurance.

Historical Note

Former General Rule Number 73-32. R20-6-207 recodified from R4-14-207 (Supp. 95-1). Former R20-6-207 renumbered to R20-6-206; new R20-6-207 renumbered from R20-6-209 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-208. Group Coverage Discontinuance and Replacement

- A.** Definitions. The following definitions apply in this Section:
1. "Group insurance" means an insurance benefit that meets all the following conditions:
 - a. Coverage is provided through insurance policies or subscriber contracts to classes of employees or members defined in terms of conditions pertaining to employment or membership;
 - b. The coverage is not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with the particular organization or group;
 - c. Coverage is paid for by bulk payment of premiums to the insurer; and

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- d. An employer, union, or association sponsors the plan.
2. "Health insurance coverage" means a hospital and medical expense incurred policy, a nonprofit health care service plan contract, a health maintenance organization subscriber contract, or any other health care plan or arrangement that pays for or furnishes medical or health care services whether by insurance or otherwise, but does not include the following:
- Coverage only for accident, or disability income insurance, or any combination of accident and disability income insurance;
 - Coverage issued as a supplement to liability insurance;
 - Liability insurance, including general liability insurance and automobile liability insurance;
 - Workers' compensation or similar insurance;
 - Automobile medical payment insurance;
 - Credit-only insurance;
 - Coverage for onsite medical clinics; and
 - Other insurance coverage similar to the coverage specified in subsections (2)(a) through (g), of the Health Insurance Portability and Accountability Act of 1996 (Pub.L.No. 104-191) (HIPAA), under which benefits for medical care are secondary or incidental to other insurance benefits.
 - The following benefits, if the benefits are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the coverage:
 - Limited-scope dental or vision benefits;
 - Benefits for long-term care, nursing home care, home health care, community-based care, or any combination of those benefits;
 - Other similar, limited benefits specified in federal regulations issued under HIPAA.
 - The following benefits if provided under a separate policy, certificate, or contract of insurance with no coordination between provision of benefits and any exclusion of benefits under a group health plan maintained by the same plan sponsor and if the benefits are paid for an event regardless of whether the benefits are provided under a group health plan maintained by the same plan sponsor:
 - Coverage only for a specified disease or illness, or
 - Hospital indemnity or other fixed indemnity insurance.
 - The following benefits if the benefits are offered as a separate policy, certificate, or contract of insurance:
 - Medicare supplemental policy as defined under § 1882(g)(1) of the Social Security Act, 42 U.S.C. 1395ss;
 - Coverage supplemental to the coverage provided under, 10 U.S.C. Title 10, Chapter 55; or
 - Similar supplemental coverage provided to coverage under a group health plan.
3. "Health status-related factor" means any of the following:
- Health status;
 - Medical condition, including a physical or mental illness;
 - Claims experience;
 - Receipt of health care;
 - Medical history;
 - Genetic information;
 - Evidence of insurability, including conditions arising out of acts of domestic violence; or
 - Disability.
4. "Insurer" means an insurer that offers or provides group health insurance coverage, and includes an insurer that issues disability insurance as defined in A.R.S. § 20-253, a medical, dental, or optometric service corporation as defined in A.R.S. § 20-822, and a health care services organization as defined in A.R.S. § 20-1051.
- B.** This Section applies to all group insurance issued by an insurer.
- C.** Effective date of discontinuance for non-payment of premium.
- If a group insurance policy provides for automatic discontinuance of the policy after a premium remains unpaid through the grace period allowed for payment, the insurer is liable for valid claims for covered losses incurred before the end of the grace period.
 - If the insurer's actions after the end of the grace period indicate that the insurer considers the group insurance policy as continuing in force beyond the end of the grace period the insurer is liable for valid claims for losses beginning before the effective date of written notice of discontinuance to the policyholder or other entity responsible for paying premiums.
 - The following actions indicate that the insurer considers the policy in force:
 - Continued recognition, acknowledgement, or payment of subsequently incurred claims, or
 - Continued enrollment of employees or dependents.
 - The following actions shall not indicate that the insurer considers that policy in force:
 - Recognition, payment, or acknowledgement of a claim by an insurer or processing a denial based on eligibility or other denial reasons set forth in the group benefit plan booklet; or
 - Recognition, payment, or acknowledgement of claims due to the group's failure to notify the insurer that the employee or member is no longer eligible for coverage or the group policy is terminated.
 - The effective date of discontinuance shall not be before midnight at the end of the third scheduled work day after the date on which the notice of discontinuance is delivered.
- D.** Requirements for notice of discontinuance.
- An insurer's notice of discontinuance shall include a request to the group policyholder to notify covered employees of the date when the group policy or contract will discontinue and to advise that, unless otherwise provided in the policy or contract, the insurer is not liable for claims for losses incurred after the date of discontinuance. If the plan involves employee contributions, the notice of discontinuance shall also advise that if the policyholder continues to collect employee contributions beyond the date of discontinuance, the policyholder is solely liable for benefits for the period which contributions were collected.
 - The insurer shall also provide the policyholder with a supply of notice forms that the policyholder can distribute to the covered employees. The notice forms shall explain the discontinuance and the effective date, and advise employees to refer to their certificates or contracts to determine their rights on discontinuance.
- E.** Extension of benefits.

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1. A group policy shall provide a reasonable provision for extension of benefits for an employee or dependent who is totally disabled on the date of discontinuance as follows:
 - a. For a group life plan with a disability benefit extension of any type such as a premium waiver extension, extended death benefit in the event of total disability, or payment of income for a specified period during total disability, the discontinuance of the group policy shall not terminate the benefit extension.
 - b. For a group plan providing benefits for loss of time from work or specific indemnity during hospital confinement, discontinuance of the policy during a disability or hospital confinement shall not effect benefits payable for that disability or hospital confinement.
 - c. A hospital or medical expense coverage, other than dental and maternity expense, shall include a reasonable extension of benefits or accrued liability provision. A provision is reasonable if:
 - i. It provides an extension of at least 12 months under "major medical" and "comprehensive medical" type coverage; or
 - ii. Under other types of hospital or medical expense coverage, it provides either an extension of at least 90 days or an accrued liability for expenses incurred during a period of disability or during a period of at least 90 days starting with a specific event that occurred while coverage was in force, such as an accident.
 2. An insurer shall ensure that the policy and group insurance certificates includes a description of the extension of benefits or accrued liability provision.
 3. An insurer shall ensure that benefits payable during a period of extension or accrued liability are subject to the policy's regular benefit limits, such as benefits ceasing at exhaustion of a benefit period or of maximum benefits.
 4. For hospital or medical expense coverage, an insurer may limit benefit payments to payments applicable to the disabling condition only.
- F. Continuance of coverage in situations involving replacement of one plan by another.**
1. When a group policyholder secures replacement coverage with a new insurer, self-insures, or foregoes provision of coverage, the replaced insurer is liable only to the extent of its accrued liabilities and extensions of benefits after the date of discontinuance.
 2. The succeeding insurer shall cover each individual who:
 - a. Was eligible for coverage under the prior plan on the date of discontinuance, and
 - b. Is eligible for coverage according to the succeeding insurer's plan of benefits with respect to a class of individuals eligible for coverage.
 3. For the purpose of successive health insurance coverage under subsection (F)(2), a succeeding insurer's plan of benefits shall:
 - a. Not have any non-confinement rules; and
 - b. Provide, as to any actively-at-work rules, that absence from work due to a health status-related factor is treated as being actively-at-work.
 4. Nothing in subsection (F)(2) prohibits an insurer from performing coordination of benefits.
 5. A succeeding insurer shall cover each individual not covered under the succeeding insurer's plan of benefits under subsection (F)(2) according to subsections (a) and (b) if the individual was validly covered, including benefit extension, under the prior plan on the date of discontinuance and is a member of a class of individuals eligible for coverage under the succeeding insurer's plan. Any reference in subsection (a) or (b) to an individual who was or was not totally disabled is a reference to the individual's status immediately before the effective date of coverage for the succeeding insurer.
 - a. The minimum level of benefits to be provided by the succeeding insurer shall be the level of benefits of the prior insurer's plan reduced by any benefits payable by the prior plan.
 - b. The succeeding insurer shall provide coverage until at least the earliest of the following dates:
 - i. The date the individual becomes eligible under the succeeding insurer's plan as described in subsection (F)(2);
 - ii. The date the individual's coverage would terminate according to the succeeding insurer's plan provisions applicable to individual termination of coverage such as at termination of employment or ceasing to be eligible dependent; or
 - iii. For an individual who was totally disabled, and covered by a type of coverage for which subsection (E) requires an extension of accrued liability, the end of any period of extension of benefits or accrued liability that is required of the prior insurer under subsection (E), or if the prior insurer's policy is not subject to subsection (E), would have been required of the insurer had its policy been subject to subsection (E) at the time the prior plan was discontinued and replaced by the succeeding insurer's plan;
 - c. For health insurance coverage, if an individual who was totally disabled at the time the prior insurer's plan was discontinued and replaced by the succeeding insurer's plan, and if subsection (E) requires an extension of benefits or accrued liability, the minimum level of benefits to be provided by the succeeding insurer shall be the level of benefits of the prior insurer's plan, reduced by any benefits paid by the prior plan.
 - d. If the succeeding insurer's plan has a preexisting conditions limitation, the level of benefits applicable to preexisting conditions of persons becoming covered by the succeeding insurer's plan according to subsection (F) during the period the limitation applies under the new plan shall be the lesser of:
 - i. The benefits of the new plan determined without application of the preexisting conditions limitation, or
 - ii. The benefits of the prior plan.
 - e. The succeeding insurer, in applying any deductibles, coinsurance amounts applicable to out-of-pocket maximums, or waiting periods, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior plan providing similar benefits. For deductibles or coinsurance amounts applicable to out-of-pocket maximums, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible or coinsurance provisions of the prior plan during the 90 days before the effective date of the succeeding insurer's

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plan but only to the extent these expenses are recognized under the terms of the succeeding insurer's plan and are subject to similar deductible or coinsurance provisions.

- f. If the succeeding insurer is required under this Section to make a determination about the benefits in the prior plan, the succeeding insurer may ask the prior plan to provide a statement of the benefits available or other pertinent information sufficient to permit the succeeding insurer to verify the benefit determination. For the purposes of this Section, all definitions, conditions, and covered-expense provisions of the prior plan shall govern the benefit determination. The benefit determination is made as if the succeeding insurer had not replaced coverage.

Historical Note

Former General Rule Number 73-34. R20-6-208 recodified from R4-14-208 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1). Section R20-6-208 renumbered from R20-6-210 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-209. Life Insurance Solicitation**A. Scope.**

1. This Section applies to any solicitation, negotiation, or procurement of life insurance occurring in Arizona. This Section applies to any issuer of life insurance contracts, including fraternal benefit societies.
2. Unless otherwise specifically included, the Section does not apply to:
 - a. Annuities,
 - b. Credit life insurance,
 - c. Group life insurance,
 - d. Life insurance policies issued in connection with a pension and welfare plan as defined by and subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001 et seq.; or
 - e. Variable life insurance under which the death benefits and cash values vary according to unit values of investments held in a separate account.

B. In this Section, the following apply:

1. "Buyer's Guide" means a document that contains the language in the Appendix to this Section or language approved by the Director.
2. "Cash dividend" means the current illustrated dividend that can be applied toward payment of the gross premium.
3. "Equivalent Level Annual Dividend" is calculated as follows:
 - a. Accumulate the annual cash dividends at 5% interest compounded annually to the end of the 10th and 20th policy years;
 - b. Divide each accumulation in subsection (a) by an interest factor that converts the accumulation into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in subsection (a) over the periods stipulated in subsection (a). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.
 - c. Divide the results in subsection (b) by the number of thousands of the Equivalent Level Death Benefit to arrive at the "Equivalent Level Annual Dividend."
4. "Equivalent Level Death Benefit" means the amount of benefit of a policy or term life insurance rider calculated as follows:
 - a. Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the 10th and 20th policy years, respectively.
 - b. Divide each accumulation in subsection (a) by an interest factor that converts the accumulation into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subsection (a) over the periods stipulated in subsection (a). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.
5. "Generic name" means a short title that is descriptive of the premium and benefit patterns of a policy or a rider.
6. "Life Insurance Surrender Cost Index" means the cost index that is calculated as follows:
 - a. Determine the guaranteed cash surrender value, if any, available at the end of the 10th and 20th policy years.
 - b. For policies participating in dividends, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at 5% interest compounded annually to the end of the period selected and add this sum to the amount determined in subsection (a).
 - c. Divide the result in subsection (b) (subsection (a) for guaranteed-cost policies) by an interest factor that converts into an equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in subsection (b) or subsection (a) for guaranteed cost policies, over the periods stipulated in subsection (a). If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.
 - d. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider at 5% interest compounded annually to the end of the period stipulated in subsection (a) and dividing the result by the respective factors stated in subsection (c). This amount is the annual premium payable for a level premium plan.
 - e. Subtract the result of subsection (c) from subsection (d).
 - f. Divide the result of subsection (e) by the number of thousands of the Equivalent Level Death Benefit to arrive at the Life Insurance Surrender Cost Index.
7. The Life Insurance Net Payment Cost Index is calculated in the same manner as the comparable Life Insurance Cost Index except that the cash surrender value and any terminal dividend are set at zero.
8. "Policy Summary" means a written statement describing elements of the policy, including:
 - a. The following prominently placed title: Statement of Policy Cost and Benefit Information.
 - b. The name and address of the insurance producer, or, if no producer is involved, a statement of the procedure to be followed to receive responses to inquiries regarding the Policy Summary.
 - c. The full name and home office or administrative office address of the company by which the life insurance policy is to be or has been written.
 - d. The generic name of the basic policy and each rider.

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- e. For the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including the years for which Life Insurance Cost Indexes are displayed and at least one age from 60 through 65 or maturity, whichever is earlier, the following amounts, where applicable:
- i. The annual premium for the basic policy;
 - ii. The annual premium for each optional rider;
 - iii. Guaranteed amount payable upon death at the beginning of the policy year regardless of the cause of death except for suicide, or other specifically enumerated exclusions provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately;
 - iv. Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider;
 - v. Cash dividends payable at the end of the year with values shown separately for the basic policy and each rider. Dividends need not be displayed beyond the twentieth policy year; and
 - vi. Guaranteed endowment amounts payable under the policy that are not included under guaranteed cash surrender values in subsection (iv).
- f. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether the rate is applied in advance or in arrears. If the policy loan interest rate is variable, the Policy Summary shall include the maximum annual percentage rate.
- g. Life Insurance Cost Indexes for 10 and 20 years but not beyond the premium-paying period. Separate indexes shall be displayed for the basic policy and for each optional term life insurance rider. The indexes need not be included for optional riders that are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months, and guaranteed insurability benefits, nor for basic policies or optional riders covering more than one life.
- h. The Equivalent Level Annual Dividend in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which Life Insurance Cost Indexes are displayed.
- i. If the Policy Summary includes dividends, a statement that dividends are based on the insurer's current dividend scale and are not guaranteed and a statement in close proximity to the Equivalent Level Annual Dividend as follows: "An explanation of the intended use of the Equivalent Level Annual Dividend is included in the Life Insurance Buyer's Guide."
- j. A statement in close proximity to the Life Insurance Cost Indexes as follows: "An explanation of the intended use of these indexes is provided in the Life Insurance Buyer's Guide."
- k. The date on which the Policy Summary is prepared. The Policy Summary shall consist of a separate document. All information required to be disclosed shall not be minimized or obscure. Any amounts that remain level for two or more years of the policy may be represented by a single number that clearly indicates the amounts that are applicable for each policy year. Amounts in subsection (8)(e) shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insured if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.
- C. Disclosure requirements.**
1. The insurer shall provide to all prospective purchasers, a Buyer's Guide and a Policy Summary before accepting the applicant's initial premium or premium deposit, unless the policy for which application is made contains an unconditional refund provision of at least 10 days or unless the Policy Summary contains an unconditional refund offer, in which case the Buyer's Guide and Policy Summary shall be delivered with the policy or before delivery of the policy.
 2. The insurer shall provide a Buyer's Guide and a Policy Summary to any prospective purchaser upon request.
 3. If the Equivalent Level Death Benefit of a policy does not exceed \$5,000, the requirement for providing a Policy Summary is satisfied by delivery of a written statement containing the information described in subsections (D)(8)(b), (c), (d), (e)(i) through (e)(iii), (f), (g), (j), and (k).
- D. General rules.**
1. Each insurer shall maintain at its home office or principal office for at least three years after its last authorized use a copy of each form the insurer authorized for use.
 2. A producer shall inform a prospective purchaser, before commencing a life insurance sales presentation, that the producer is acting as a life insurance producer and inform the prospective purchaser of the full name of the insurance company that the producer is representing. If an insurance producer is not involved in the sale, the insurer shall inform the prospective purchaser of the insurance company's full name.
 3. An insurer or producer shall not use terms such as financial planner, investment advisor, financial consultant, or financial counseling to imply that the insurance producer is generally engaged in an advisory business in which compensation is unrelated to sales unless that is true.
 4. If an insurer or producer refers to policy dividends, the reference shall include a statement that dividends are not guaranteed.
 5. An insurer shall not use a system or presentation that does not recognize the time value of money through the use of appropriate interest adjustments for comparing the cost of two or more life insurance policies unless the system or presentation is used to demonstrate the cash flow pattern of a policy and the presentation is accompanied by a statement disclosing that the presentation does not recognize that, because of interest, a dollar in the future has less value than a dollar today.
 6. In a presentation of benefits, an insurer shall not display guaranteed and non-guaranteed benefits as a single sum unless they are shown separately and in close proximity.
 7. An insurer shall include with a statement regarding the use of the Life Insurance Cost Indexes an explanation that the indexes are useful only for the comparison of the relative costs of two or more similar policies.
 8. An insurer shall include with a Life Insurance Cost Index that reflects dividends or an Equivalent Level Annual Dividend a statement that it is based on the company's current dividend scale and is not guaranteed.

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9. If an insurer reserves the right to change the premium for a basic policy or rider, the annual premium shall be the maximum annual premium.
- E. An insurer's failure to provide or deliver a Buyer's Guide or a Policy Summary as provided in subsection (C) constitutes an omission that misrepresents the benefits, advantages, conditions, or terms of an insurance policy.

Appendix. Life Insurance Buyers Guide

Life Insurance Buyer's Guide

The face page of the Buyer's Guide shall read as follows:

Life Insurance Buyer's Guide

This guide can show you how to save money when you shop for life insurance. It helps you to:

- Decide how much life insurance you should buy,
- Decide what kind of life insurance policy you need, and
- Compare the cost of similar life insurance policies.

Prepared by the National Association of Insurance Commissioners

Reprinted by (Company Name)

(Month and year of printing)

The Buyer's Guide shall contain the following language at the bottom of page 2:

The National Association of Insurance Commissioners is an association of state insurance regulatory officials. This association helps the various Insurance Departments to coordinate insurance laws for the benefit of all consumers. You are urged to use this Guide in making a life insurance purchase.

Buying Life Insurance

When you buy life insurance, you want a policy that fits your needs without costing too much. Your first step is to decide how much you need, how much you can afford to pay and the kind of policy you want. Then, find out what various companies charge for that kind of policy. You can find important differences in the cost of life insurance by using the life insurance cost indexes that are described in this guide. A good life insurance producer or company will be able and willing to help you with each of these shopping steps.

If you are going to make a good choice when you buy life insurance, you need to understand what kinds are available. If one kind does not seem to fit your needs, ask about the other kinds that are described in this guide. If you feel that you need more information than is given here, you may want to check with a life insurance producer or company or books on life insurance in your public library.

This guide does not endorse any company or policy.

The remaining text of the buyer's guide shall begin on page 3 as follows:

Choosing the Amount

One way to decide how much life insurance you need is to figure how much cash and income your dependents would need if you were to die. You should think of life insurance as a source of cash needed for expenses of final illnesses, paying taxes, mortgages or other debts. It can also provide income for your family's living expenses, educational costs and other future expenses. Your new policy should come as close as you can afford to making up the difference between (1) what your dependents would have if you were to die now, and (2) what they would actually need.

Choosing the Right Kind

All life insurance policies agree to pay an amount of money if you die. But all policies are not the same. There are three basic kinds of life insurance.

1. Term insurance
2. Whole life insurance
3. Endowment insurance

Remember, no matter how fancy the policy title or sales presentation might appear, all life insurance policies contain one or more of the three basic kinds. If you are confused about a policy that sounds complicated, ask the producer or company if it combines more than one kind of life insurance. The following is a brief description of the three basic kinds:

Term Insurance

Term insurance is death protection of a "term" of one or more years. Death benefits will be paid only if you die within that term of years. Term insurance generally provides the largest immediate death protection for your premium dollar.

Some term insurance policies are "renewable" for one or more additional terms even if your health has changed. Each time you renew the policy for a new term, premiums will be higher. You should check the premiums at older ages and the length of time the policy can be continued.

Some term insurance policies are also "convertible." This means that before the end of the conversion period, you may trade the term policy for a whole life or endowment insurance policy even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.

Whole Life Insurance

Whole life insurance gives death protection for as long as you live. The most common type is called "straight life" or "ordinary life" insurance, for which you pay the same premiums for as long as you live. These premiums can be several times higher than you would pay initially for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term insurance policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher than for ordinary life insurance since the premium payments are squeezed into a shorter period.

Although you pay higher premiums, to begin with, for whole life insurance than for term insurance, whole life insurance policies develop "cash values" which you may have if you stop paying premiums. You can generally either take the cash, or use it to buy some continuing insurance protection. Technically speaking, these values are called "nonforfeiture benefits." This refers to benefits you do not lose (or "forfeit") when you stop paying premiums. The amount of these benefits depends on the kind of policy you have, its size, and how long you have owned it.

A policy with cash values may also be used as collateral for a loan. If you borrow from the life insurance company, the rate of interest is shown in your policy. Any money that you owe on a policy loan would be deducted from the benefits if you were to die, or from the cash value if you were to stop paying premiums.

Endowment Insurance

An endowment insurance policy pays a sum or income to you – the policyholder – if you live to a certain age. If you were to die before then, the death benefit would be paid to your beneficiary. Premiums and cash values for endowment insurance are higher than the same amount of whole life insurance. Thus endowment insurance gives you the least amount of death protection for your premium dollar.

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Finding a Low Cost Policy

After you have decided which kind of life insurance fits your needs, look for a good buy. Your chances of finding a good buy are better if you use two types of index numbers that have been developed to aid in shopping for life insurance. One is called the "Surrender Cost Index" and the other is the "Net Payment Cost Index." It will be worth your time to try to understand how these indexes are used, but in any event, use them only for comparing the relative costs of similar policies. **LOOK FOR POLICIES WITH LOW COST INDEX NUMBERS.**

What is Cost?

"Cost" is the difference between what you pay and what you get back. If you pay a premium for life insurance and get nothing back, your cost for the death protection is the premium. If you pay a premium and get something back later on, such as a cash value, your cost is smaller than the premium.

The cost of some policies can also be reduced by dividends; these are called "participating" policies. Companies may tell you what their current dividends are, but the size of future dividends is unknown today and cannot be guaranteed. Dividends actually paid are set each year by the company.

Some policies do not pay dividends. These are called "guaranteed cost" or "non participating" policies. Every feature of a guaranteed cost policy is fixed so that you know in advance what your future cost will be.

The premiums and cash values of a participating policy are guaranteed, but the dividends are not. Premiums for participating policies are typically higher than for guaranteed cost policies, but the cost to you may be higher or lower, depending on the dividends actually paid.

What Are Cost Indexes?

In order to compare the cost of policies, you need to look at:

1. Premiums
2. Cash values
3. Dividends

Cost indexes use one or more of these factors to give you a convenient way to compare relative costs of similar policies. When you compare costs, an adjustment must be made to take into account that money is paid and received at different times. It is not enough to just add up the premiums you will pay and subtract the cash values and dividends you expect to get back. These indexes take care of the arithmetic for you. Instead of having to add, subtract, multiply and divide many numbers yourself, you just compare the index numbers which you can get from life insurance producers and companies:

1. **Life Insurance Surrender Cost Index.** This index is useful if you consider the level of the cash values to be of primary importance to you. It helps you compare costs if at some future point in time, such as 10 or 20 years, you were to surrender the policy and take its cash value.

Life Insurance Net Payment Cost Index. This Index is useful if your main concern is the benefits that are to be paid at your death and if the level of cash values is of secondary importance to you. It helps you compare costs at some future point in time, such as 10 or 20 years, if you continue paying premiums on your policy and do not take its cash value.

There is another number called the Equivalent Level Annual Dividend. It shows the part dividends play in determining the cost index of a participating policy. Adding a policy's Equivalent Level Annual Dividend to its cost index allows you to compare total costs of similar policies before deducting dividends. However, if you make any cost comparisons of a participating policy with a non participating policy, remember that the total cost of the participating policy will be reduced

by dividends, but the cost of the non participating policy will not change.

How Do I Use Cost Indexes?

The most important thing to remember when using cost indexes is that a policy with a small index number is generally a better buy than a comparable policy with a larger index number. The following rules are also important:

- (1) Cost comparisons should only be made between similar plans of life insurance. Similar plans are those which provide essentially the same basic benefits and require premium payments for approximately the same period of time. The closer policies are to being identical, the more reliable the cost comparison will be.
- (2) Compare index numbers only for the kind of policy, for your age and for the amount you intend to buy. Since no one company offers the lowest cost for all types of insurance at all ages and for all amounts of insurance, it is important that you get the indexes for the actual policy, age and amount which you intend to buy. Just because a "Shopper's Guide" tells you that one company's policy is a good buy for a particular age and amount, you should not assume that all of that company's policies are equally good buys.
- (3) Small differences in index numbers could be offset by other policy features, or differences in the quality of service you may expect from the company or its producer. Therefore, when you find small differences in cost indexes, your choice should be based on something other than cost.
- (4) In any event, you will need other information on which to base your purchase decision. Be sure you can afford the premiums, and that you understand its cash values, dividends and death benefits. You should also make a judgment on how well the life insurance company or producer will provide service in the future, to you as a policyholder.
- (5) These life insurance cost indexes apply to new policies and should not be used to determine whether you should drop a policy you have already owned for awhile, in favor of a new one. If such a replacement is suggested, you should ask for information from the company that issued the old policy before you take action.

Important Things To Remember – A Summary

The first decision you must make when buying a life insurance policy is choosing a policy whose benefits and premiums must closely meet your needs and ability to pay. Next, find a policy which is also a relatively good buy. If you compare Surrender Cost Indexes and Net Payment Cost Indexes of similar competing policies, your chances of finding a relatively good buy will be better than if you do not shop. **REMEMBER, LOOK FOR POLICIES WITH LOWER COST INDEX NUMBERS.** A good life insurance producer can help you to choose the amount of life insurance and kind of policy you want and will give you cost indexes so that you make cost comparisons of similar policies.

Don't buy life insurance unless you intend to stick with it. A policy which is a good buy when held for 20 years can be very costly if you quit during the early years of the policy. If you surrender such a policy during the first few years, you may get little or nothing back and much of your premium may have been used for company expenses.

Read your new policy carefully, and ask the producer or company for an explanation of anything you do not understand. Whatever you decide now, it is important to review your life insurance program every few years to keep up with changes in your income and responsibilities.

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Historical Note

Adopted effective June 13, 1977 (Supp. 77-3). R20-6-209 recodified from R4-14-209 (Supp. 95-1). Former R20-6-209 renumbered to R20-6-207; new R20-6-209 renumbered from R20-6-211 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-210. Readable and Understandable Policy: Private Passenger Automobile, Homeowner, Personal Line Dwelling, and Mobile Homeowner

- A.** Definitions. The following definitions apply in this Section:
1. "Readable insurance policy" means a policy that can be read and reasonably understood by a person without special knowledge or training.
 2. "Policy" means a contract or agreement for insurance, or an insurance certificate regardless of the name used, and includes all clauses, endorsements, and papers attached or incorporated.
- B.** Scope. This Section applies to private passenger motor vehicle policies, homeowner policies, personal line dwelling policies, for four family units or less, and mobile homeowner policies delivered or issued for delivery in Arizona.
- C.** Compliance.
1. An insurer shall test the readability of its policy by use of the Flesch Readability Formula as set forth in Rudolf Flesch, *The Art of Readable Writing* (1949, as revised 1974).
 2. An insurer shall not use a policy unless the policy has a total readability score of 40 or more on the Flesch scale.
 3. An insurer shall include with each policy form filing required to be filed with the Director a checklist for the line of insurance setting forth the Flesch score.
- D.** Readability guidelines.
1. General organization of text.
 - a. A policy shall be divided into logically arranged sections for ease of locating content.
 - b. Each section shall be self-contained as to provisions relating solely to that section (for example, an exclusion section shall not be mixed with other parts of a policy).
 - c. General policy provisions applying to all or several like coverages shall be located in a common area.
 - d. The policy shall not contain non-essential provisions.
 - e. Defined words and terms shall be placed in a separate section at the beginning of the policy.
 2. Visual aids to readability. The insurer shall ensure that each policy meets the following format requirements:
 - a. Type size shall be at least eight point.
 - b. The font shall be block print rather than script, and legible.
 - c. Captions and headings shall be distinguishable from the general text.
 - d. White space separating coverages, policy sections, and columns shall be sufficient to make a distinct separation.
 - e. Defined words and terms shall be distinguishable from the general text.
 3. Language usage. The insurer shall ensure that each policy:
 - a. Is written in everyday, conversational language;
 - b. Uses short, simple sentences and words in common usage;
 - c. Uses an easy-to-read style, personal pronouns, and present tense active verbs.

Historical Note

Adopted effective May 28, 1979 (Supp. 79-1). R20-6-210 recodified from R4-14-210 (Supp. 95-1). Former R20-6-210 renumbered to R20-6-208; new R20-6-210 renumbered from R20-6-212 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-211. Discrimination on the Basis of Blindness or Partial Blindness

- A.** Definitions. The following definitions apply in this Section:
1. "Policy" means a contract or agreement for or effecting insurance, or a certificate of insurance, regardless of the name used, and includes all clauses, riders, endorsements, and attached papers.
 2. "Person" has the same meaning prescribed in A.R.S. § 20-105.
- B.** Scope. This Section applies to all policies delivered or issued for delivery in this state.
- C.** Prohibition. An insurer shall not engage in the following prohibited acts or practices that constitute unfair discrimination between individuals of the same class:
1. Refusal to insure or refusal to continue to insure, or limiting the amount, extent, or kind of coverage available to an individual solely because of blindness or partial blindness; or
 2. Charging an individual a different rate for the same coverage solely because of blindness or partial blindness.
- D.** In this subsection, "refusal to insure" includes denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed if the insured loses eyesight. An insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness if the insured was blind or partially blind when the policy was issued.
- E.** For all other conditions, including the underlying cause of the blindness or partial blindness, a person who is blind or partially blind is subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as a sighted person.

Historical Note

Adopted effective August 1, 1977 (Supp. 77-4). Amended effective March 27, 1976 (Supp. 78-2). Correction, Historical Note for Supp. 77-4 should read adopted effective January 1, 1979 filed August 1, 1977. Historical Note for Supp. 78-2 should read Appendix amended effective January 1, 1979 filed March 27, 1978 (Supp. 79-5). Editorial correction, (D)(7)(a), title now shown in italics (Supp. 81-1). R20-6-211 recodified from R4-14-211 (Supp. 95-1). Former R20-6-211 renumbered to R20-6-209; new R20-6-211 renumbered from R20-6-213 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-212. Forms for Replacement of Life Insurance Policies and Annuities

An insurer shall use the following forms of the National Association of Insurance Commissioners Model Regulations (and no future editions or amendments), which are incorporated by reference and available at the Department of Insurance and Financial Institutions, Division of Insurance, 100 N. 15th Ave., Suite 261, Phoenix, AZ 85007-2630 and the National Association of Insurance Commissioners, Publications Department, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197:

1. For the purposes of meeting the requirements of A.R.S. § 20-1241.03(C): Life Insurance and Annuities Replacement Model Regulation (MDL 613), Appendix A –

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Important Notice: Replacement of Life Insurance or Annuities, 2015, and no future editions.

2. For the purposes of meeting the requirements of A.R.S. § 20-1241.07(A): Life Insurance and Annuities Replacement Model Regulation (MDL 613), Appendix B – Notice Regarding Replacing Your Life Insurance Policy or Annuity?, 2015, and no future editions.
3. For the purpose of meeting the requirements of A.R.S. § 20-1241.07(B)(2): Life Insurance and Annuities Replacement Model Regulation (MDL 613), Appendix C – Important Notice: Replacement of Life Insurance or Annuities, 2015, and no future editions.

Historical Note

Adopted effective March 27, 1978 (Supp. 78-2). Editorial correction see subsection (A) citation to A.R.S. (Supp. 78-4). Editorial correction see subsections (B) and (F) citation to A.R.S. (Supp. 78-6). R20-6-212 recodified from R4-14-212 (Supp. 95-1). Former R20-6-212 renumbered to R20-6-210; new R20-6-212 renumbered from R20-6-215 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

R20-6-212.01. Buyer's Guide for Annuities

An insurer shall use the following publication of the National Association of Insurance Commissioners (and no future editions), which are incorporated by reference and available at the Department of Insurance and Financial Institutions, Division of Insurance, 100 N. 15th Ave., Suite 261, Phoenix, AZ 85007-2630 and the National Association of Insurance Commissioners, Publications Department, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197:

For the purpose of meeting the requirements of A.R.S. § 20-1242.02 regarding a Buyer's Guide: Buyer's Guide for Deferred Annuities, - Fixed, 2013, and no future editions.

Historical Note

Section R20-6-212.01 renumbered from R20-6-215.01 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

R20-6-212.02. Standards for Annuity Illustrations

- A. Definitions. The definitions in A.R.S. § 20-1242 and this subsection apply to this Section.

"Illustration" means a personalized presentation or depiction prepared for and provided to an individual consumer that includes non-guaranteed elements of an annuity contract over a period of years.

"Indexing Method" means point-to-point, dialing averaging or monthly averaging.

"Index Term" means the period over which indexed-based interest is calculated.

"Market Value Adjustment" or "MVA" means a feature that is a positive or negative adjustment that may be applied to the account value and/or cash value of the annuity upon withdrawal, surrender, contract annuitization or death benefit payment based on either the movement of an external index or on the company's current guaranteed interest rate being offered on new premiums or new rates for renewal periods, if that withdrawal, surrender, contract annuitization or death benefit payment occurs at a time other than on a specified guaranteed benefit date.

"Registered product" means an annuity contract or life insurance policy subject to the prospectus delivery requirements of the Securities Act of 1933.

- B. An insurer or producer may elect to provide a consumer an illustration at any time, provided that the illustration is in compliance with this Section and:
1. Is clearly labeled as an illustration;
 2. Includes a statement referring customers to the disclosure document and buyer's guide provided to them at time of purchase for additional information about their annuity; and
 3. Is prepared by the insurer or third party using software that is authorized by the insurer prior to its use, provided that the insurer maintains a system of control over the use of the illustration.
- C. An illustration furnished to an applicant for a group annuity contract or contracts issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.
- D. The illustration shall not be provided unless accompanied by the disclosure document referenced in A.R.S. § 20-1242.02.
- E. When using an illustration, the illustration shall not:
1. Describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
 2. State or imply that the payment or amount of non-guaranteed elements is guaranteed; or
 3. Be incomplete.
- F. Costs and fees of any type shall be individually noted and explained.
- G. An illustration shall conform to the following requirements:
1. The illustration shall be labeled with the date on which it was prepared;
 2. Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the disclosure document (e.g., the fourth page of a seven-page disclosure document shall be labeled "page 4 of 7 pages");
 3. The assumed dates of premium receipt and benefit payout within a contract year shall be clearly identified;
 4. If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue-age plus the number of years the contract is assumed to have been in force;
 5. The assumed premium on which the illustrated benefits and values are based shall be clearly identified, including rider premium for any benefits being illustrated;
 6. Any charges for riders or other contract features assessed against the account value or the crediting rate shall be recognized in the illustrated values and shall be accompanied by a statement indicating the nature of the rider benefits or the contract features, and whether or not they are included in the illustration;
 7. Guaranteed death benefits and values available upon surrender, if any, for the illustrated contract premium shall be shown and clearly labeled guaranteed;
 8. Except as provided in subsection (G)(22) of this Section, the non-guaranteed elements underlying the non-guaranteed illustrated values shall be no more favorable than current non-guaranteed elements and shall not include any assumed future improvement of such elements. Additionally, non-guaranteed elements used in calculating non-guaranteed illustrated values at any future duration shall reflect any planned changes, including any planned changes that may occur after expiration of an initial guaranteed or bonus period;

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9. In determining the non-guaranteed illustrated values for a fixed indexed annuity, the index-based interest rate and account value shall be calculated for three different scenarios: one to reflect historical performance of the index for the most recent 10 calendar years; one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the least index value growth (the "low scenario"); one to reflect the historical performance of the index for the continuous period of 10 calendar years out of the last 20 calendar years that would result in the most index value growth (the "high scenario"). The following requirements apply:
 - a. The most recent 10 calendar years and the last 20 calendar years are defined to end on the prior December 31, except for illustrations prepared during the first three months of the year, for which the end date of the calendar year period may be the December 31 prior to the last full calendar year;
 - b. If any index utilized in determination of an account value has not been in existence for at least 10 calendar years, indexed returns for that index shall not be illustrated. If the fixed indexed annuity provides an option to allocate account value to more than one indexed or fixed declared rate account, and one or more of these indexes has not been in existence for at least 10 calendar years, the allocation to such indexed account or accounts shall be assumed to be zero;
 - c. If any index utilized in determination of an account value has been in existence for at least 10 calendar years but less than 20 calendar years, the 10 calendar year periods that define the low and high scenarios shall be chosen from the exact number of years the index has been in existence;
 - d. The non-guaranteed element or elements, such as caps, spreads, participation rates, or other interest crediting adjustments, used in calculating the non-guaranteed index-based interest rate shall be no more favorable than the corresponding current element or elements;
 - e. If a fixed indexed annuity provides an option to allocate the account value to more than one indexed or fixed declared rate account:
 - i. The allocation used in the illustration shall be the same for all three scenarios; and
 - ii. The 10 calendar year periods resulting in the least and greatest index growth periods shall be determined independently for each indexed account option.
 - f. The geometric mean annual effective rate of the account value growth over the 10 calendar year period shall be shown for each scenario;
 - g. If the most recent 10 calendar year historical period experience of the index is shorter than the number of years needed to fulfill the requirement of subsection (I) of this Section, the most recent 10 calendar year historical experience of the index shall be used for each subsequent 10 calendar year period beyond the initial period for the purpose of calculating the account value for the remaining years of the illustration;
 - h. The low and high scenarios:
 - i. Need not show surrender values (if different than account values);
 - ii. Shall not extend beyond 10 calendar years (and therefore are not subject to the requirements of subsection (I) of this Section beyond subsection (I)(1)(a) of this Section); and
 - iii. May be shown on a separate page;
 - i. For the low and high scenarios, a graphical presentation shall also be included comparing the movement of the account value over the 10 calendar year period for the low scenario, the high scenario and the most recent 10 calendar year scenario; and
 - j. The low and high scenarios should reflect the irregular nature of the index performance and should trigger every type of adjustment to the index-based interest rate under the contract. The effect of the adjustments should be clear; for example, additional columns showing how the adjustment applied may be included. If an adjustment to the index-based interest rate is not triggered in the illustration (because no historical values of the index in the required illustration range would have triggered it), the illustration shall so state;
10. The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the non-guaranteed elements (e.g., "see page 1 for guaranteed elements");
11. The account or accumulation value of a contract, if shown, shall be identified by the name this value is given in the contract being illustrated and shown in close proximity to the corresponding value available upon surrender;
12. The value available upon surrender shall be identified by the name this value is given in the contract being illustrated and shall be the amount available to the contract owner in a lump sum after deduction of surrender charges, bonus forfeitures, contract loans, contract loan interest, and application of any market value adjustment, as applicable;
13. Illustrations may show contract benefits and values in graphic or chart form in addition to the tabular form;
14. Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:
 - a. The benefits and values are not guaranteed;
 - b. The assumptions on which they are based are subject to change by the insurer; and
 - c. Actual results may be higher or lower;
15. Illustrations based on non-guaranteed credited interest and non-guaranteed annuity income rates shall contain equally prominent comparisons to guaranteed credited interest and guaranteed annuity income rates, including any guaranteed and non-guaranteed participation rates, caps, or spreads for fixed indexed annuities;
16. The annuity income rate illustrated shall not be greater than the current annuity income rate unless the contract guarantees are in fact more favorable;
17. Illustrations shall be concise and easy to read;
18. Key terms shall be defined and then used consistently throughout the illustration;
19. Illustrations shall not depict values beyond the maximum annuitization age or date;
20. Annuitization benefits shall be based on contract values that reflect surrender charges or any other adjustments, if applicable; and
21. Illustrations shall show both annuity income rates per \$1,000.00 and the dollar amounts of the periodic income payable.

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

- 22. For participating immediate and deferred income annuities:
 - a. Illustrations may not assume any future improvement in the applicable dividend scale (or scales, if more than one dividend scale applies, such as for a flexible premium annuity);
 - b. Illustrations must reflect the equitable apportionment of dividends, whether performance meets, exceeds, or falls short of expectations;
 - c. If the dividend scale is based on a portfolio rate method, the portfolio rate underlying the illustrated dividend scale shall not be assumed to increase;
 - d. If the dividend scale is based on an investment cohort method, the illustrated dividend scale should assume that reinvestment rates grade to long-term interest rates, subject to the following conditions:
 - i. Any assumptions as to future investment performance in the dividend formula must be consistent with assumptions that are reflected in the marketplace within the normal range of analyst forecasts and investor behavior; these assumptions may not be changed arbitrarily, notwithstanding changes in markets or economic conditions, and must be consistent with assumptions that the issuer uses with respect to other lines of business; and
 - ii. The illustrated dividend scale should assume that reinvestment rates grade to long-term interest rates, based on U.S. Treasury bonds. For the purposes of this grading, the assumed long-term rates should not exceed the rates calculated using the formula in subsection (G)(22)(d)(iii), based on the time to maturity or reinvestment (the "Tenor") of the investments supporting the cohort of policies.
 - iii. Maximum long-term interest rates should be calculated for tenors of three months (or less), five years, 10 years, and 20 years (or more), using U.S. Treasury rates. For each tenor, the maximum long-term interest rate will vary over time, based on historical interest rates as they emerge. The formula for the maximum long-term interest rate is the average of the median bond rate over the last 600 months and the average bond rate over the last 120 months, rounded to the nearest quarter of one percent (0.25%).
 - iv. The maximum long-term interest rate for a tenor should be recalculated once per year, in January, using historical rates as of December 31 of the calendar year two years prior to the calendar year of the calculation date. The historical rate for each month is the rate reported for the last business day of the month.
 - v. Grading to the maximum long-term interest rates should take place over no less than 20 years from issue if U.S. Treasury rates as of the illustration date are below the long-term rates, or, no more than 20 years from issue if U.S. Treasury rates as of the illustration date are above the long-term rates.
 - vi. When the 10-year U.S. Treasury rate is less than the 10-year maximum long-term interest rate, an additional illustrated dividend scale should be presented. This additional illustrated dividend scale shall assume that reinvestment

- U.S. Treasury rates do not exceed the initial investment U.S. Treasury rates and illustrate dividends no less than half of the dividends illustrated under the current dividend scales. If the assumption that reinvestment U.S. Treasury rates do not exceed the initial investment U.S. Treasury rates conflicts with the illustration, i.e. half of the current dividends are greater than would be permitted by the assumption, then the reinvestment U.S. Treasury rates should equal the initial investment U.S. Treasury rates.
- vii. The illustration should include a disclosure that is substantially similar to the following:
The illustrated current dividend scale is based on interest rates that are assumed to gradually [increase/decrease] from current rates to long-term interest rates, over a period of [20] years. By regulation, the long-term assumed interest rates cannot not and do not exceed the rates listed in column (c) of the table below.
- viii. If the illustration contains an additional dividend scale pursuant to subsection (G)(22)(d)(vi), then the illustration should also include a disclosure that is substantially similar to the following:
The additional illustrated dividend scale is based on interest rates that are assumed not to increase and do not exceed the interest rates in column (b) of the table below.

Column A	Column B	Column C
Tenor	Current Interest Rate	Long Term
	Treasury Rate as of 12/31/2016	Mean Reversed Treasury Rate
3 Month (or less)	0.51%	3.00%
5 Year	1.93%	4.50%
10 Year	2.45%	5.00%
20 Years (or more)	3.06%	5.50%

- H. An annuity illustration shall include a narrative summary that includes all the following unless provided at the same time in a disclosure statement:
 - 1. A brief description of any contract features, riders or options, guaranteed and/or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the contract;
 - 2. A brief description of any other optional benefits or features that are selected, but not shown in the illustration and the impact they have on the benefits and values of the contract;
 - 3. Identification and a brief definition of column headings and key terms used in the illustration;
 - 4. A statement containing in substance the following:
 - a. For other than fixed indexed annuities:
This illustration assumes the annuity's current non-guaranteed elements will not change. It is likely that they will change and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.
The values in this illustration are not guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure

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- Document and Buyer's Guide provided with your Annuity Contract for more detailed information;
- b. For fixed indexed annuities:

This illustration assumes the index will repeat historical performance and that the annuity's current non-guaranteed elements, such as caps, spreads, participation rates or other interest crediting adjustments, will not change. It is likely that the index will not repeat historical performance, the non-guaranteed elements will change, and actual values will be higher or lower than those in this illustration but will not be less than the minimum guarantees.

The values in this illustration are not guarantees or even estimates of the amounts you can expect from your annuity. Please review the entire Disclosure Document and Buyer's Guide provided with your Annuity Contract for more detailed information;
 5. Additional explanations as follows:
 - a. Minimum guarantees shall be clearly explained;
 - b. The effect on contract values of contract surrender prior to maturity shall be explained;
 - c. Any conditions on the payment of bonuses shall be explained;
 - d. For annuities sold as an IRA, qualified plan or in another arrangement subject to the required minimum distribution (RMD) requirements of the Internal Revenue Code, the effect of RMDs on the contract values shall be explained;
 - e. For annuities with recurring surrender charge schedules, a clear and concise explanation of what circumstances will cause the surrender charge to recur; and
 - f. A brief description of the types of annuity income options available shall be explained, including:
 - i. The earliest or only maturity date for annuitization (as the term is defined in the contract);
 - ii. For contracts with an optional maturity date, the periodic income amount for at least one of the annuity income options available based on the guaranteed rates in the contract, at the later of age 70 or 10 years after issue, but in no case later than the maximum annuitization age or date in the contract;
 - iii. For contracts with a fixed maturity date, the periodic income amount for at least one of the annuity income options available, based on the guaranteed rates in the contract at the fixed maturity date; and
 - iv. The periodic income amount based on the currently available periodic income rates for the annuity income option in subsection (H)(5)(f)(ii) or in subsection (H)(5)(f)(iii), if desired.
 - I. Following the narrative summary, an illustration shall include a numeric summary which shall include at minimum, numeric values at the following durations:
 1. The first 10 contract years or the surrender charge period if longer than 10 years, including any renewal surrender charge period or periods;
 2. Every tenth contact year up to the later of 30 years or age 70; and
 3. Required annuitization age or required annuitization date.
 - J. If the annuity contains a market value adjustment ("MVA"), the following provisions apply to the illustration:
 1. The MVA shall be referred to as such throughout the illustration;
 2. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the value available upon surrender;
 3. The narrative shall include an explanation, in simple terms, of the potential effect of the MVA on the death benefit;
 4. A statement, containing in substance the following, shall be included:

When you make a withdrawal, the amount you receive may be increased or decreased by a Market Value Adjustment (MVA). If the interest rates on which the MVA is based go up after you buy your annuity, the MVA likely will decrease the amount you receive. If interest rates go down, the MVA will likely increase the amount you receive.
 5. Illustrations shall describe both the upside and the downside aspects of the contract features relating to the MVA;
 6. The illustrative effect of the MVA shall be shown under at least one positive and one negative scenario. This demonstration shall appear on a separate page and be clearly labeled that it is information demonstrating the potential impact of a MVA;
 7. Actual MVA floors and ceilings as listed in the contract shall be illustrated; and
 8. If the MVA has significant characteristics not addressed by subsections (J)(1) through (J)(6), the effect of such characteristics shall be shown in the illustration.
 - K. A narrative summary for a fixed indexed annuity illustration also shall include the following unless provided at the same time as the disclosure statement:
 1. An explanation, in simple terms, of the elements used to determine the index-based interest, including but not limited to, the following elements:
 - a. The index(es) which will be used to determine the index-based interest;
 - b. The Indexing Method;
 - c. The Index Term;
 - d. The participation rate, if applicable;
 - e. The cap, if applicable; and
 - f. The spread, if applicable;
 2. The narrative shall include an explanation, in simple terms, of how index-based interest is credited in the indexed annuity;
 3. The narrative shall include a brief description of the frequency with which the company can re-set the elements used to determine the index-based credits, including the participation rate, the cap, and the spread, if applicable; and
 4. If the product allows the contract holder to make allocations to a declared-rate segment, then the narrative shall include a brief description of:
 - a. Any options to make allocations to a declared-rate segment, both for new premiums and for transfers from the index-based segments; and
 - b. Differences in guarantees applicable to the declared-rate segment and the index-based segments.
 - L. A numeric summary for a fixed indexed annuity illustration shall include, at a minimum, the following elements:
 1. The assumed growth rate of the index in accordance with subsection (G)(9);
 2. The assumed values for the participation rate, cap and spread, if applicable; and
 3. The assumed allocation between index-based segments and the declared-rate segment, if applicable, in accordance with subsection (G)(9).

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- M.** If the contract is issued other than as applied for, a revised illustration conforming to the contract as issued shall be sent with the contract, except that non-substantive changes, including but not limited to, changes in the amount of expected initial or additional premiums and any changes in amounts of exchanges pursuant to Section 1053 of the Internal Revenue Code, rollovers and transfers, which do not alter the key benefits and features of the annuity as applied for will not require a revised illustration unless requested by the applicant.
- N.** Annuity Illustration Examples. Illustrations A through C are examples only and do not reflect specific characteristics of any actual product for sale by any company.

Historical Note

New Section made by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

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Illustration A. Annuity Illustration Example

ABC Life Insurance Company
Company Product Name
 Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)
 An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy
 (Contact us at Policyownerservice@ABCLife.com or 555-555-5555)

Sex: Male	Initial Premium Payment: \$100,000.00
Age at Issue: 54	Planned Annual Premium Payments: None
Annuitant: John Doe	Tax Status: Nonqualified
Oldest Age at Which Annuity Payments Can Begin: 95	Withdrawals: None Illustrated

Initial Interest Guarantee Period	5 Years
Initial Guaranteed Interest Crediting Rates	
<i>First Year (reflects first year only interest bonus credit of 0.75%):</i>	4.15%
<i>Remainder of Initial Interest Guarantee Period:</i>	3.40%
Market Value Adjustment Period:	5 Years
Minimum Guaranteed Interest Rate after Initial Interest Guarantee Period*:	3%

* After the Initial Interest Guarantee Period, a new interest rate will be declared annually. This rate cannot be lower than the Minimum Guaranteed Interest Rate.

Annuity Income Options and Illustrated Monthly Income Values

This annuity is designed to pay an income that is guaranteed to last as long as the Annuitant lives. When annuity income payments are to begin, the income payment amounts will be determined by applying an annuity income rate to the annuity Account Value.

Annuity income options include the following:

- Periodic payments for Annuitant’s life
- Periodic payments for Annuitant’s life with payments guaranteed for a certain number of years
- Periodic payments for Annuitant’s life with payments continuing for the life of a survivor annuitant

Illustrated Annuity Income Option: Monthly payments for annuitant’s life with payments guaranteed for 10-year period.

Assumed Age When Payments Start: 70

	Account Value	Monthly Annuity Income Rate/\$1,000 of Account Value*	Monthly Annuity Income
Based on Rates Guaranteed in the Contract	\$164,798	\$5.00	\$823.99
Based on Rates Currently Offered by the Company	\$171,976	\$6.50	\$1,117.84

*If, at the time of annuitization, the annuity income rates currently offered by the company are higher than the annuity income rates guaranteed in the contract, the current rates will apply.

Historical Note

New Appendix A made by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

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Illustration B. Annuity Illustration Example

ABC Life Insurance Company
Company Product Name
 Flexible Premium Fixed Deferred Annuity with a Market Value Adjustment (MVA)
 An Illustration Prepared for John Doe by John Agent on mm/dd/yyyy
 Contact us at Policyownerservice@ABCLife.com or 555-555-5555

Contract Year/Age	Premium Payment	Values Based on Guaranteed Rates				Value Based on Assumption that Initial Guaranteed Rates Continue		
		Interest Crediting Rate	Account Value	Cash Surrender Value Before MVA	Minimum Cash Surrender Value After MVA	Interest Crediting Rate	Account Value	Cash Surrender Value Before and After MVA
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1 / 55	\$100,000	4.15%	\$104,150	\$95,818	\$92,000	4.15%	\$104,150	\$95,818
2 / 56	0	3.40%	107,691	100,153	93,000	3.40%	107,691	100,153
3 / 57	0	3.40%	111,353	104,671	95,614	3.40%	111,353	104,671
4 / 58	0	3.40%	115,139	109,382	98,482	3.40%	115,139	109,382
5 / 59	0	3.40%	119,053	114,291	114,291	3.40%	119,053	114,291
6 / 60	0	3.00%	122,625	118,946	118,946	3.40%	123,101	119,408
7 / 61	0	3.00%	126,304	123,778	123,778	3.40%	127,287	124,741
8 / 62	0	3.00%	130,093	130,093	130,093	3.40%	131,614	131,614
9 / 63	0	3.00%	133,996	133,996	133,996	3.40%	136,089	136,089
10 / 64	0	3.00%	138,015	138,015	138,015	3.40%	140,716	140,716
11 / 65	0	3.00%	142,156	142,156	142,156	3.40%	145,501	145,501
16 / 70	0	3.00%	164,798	164,798	164,798	3.40%	171,976	171,976
21 / 75	0	3.00%	191,046	191,046	191,046	3.40%	203,268	203,268
26 / 80	0	3.00%	221,474	221,474	221,474	3.40%	240,255	240,255
31 / 85	0	3.00%	256,749	256,749	256,749	3.40%	283,972	283,972
36 / 90	0	3.00%	297,643	297,643	297,643	3.40%	335,643	335,643
41 / 95	0	3.00%	345,050	345,050	345,050	3.40%	396,717	396,717

Column Descriptions

- (1) **Ages** shown are measured from the Annuitant’s age at issue.
- (2) **Premium Payments** are assumed to be made at the beginning of the Contract Year shown.

Values Based on Guaranteed Rates

- (3) **Interest Crediting Rates** shown are annual rates; however, interest is credited daily. During the Initial Interest Guarantee Period, values developed from the Initial Premium Payment are illustrated using the Initial Guaranteed Interest Rate(s) declared by the insurance company, which include an additional first year only interest bonus credit of 0.75%. The interest rates will be guaranteed for the Initial Interest Guarantee Period, subject to an MVA. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually, but can never be less than the Minimum Guaranteed Interest Rate shown.
- (4) **Account Value** is the amount you have at the end of each year if you leave your money in the contract until you start receiving annuity payments. It is also the amount available upon the Annuitant’s death if it occurs before annuity payments begin. The death benefit is not affected by surrender charges or the MVA.
- (5) **Cash Surrender Value Before MVA** is the amount available at the end of each year if you surrender the contract (after deduction of any Surrender Charge) but before the application of any MVA. Surrender charges are applied to the Account Value according to the schedule below until the surrender charge period ends, which may be after the Initial Interest Guarantee Period has ended.

Years Measured from Premium Payment:	1	2	3	4	5	6	7	8+
Surrender Charges:	8%	7%	6%	5%	4%	3%	2%	0%

- (6) **Minimum Cash Surrender Value After MVA** is the minimum amount available at the end of each year if you surrender your contract before the end of five years, no matter what the MVA is. The minimum is set by law. The amount you receive may be higher or lower than the cash surrender value due to the application of the MVA, but never lower than this minimum. Otherwise the MVA works as follows: If the interest rate available on new contracts offered by the company is LOWER than your Initial Guaranteed Interest Rate, the MVA will INCREASE the amount you receive. If the interest rate available on new contracts offered by the company is HIGHER than your initial guaranteed interest rate, the MVA will DECREASE the amount you receive. The charts below provide additional information concerning the MVA.

Values Based on Assumption that Initial Guaranteed Rates Continue

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- (7) **Interest Crediting Rates** are the same as in Column (3) for the Initial Interest Guarantee Period. After the Initial Interest Guarantee Period, a new renewal interest rate will be declared annually. For the purposes of calculating the values in this column, it is assumed that the Initial Guaranteed Interest Rate (without the bonus) will continue as the new renewal interest rate in all years. The actual renewal interest rates are not subject to an MVA and will very likely NOT be the same as the illustrated renewal interest rates.
- (8) **Account Value** is calculated the same way as Column (4).
- (9) **Cash Surrender Value Before and after MVA** is the Cash Surrender Value at the end of each year assuming that Initial Guaranteed Interest Rates continue, and that the continuing rates are the rates offered by the company on new contracts. In this case the MVA would be zero, and Cash Surrender Values before and after the MVA would be the same.

Important Note: This illustration assumes you will take no withdrawals from your annuity before you begin to receive periodic income payments. **Withdrawals will reduce both the annuity Account Value and the Cash Surrender Value.** You may make partial withdrawals of up to 10% of your account value each contract year without paying surrender charges. Excess withdrawals (above 10%) and full withdrawals will be subject to surrender charges.

This illustration assumes the annuity's current interest crediting rates will not change. It is likely that they will change and actual values may be higher or lower than those in the illustrations.

The values in this illustration are not guaranteed or even estimates of the amounts you can expect from your annuity. For more information, read the annuity disclosure and annuity buyer's guide.

Historical Note

New Appendix B made by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

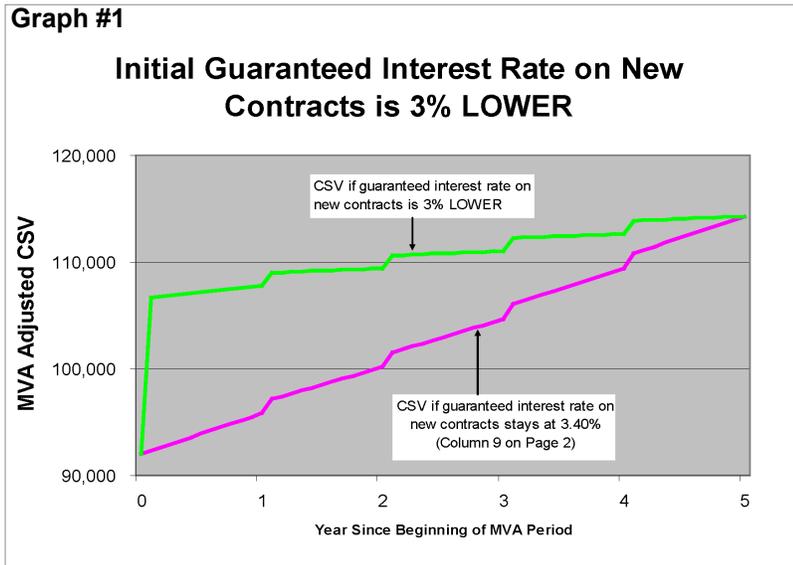
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Illustration C. MVA-adjusted Cash Surrender Values (CSVs) Under Sample Scenarios

MVA-adjusted Cash Surrender Values (CSVs) Under Sample Scenarios

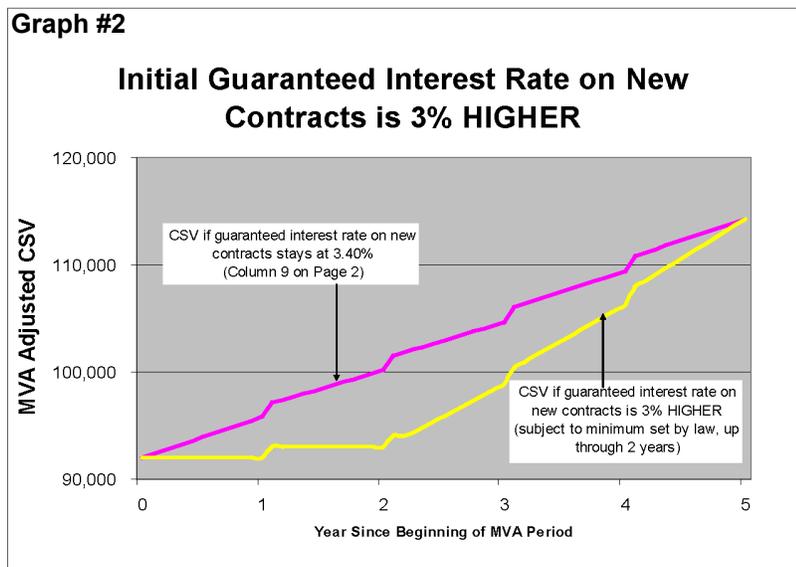
The graphs below show MVA-adjusted Cash Surrender Values (CSVs) during the first five years of the contract, as illustrated on the illustration spreadsheet above (\$100,000 single premium, a 5-year MVA Period) under two sample scenarios, as described below.

Graph #1 shows if the interest rate on new contracts is 3% LOWER than your Initial Guaranteed Interest Rate, the MVA will increase the amount you receive (upper line). The lower line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on the illustration spreadsheet above (referenced as Page 2 in the graph)).



Graph #2 shows if the interest rate on new contracts is 3% HIGHER than your Initial Guaranteed Interest Rate, the MVA will decrease the amount you receive, but not below the minimum set by law (Column (6) on the illustration spreadsheet above (referenced as Page 2 in the graph)), which in this scenario’s limits the decrease for the first 2 years (lower line). The upper line shows the Cash Surrender Values if the Initial Guaranteed Interest Rates continue (from Column (9) on the illustration spreadsheet above).

These graphs and the sample guaranteed interest rates on new contracts used are for demonstration purposes only and are not intended to be a projection of how guaranteed interest rates on new contracts are likely to behave.



Historical Note

Appendix C made by final rulemaking at 28 A.A.R. 454 (February 25, 2022), effective April 5, 2022 (Supp. 22-1).

R20-6-213. Life and Disability Insurance Policy Language Simplification A. Definitions. The following definitions apply in this Section:

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1. "Company" or "insurer" means any life or disability insurance company, benefit insurer, benefit stock insurer, prepaid dental plan organizations, health care service organizations, and all similar type organizations.
 2. "Director" means the Director of Insurance of Arizona.
 3. "Policy" or "policy form" means any policy, contract, plan or agreement of life or disability insurance, including credit life insurance and credit disability insurance, delivered or issued for delivery in the state by any company subject to this rule; and any certificate issued under a group insurance policy delivered or issued for delivery in this state.
- B. Applicability.**
1. This Section and R20-6-212 apply to all life and disability insurance policies delivered or issued for delivery in this state by any company but do not apply to:
 - a. Any policy that is a security subject to federal jurisdiction;
 - b. Any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit life insurance policy or a group credit disability insurance policy however, this shall not exempt any certificate issued under a group policy delivered or issued for delivery in this state; or
 - c. Any group annuity contract that serves as a funding vehicle for pension, profit-sharing, or deferred compensation plans;
 2. Except as provided in R20-6-210, no other rule of this state setting language simplification standards shall apply to any policy forms.
- C. Minimum policy language simplification standards.**
1. Except as stated in subsection (B), an insurer shall not deliver or issue for delivery a policy form that has not been approved by the Director unless:
 - a. The text achieves a minimum score of 40 on the Flesch reading ease test or an equivalent score on any other comparable test as provided in subsection (3);
 - b. It is printed, except for specification pages, schedules, and tables, in no less than 10 point type, one point leaded;
 - c. The style, arrangement and overall appearance of the policy do not give undue prominence to any portion of the text of the policy or to any endorsements or riders; and
 - d. The policy, if the policy has more than 3,000 words printed on three or fewer pages of text or if the policy has more than three pages regardless of the number of words, contains a table of contents or an index of the principal sections of the policy.
 2. An insurer shall measure a Flesch reading ease test score as follows:
 - a. For policy forms containing 10,000 words or less of text, an insurer shall analyze the entire form. For policy forms containing more than 10,000 words, an insurer may analyze the readability of two, 200-word samples per page instead of the entire form. The insurer shall separate the samples by at least 20 printed lines.
 - b. The insurer shall count the number of words and sentences in the text, then divide the total number of words by the total number of sentences, then multiply that figure by a factor of 1.015.
 - c. The insurer shall count and divide the total number of syllables by the total number of words, then multiply that figure by a factor of 84.6.
 3. Any other reading test may be approved by the Director for use as an alternative to the Flesch reading test if it is comparable in result to the Flesch reading ease test.
 4. Filings subject to this subsection shall be accompanied by a certificate signed by an officer of the insurer stating that the filing meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required but should be approved under subsection (G) of this Section. To confirm the accuracy of any certification, the Director may require the submission of further information to verify the certification in question.
 5. At the option of the insurer, riders, endorsements, applications and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.
- D.** The Director may authorize a lower score than the Flesch reading ease score required in subsection (C)(1)(a) if a lower score:
1. Provides a more accurate reflection of readability of a policy form;
 2. Is warranted by the nature of a particular policy form or type or class of policy forms; or
 3. Is caused by certain policy language drafted to conform to the requirements of any state statute, rule, or agency interpretation of law.

Historical Note

Adopted effective November 21, 1977 (Supp. 77-6).

Amended effective March 27, 1978 (Supp. 78-2).

Amended subsection (E), deleted subsection (F) and added new subsections (F) and (G) effective December 3, 1986 (Supp. 86-6). R20-6-213 recodified from R4-14-213 (Supp. 95-1). Former R20-6-213 renumbered to R20-6-211; new R20-6-213 renumbered from R20-6-216 and

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amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2). Corrected error in R20-6-213(D) that referenced subsection (E)(1)(a), which was relabeled as (C)(1)(a) in Supp. 07-2 (Supp. 08-1).

R20-6-214. Coordination of Benefits**A. Applicability.**

1. This Section applies to all:
 - a. Group disability insurance policies;
 - b. Group subscriber contracts of hospital and medical service corporations and health care services organizations;
 - c. Group disability policies of benefit insurers; and
 - d. Group-type contracts that contain a coordination of benefits provision, are not available to the general public, and can be obtained and maintained only because of the covered person's membership in or connection with a particular organization. Group-type contracts that meet this description are included regardless of whether denominated as "franchise," "blanket," or some other designation.
2. This Section does not apply to:
 - a. Individual or family policies or individual or family subscriber contracts except as provided for in subsection (A)(1);
 - b. Group or group-type hospital indemnity benefits, written on a non-expense incurred basis, of \$30 per day or less unless characterized as reimbursement-type benefits and designed or administered to give the insured the right to elect indemnity-type benefits, instead of the reimbursement type benefits at the time of claim; or
 - c. School accident type coverages, written on a blanket, group, or franchise basis.

B. Definitions. In this Section, the following definitions apply:

1. "Allowable expense" means any necessary, reasonable, and customary item of expense, at least a portion of which is covered under one or more of the plans covering the person for whom claim is made or service provided.
 - a. When a plan provides benefits in the form of services rather than cash payments, the reasonable cash value of each service rendered is deemed to be both an allowable expense and a benefit paid.
 - b. A plan that takes Medicare or similar government benefits into consideration when determining the application of its coordination of benefits provision does not expand the definition of an allowable expense.
2. "Claim determination period" means an appropriate period of time such as "calendar year" or "benefit period" as defined in the policy.
3. "Plan," within the coordination of benefits provisions of a group policy or subscriber contract, means the types of coverage that the insurer may consider in determining whether overinsurance exists with respect to a specific claim.
4. "School accident-type coverage" means coverage of grammar school and high school students for accidents only, including athletic injuries, either on a 24-hour basis or "to-and-from school," for which the parent pays the entire premium.

C. Order-of-benefit determination.

1. When a claim under a plan with a coordination of benefit provision involves another plan that also has a coordination of benefit provision, the insurer shall make the order-of-benefit determination as follows:

- a. The plan that covers the person claiming benefits other than as a dependent shall determine benefits before those of the plan that covers the person as a dependent.
 - b. The plan of a parent whose birthday occurs earlier in a calendar year shall cover a dependent child before the benefits of a plan of a parent whose birthday occurs later in a calendar year. The word "birthday" as used in this subsection refers only to month and day in a calendar year, not the year in which the person was born.
 - c. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in the following order:
 - i. First, the plan of the parent with custody of the child;
 - ii. Then, the plan of the spouse of the parent with custody of the child; and
 - iii. Finally, the plan of the parent not having custody of the child.
 - d. Notwithstanding subsection (c), if the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first.
2. The benefits of a plan that covers a person as an employee (or as that employee's dependent) are determined before those of a plan that covers that person as a laid off or retired employee (or as that employee's dependent). If the other plan does not have this provision and if, as a result, the plans do not agree on the order of benefits, this subsection does apply.
 3. If none of the provisions of subsection (C) determines the order of benefits, the benefits of the plan that covered a claimant longer are determined before those of the plan that covered that person for the shorter time.
 4. If one of the plans is issued out of this state and determines the order of benefits based upon the gender of a parent and, as a result, the plans do not agree on the order of benefits, the plan with the gender rule shall determine the order of benefits.
- D. Excess and other nonconforming provisions.** A plan with an order of benefit determination provision that complies with this Section, a complying plan, may coordinate its benefits with a plan that is "excess" or "always secondary" or that uses an order-of-benefit determination provision that is inconsistent with this Section, a noncomplying plan, on the following basis:
1. If the complying plan is the primary plan, it shall pay or provide its benefits on a primary basis.
 2. If the complying plan is the secondary plan, it shall pay or provide its benefits first, as the secondary plan. The payment shall be the limit of the complying plan's liability, except as provided in subsection (4).
 3. If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall assume that the benefits of the noncomplying plan are identical to its own, and shall pay benefits accordingly. The complying plan shall adjust any payments it makes based on the assumption whether information becomes available as the actual benefits of the noncomplying plan.

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4. If the noncomplying plan pays benefits so that the claimant receives less in benefits than the claimant would have received had the noncomplying plan paid or provided its benefits as the primary plan, the complying plan shall advance to or on behalf of the claimant an amount equal to the difference. The complying plan shall not have a right to reimbursement from the claimant.

Historical Note

Adopted effective October 26, 1979 (Supp. 79-5). R20-6-214 recodified from R4-14-214 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1). Section R20-6-214 renumbered from R20-6-217 and amended by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-215. Renumbered**Historical Note**

Adopted effective September 7, 1981 (Supp. 81-3). Amended subsections (D) through (H), deleted Agent's Statement and Exhibit D effective March 30, 1983 (Supp. 83-2). R20-6-215 recodified from R4-14-215 (Supp. 95-1). Amended by exempt rulemaking at 9 A.A.R. 5595, effective January 1, 2004 (Supp. 03-4). Former R20-6-215 renumbered to R20-6-212 by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-215.01. Renumbered**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 5595, effective January 1, 2004 (Supp. 03-4). Former R20-6-215.01 renumbered to R20-6-212.01 by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-216. Renumbered**Historical Note**

Adopted effective as set forth in subsection (H) (Supp. 80-6). R20-6-216 recodified from R4-14-216 (Supp. 95-1). Former R20-6-216 renumbered to R20-6-213 by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

R20-6-217. Renumbered**Historical Note**

Adopted effective September 14, 1982 (Supp. 82-3). Amended subsections (C) and (D), deleted (F) effective January 1, 1987, filed December 16, 1986 (Supp. 86-6). R20-6-217 recodified from R4-14-217 (Supp. 95-1). Former R20-6-217 renumbered to R20-6-214 by final rulemaking at 13 A.A.R. 2061, effective August 4, 2007 (Supp. 07-2).

Editor's Note: *The following Section expired under A.R.S. § 41-1056(E) on September 30, 2001 at 8 A.A.R. 491. The Notice of Rule Expiration was not received until January 9, 2002. Therefore, the repeal of the rule noted in the Historical Note is moot (Supp. 02-1).*

R20-6-218. Repealed**Historical Note**

Adopted effective November 9, 1984 (Supp. 84-6). R20-6-218 recodified from R4-14-218 (Supp. 95-1). Section repealed by final rulemaking at 7 A.A.R. 5443, effective November 16, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective Septem-

ber 30, 2001 (Supp. 02-1); refer to the Editor's Note before the Section.

ARTICLE 3. FINANCIAL PROVISIONS AND PROCEDURES**R20-6-301. Expired****Historical Note**

Former General Rule Number 3. R20-6-301 recodified from R4-14-301 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1).

R20-6-302. Expired**Historical Note**

Former General Rule 62-11. R20-6-302 recodified from R4-14-302 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1).

R20-6-303. Termination of Certificate of Authority and Release of Deposit

- A.** Domestic Insurers. To request termination of a certificate of authority and, if applicable, release of statutory deposit, a domestic insurer shall file all of the following with the director:

1. A written request for termination of certificate of authority and release of deposit;
2. The insurer's original certificate of authority or an affidavit of lost certificate of authority;
3. A statement of the insurer's financial condition as of a date within 60 days of the filing date of the request for termination that includes a written statement, signed by two officers of the insurer as authorized on the jurat page of the insurer's most recent annual statement, verifying that the statement of financial condition reflects the insurer's financial position as of the date signed.
4. A plan of extinguishment for its outstanding liabilities that satisfies the requirements of subsection (C) or a sworn affidavit stating that the insurer has no outstanding liabilities to policyholders or claimants under subsection (C);
5. A certified copy of the insurer's Board of Directors resolution or other documentation of the insurer's official action taken according to the insurer's statutorily required organizational documents approving the insurer's:
 - a. Withdrawal from the insurance business,
 - b. Dissolution of the insurer,
 - c. Merger with an insurer authorized in Arizona to transact the insurer's previously written and active lines of business of the insurer requesting termination, or
 - d. Transfer of domicile to another state or country.
6. A copy of the insurer's Articles of Dissolution, Articles of Merger, Articles of Amendment, Articles of Redomestication, or other documentation that the insurer intends to file with the Arizona Corporation Commission after issuance of the Director's order as provided in subsection (D)(2);
7. If requested by the director, a written agreement that guarantees payment of substantially all liabilities of the domestic insurer, other than obligations extinguished under subsection (C).

- B.** Foreign and Alien Insurers. To request termination of its certificate of authority and, if applicable, release of its deposit, a foreign or alien insurer shall file all of the following with the director:

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1. A written request for termination of certificate of authority and release of deposit;
 2. The insurer's original certificate of authority or an affidavit of lost certificate of authority;
 3. A statement of the insurer's financial condition as of a date within 60 days of the filing date of the request for termination that includes a written statement, signed by two officers of the insurer as authorized on the jurat page of the insurer's most recent annual statement, verifying that the statement of financial condition reflects the insurer's financial position as of the date signed.
 4. A plan of extinguishment for its Arizona liabilities that satisfies the requirements of subsection (C) or a sworn affidavit stating that the insurer has no Arizona liabilities under subsection (C);
 5. A copy of an order issued by the insurance director or other appropriate regulatory authority in the insurer's state or country of domicile that approves or authorizes either the insurer's:
 - a. Withdrawal from the insurance business,
 - b. Dissolution of the insurer,
 - c. Merger (approval of the merger from the states of domicile of the insurers), or
 - d. Transfer of domicile, if applicable.
 6. A copy of the insurer's Articles of Dissolution, Articles of Merger, Articles of Amendment, Articles of Redomestication or other required documentation that the insurer filed in its state of domicile; and
 7. If requested by the director, a written agreement that guarantees payment of substantially all Arizona liabilities of the insurer, other than obligations extinguished under subsection (C).
- C. Insurer's Plan for Extinguishment of Liabilities.**
1. To extinguish substantially all liabilities under subsection (A)(4) or subsection (B)(4) as applicable, an insurer may:
 - a. Reinsure the insurer's business in force with another insurer by entering into an agreement of bulk reinsurance that shall be effective when filed with and approved in writing by the director.
 - i. The agreement shall provide for assumption of all policyholder claims by the reinsurer including claims incurred but unreported as of the effective date of the agreement.
 - ii. The agreement may include recapture provisions exercisable by the insurer in the event the termination of its certificate of authority is not completed.
 - iii. Unless the director otherwise approves, the agreement shall provide that the reinsurer be licensed in Arizona for the particular lines of business reinsured.
 - b. Merge with another insurer that:
 - i. Assumes the liabilities of the non-surviving insurer; and
 - ii. Is authorized in Arizona for the previously written and active lines of business assumed, unless otherwise approved by the director.
 - c. Use its deposit, any additional security deposit or both to secure payment of former policyholder, policyholder, or claimant liabilities that are not reinsured or otherwise secured.
 2. For purposes of this Section, "substantially all liabilities" under Title 20 means all policyholder and claimant obligations reported by the insurer in the statement of financial condition, whether or not liquidated in amount, and shall include former policyholder claims and rights to refunds.
- D. Consideration of the Request for Termination of Certificate of Authority and Release of Deposit under subsections (A) and (B).**
1. If the director determines that the insurer has extinguished substantially all liabilities as required under this Section and has otherwise demonstrated compliance with this Section and A.R.S. Title 20, the director shall grant the request to terminate the certificate of authority and, if appropriate, release the insurer's deposit, provided:
 - a. The insurer has no fees, taxes, assessments or filings outstanding to the Department; and
 - b. The insurer is not subject of any pending investigation or examination under Title 20 by the Department.
 2. The director's order shall condition the release of a domestic insurer's deposit upon receipt by the director of evidence of the official filing with the Arizona Corporation Commission of the documentation described in subsection (A)(6).
 3. If the director determines that the insurer is unable to extinguish substantially all liabilities as required under this Section, or otherwise has not complied with this Section or with A.R.S. Title 20, the director shall notify the insured in writing that the request has been denied and the reasons for the denial.
- E. Exclusions.** This Section does not apply to:
1. An insurer's exchange and substitution of cash or eligible securities under A.R.S. § 20-586;
 2. An insurer's withdrawal of excess deposits, either cash or eligible securities, under A.R.S. §§ 20-587 and 20-588(A)(2); or
 3. Releases of deposits made under A.R.S. § 20-588(A)(3).
- Historical Note**
- Former General Rule 72-29. R20-6-303 recodified from R4-14-303 (Supp. 95-1). Section R20-6-303 repealed; new Section R20-6-303 made by final rulemaking at 14 A.A.R. 3432, effective October 4, 2008 (Supp 08-3).
- R20-6-304. Reserved**
- R20-6-305. Expired**
- Historical Note**
- Adopted effective September 13, 1978, except that it shall apply to the accounting treatment for unearned premium reserves and reinsurance premium receivables for credit life disability insurance on January 1, 1979, and all annual statements filed for periods on or after that date (Supp. 78-5). R20-6-305 recodified from R4-14-305 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 491, effective September 30, 2001 (Supp. 02-1).
- R20-6-306. Reserved**
- R20-6-307. Life and Disability Reinsurance Agreements**
- A. Scope.** This rule applies to all domestic life and disability insurers and reinsurers, and to all other licensed life and disability insurers and accredited reinsurers that are not subject to a substantially similar rule in their jurisdictions of domicile. This rule applies to the disability business of licensed property and casualty insurers. This rule does not apply to assumption reinsurance, yearly renewable term reinsurance, or nonproportional stop loss or catastrophe reinsurance, or similar forms of nonproportional reinsurance.
- B. Definitions**

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1. "Agreement" means a reinsurance agreement and any amendment to a reinsurance agreement.
 2. "Credit Quality" means the risk that invested assets supporting the reinsured business will decrease in value but excludes decreases to changes in interest rate.
 3. "Department" means the Arizona Department of Insurance.
 4. "Director" means the Director of the Arizona Department of Insurance.
 5. "Disintermediation" means the risk that interest rates will rise and policy loans and surrenders will increase or maturing contracts will not renew at anticipated rates of renewal.
 6. "Lapse" means the risk that a policy will voluntarily terminate before the recoupment of a statutory surplus strain experienced at issuance of the policy.
 7. "Reinvestment" means the risk that interest rates will fall and funds reinvested will therefore earn less than expected.
- C. Accounting Requirements**
1. Unless authorized by the director, an insurer shall not, for reinsurance ceded, reduce any liability, or establish any asset in any statutory financial statement filed with the Department if, by the terms of the agreement, or in effect, any of the following conditions exist:
 - a. Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period are not sufficient to cover the ceding insurer's allocable renewal expenses anticipated at the time the business is reinsured on the portion of the business reinsured, unless a liability is established for the present value of the shortfall using assumptions equal to the applicable statutory reserve basis on the business reinsured.
 - b. The ceding insurer is required to reimburse the reinsurer for negative experience under the agreement. Neither the offset of the ceding insurer's experience refunds against current and prior years' losses, nor payment by the ceding insurer of an amount equal to the reinsurer's current and prior years' losses upon voluntary termination of in-force reinsurance by the ceding insurer, shall be considered a reimbursement to the reinsurer for negative experience.
 - c. The ceding insurer may be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of a specified event, including the insolvency of the ceding insurer. Termination of the agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due shall not be considered a deprivation of surplus or assets within the meaning of this subsection.
 - d. The ceding insurer is required, at scheduled times, to terminate the agreement or recapture automatically all or part of the reinsurance ceded.
 - e. The ceding insurer may be required to pay the reinsurer amounts other than from income reasonably expected from the reinsured policies.
 - f. Significant risks inherent in the business reinsured are not transferred to the reinsurer. Table A identifies the risks deemed significant for representative types of business.
 - g. The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not transfer the underlying assets to the reinsurer, segregate the underlying assets in a trust or escrow account, or otherwise segregate the underlying assets. The assets that support the reserves for classes of business that do not have a significant credit quality, reinvestment, or disintermediation risk, or for long-term care or long-term disability insurance, traditional non-par permanent, traditional par permanent, adjustable premium permanent, indeterminate premium permanent, or universal life fixed premium with no dump-in premiums allowed, may be held by the ceding company without segregation. To determine the reserves for classes of business, the supporting assets of which may be held without being segregated, the reserve interest rate adjustment formula shall reflect the ceding company's investment earnings and incorporate all realized and unrealized gains and losses reported in the ceding insurer's statutory financial statement.
 2. An agreement entered into after the effective date of this rule to reinsure business issued before the effective date of the agreement shall be filed by the ceding insurer with the Director within 30 days after execution of the agreement. Each filing shall be accompanied by a description of the corresponding reduction in liabilities or other credit for reinsurance, and any other financial impact of the agreement, reported in the ceding insurer's statutory financial statements. When an increase in surplus net of federal income tax results from an agreement falling under this subsection, the ceding insurer shall separately identify the increase as a surplus item in the aggregate write-ins for gains and losses in surplus in the Capital and Surplus account of the ceding insurer's statutory financial statement. As earnings emerge from the business reinsured, the ceding insurer shall report in its statutory financial statement recognition of surplus increase as income on a net of tax basis as reinsurance ceded.
- D. Written Agreements**
1. A ceding insurer shall not reduce any liability or establish any asset in any statutory financial statement filed with the Department, unless the ceding insurer and the reinsurer have executed an agreement or a binding letter of intent by the "as of" date of the statutory financial statement.
 2. A ceding insurer shall not be allowed a credit for the reinsurance ceded based on a letter of intent unless the ceding insurer and the reinsurer execute an agreement within 90 days from the execution date of the letter of intent.
 3. The agreement shall provide that:
 - a. The agreement constitutes the entire contract between the parties with respect to the business reinsured, and there are no understandings between the parties other than as expressed in the agreement; and
 - b. Any change or modification to the agreement shall be void unless made by written amendment signed by all parties.

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Historical Note

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-307 recodified from R4-14-307 (Supp. 95-1). Amended effective December 7, 1995 (Supp. 95-4).

Table A. Risk Categories

Risk Categories:

- (a). Morbidity
- (b). Mortality
- (c). Lapse
- (d). Credit Quality
- (e). Reinvestment
- (f). Disintermediation

	a	b	c	d	e	f
Disability Insurance, other than long-term care or long-term disability insurance	+	0	+	0	0	0
Long-term care or long-term disability insurance	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-par Permanent Life	0	+	+	+	+	+
Traditional Non-par Term Life	0	+	+	0	0	0
Traditional Par Permanent Life	0	+	+	+	+	+
Traditional Par Term Life	0	+	+	0	0	0
Adjustable Premium Permanent Life	0	+	+	+	+	+
Indeterminate Premium Permanent Life	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium, with dump-in premiums allowed	0	+	+	+	+	+

+ - Significant

0 - Insignificant

Historical Note

Adopted effective December 7, 1995 (Supp. 95-4). Corrected misspelled word “adjustable” as submitted in final rule (Supp. 98-3).

R20-6-308. Expired

Historical Note

Adopted effective March 22, 1993 (Supp. 93-1). R20-6-308 recodified from R4-14-308 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3374, effective May 31, 2016 (Supp. 16-4).

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-309.04. Expired

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-309. Expired

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-309.01. Expired

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-309.02. Expired

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Section expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

R20-6-309.03. Expired

R20-6-310. Corporate Governance

The purpose of Sections R20-6-310.01 through R20-6-310.03 is to set forth procedures for filing and the required contents of the Corporate Governance Annual Disclosure (CGAD) deemed necessary by the Director to carry out the provisions of Title 20, Chapter 2, Article 16 on Corporate Governance.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

R20-6-310.01. Definitions

The definitions in A.R.S. § 20-492 and this Section apply to Sections R20-6-310.02 through R20-6-310.04.

“CGAD” means Corporate Governance Annual Disclosure.

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“NAIC” means National Association of Insurance Commissioners.

“Senior Management” means any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and shall include, for example and without limitation, the Chief Executive Officer (“CEO”), Chief Financial Officer (“CFO”), Chief Operations Officer (“COO”), Chief Procurement Officer (“CPO”), Chief Legal Officer (“CLO”), Chief Information Officer (“CIO”), Chief Technology Officer (“CTO”), Chief Revenue Officer (“CRO”), Chief Visionary Officer (“CVO”), or any other “C” level executive.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

R20-6-310.02. Filing Procedures

- A. Deadline to file. An insurer, or the insurance group of which the insurer is a member, required to file a CGAD by A.A.C. Title 20, Chapter 2, Article 16 shall, no later than June 1 of each calendar year, submit to the Director a CGAD that contains the information described in Section R20-6-310.03.
- B. Attestation. The CGAD must include a signature of the insurer’s or insurance group’s CEO or corporate secretary attesting to the best of that person’s belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that the copy of the CGAD has been provided to the insurer’s or insurance group’s Board of Directors or appropriate committee of the Board of Directors.
- C. Format of the CGAD. The insurer or insurance group shall have discretion regarding the appropriate format for providing the information required and is permitted to customize the CGAD to provide the most relevant information necessary to permit the Director to gain an understanding of the corporate governance structure, policies and practices utilized by the insurer or insurance group.
- D. Insurer or insurance group to determine level of reporting.
 1. For purposes of completing the CGAD, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level and/or the individual legal entity level, depending on how the insurer or insurance group has structured its system of corporate governance.
 2. The insurer or insurance group is encouraged to make the CGAD disclosures at:
 - a. The level at which the insurer’s or insurance group’s risk appetite is determined,
 - b. The level at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or
 - c. The level at which legal liability for failure of general corporate governance duties would be placed.
 3. If the insurer or insurance group determines the level of reporting based on the criteria in subsection (D)(2), it shall indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in the level of reporting.
- E. CGAD completed at the insurance group level. Notwithstanding subsection (A) and as outlined in A.R.S. § 20-492.01, if the CGAD is completed at the insurance group level, then it must be filed with the lead state of the group as determined by the procedures outlined in the NAIC’s Financial Analysis Handbook 2018 Annual/2019 Quarterly, pp. 771 through 774,

and no future editions. In these instances, a copy of the CGAD must also be provided, upon request, to the chief regulatory official of any state in which the insurance group has a domestic insurer.

- F. Reference to other existing documents. An insurer or insurance group may comply with this Section by referencing other existing documents (e.g., ORSA Summary Report, Holding Company Form B or F Filings, Securities and Exchange Commission (SEC) Proxy Statements, foreign regulatory reporting requirements, etc.) if the documents provide information that is comparable to the information described in R20-6-310.03. The insurer or insurance group shall clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the Director.
- G. Subsequent filings of the CGAD. Each year following the initial filing of the CGAD, the insurer or insurance group shall file an amended version of the previously filed CGAD indicating where changes have been made to the previously filed CGAD. The filing shall also state if no changes are made to the information or activities previously reported by the insurer or insurance group.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

R20-6-310.03. Contents of CGAD

- A. Inclusion of attachments. The insurer or insurance group shall be as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process, since these may provide a means to demonstrate the strengths of their governance framework and practices.
- B. Board. The CGAD shall describe the insurer’s or insurance group’s corporate governance framework and structure including consideration of the following:
 1. The Board and its various committees ultimately responsible for overseeing the insurer or insurance group and the level or levels at which that oversight occurs (e.g., ultimate control level, intermediate holding company, legal entity, etc.). The insurer or insurance group shall describe and discuss the rationale for the current Board size and structure; and
 2. The duties of the Board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates, etc.), as well as how the Board’s leadership is structured, including a discussion of the roles of the Chief Executive Officer (CEO) and Chairman of the Board within the organization.
- C. Senior Governing Entity. The insurer or insurance group shall describe the policies and practices of the most senior governing entity and its significant committees, including a discussion of the following factors:
 1. How the qualifications, expertise and experience of each Board member meet the needs of the insurer or insurance group.
 2. How an appropriate amount of independence is maintained on the Board and its significant committees.
 3. The number of meetings held by the Board and its significant committees over the past year as well as information on director attendance.
 4. How the insurer or insurance group identifies, nominates and elects members of the Board and its committees. The discussion should include, for example:

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- a. Whether a nomination committee is in place to identify and select individuals for consideration.
 - b. Whether term limits are placed on directors.
 - c. How the election and re-election processes function.
 - d. Whether a Board diversity policy is in place and if so, how it functions.
5. The processes in place for the Board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any Board or committee training programs that have been put in place).
- D. Senior Management.** The insurer or insurance group shall describe the policies and practices for directing Senior Management, including a description of the following factors:
- 1. Any processes or practices (i.e., suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including:
 - a. Identification of the specific positions for which suitability standards have been developed and a description of the standards employed.
 - b. Any changes in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes.
 - 2. The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, for example:
 - a. Compliance with laws, rules, and regulations; and
 - b. Proactive reporting of any illegal or unethical behavior.
 - 3. The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description shall include sufficient detail to allow the Director to understand how the organization ensures that compensation programs do not encourage and/or reward excessive risk-taking. Elements to be discussed may include, for example:
 - a. The Board's role in overseeing management compensation programs and practices.
 - b. The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid;
 - c. How compensation programs are related to both company and individual performance over time;
 - d. Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels;
 - e. Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted;
 - f. Any other factors relevant to understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees.
 - 4. The insurer's or insurance group's plans for CEO and Senior Management succession.

- E. Oversight.** The insurer or insurance group shall describe the processes by which the Board, its committees and Senior Management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including a discussion of:
- 1. How oversight and management responsibilities are delegated between the Board, its committees and Senior Management;
 - 2. How the Board is kept informed of the insurer's strategic plans, the associated risks, and steps the Senior Management is taking to monitor and manage those risks;
 - 3. How reporting responsibilities are organized for each critical risk area. The description should allow the Director to understand the frequency at which information on each critical risk area is reported to and reviewed by Senior Management and the Board. This description may include, for example, the following critical risk areas of the insurer:
 - a. Risk management processes (an ORSA Summary Report filer may refer to its ORSA Summary Report submitted pursuant to A.R.S. § 20-491.03);
 - b. Actuarial function;
 - c. Investment decision-making processes;
 - d. Reinsurance decision-making processes;
 - e. Business strategy/finance decision-making processes;
 - f. Compliance function;
 - g. Financial reporting/internal auditing; and
 - h. Market conduct decision-making processes.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

R20-6-310.04. Severability Clause

If any provision of this Section, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this Section which can be given effect without the invalid provision or application, and to that end the provisions of this Section are severable.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 3715, with an immediate effective date of December 4, 2019 (Supp. 19-4).

Appendix A. Expired

- Table 1. Expired**
- Table 2. Expired**
- Table 3. Expired**
- Table 4. Expired**
- Table 5. Expired**
- Table 6. Expired**

Historical Note

Appendix A adopted by final rulemaking at 6 A.A.R. 255, effective January 1, 2000 (Supp. 99-4). Appendix A (including Tables 1 through 6) expired under A.R.S. § 41-1056(E) at 13 A.A.R. 1278, effective September 30, 2006 (Supp. 07-1).

ARTICLE 4. TYPES OF INSURANCE COMPANIES

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

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- A. The Department incorporates by reference National Association of Insurance Commissioners Model Laws, Regulations and Guidelines, Volume III, pp. 490-1 through 490-40, Regulation Regarding Proxies, Consents, and Authorization of Domestic Stock Insurers, April 1995 (and no future editions or amendments), which is on file with and available from the Department of Insurance, 100 N. 15th Ave., Suite 102, Phoenix, AZ 85007-2624 and the National Association of Insurance Commissioners, Publications Department, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197, modified as follows:

Section 1 A is modified to read: "No domestic stock insurer that has any class of equity securities held of record by 100 or more persons, or any director, officer or employee of that insurer, or any other person, shall solicit, or permit the use of the person's name to solicit, by mail or otherwise, any proxy, consent, or authorization in respect to any class of equity securities in contravention of this regulation and Schedules A and B, hereby made a part of this regulation."

- B. Domestic stock insurance companies shall comply with this Section as required under A.R.S. § 20-143(B).

Historical Note

Former General Rule 57-3. R20-6-401 recodified from R4-14-401 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3). New Section made by final rulemaking at 9 A.A.R. 1086, effective March 6, 2003 (Supp. 03-1). Section amended by final expedited rulemaking with an immediate effective date of September 16, 2019 (Supp. 19-3).

R20-6-402. Expired**Historical Note**

Former General Rule 69-19. R20-6-402 recodified from R4-14-402 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Exhibit A. Expired**Historical Note**

Former General Rule 69-19. R20-6-402 recodified from R4-14-402 (Supp. 95-1). Exhibit expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Exhibit B. Expired**Historical Note**

Former General Rule 69-19. R20-6-402 recodified from R4-14-402 (Supp. 95-1). Exhibit expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

R20-6-403. Expired**Historical Note**

Former General Rule 69-21. R20-6-403 recodified from R4-14-403 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Appendix A. Expired**Historical Note**

R20-6-403, Appendix A recodified from R4-14-403, Appendix A (Supp. 95-1). Appendix expired under

A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Appendix B. Expired**Historical Note**

R20-6-403, Appendix B recodified from R4-14-403, Appendix B (Supp. 95-1). Appendix expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

Appendix C. Expired**Historical Note**

R20-6-403, Appendix C recodified from R4-14-403, Appendix C (Supp. 95-1). Appendix expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).

R20-6-404. Repealed**Historical Note**

Former General Rule 73-31; Repealed effective January 1, 1981 (Supp. 80-6). R20-6-404 recodified from R4-14-404 (Supp. 95-1).

R20-6-405. Health Care Services Organization

- A. Authority. This rule is adopted pursuant to A.R.S. §§ 20-142, 20-143, 20-106 and 20-1051 through 20-1068.
- B. Purpose. The purpose of this rule is to implement the legislative intent, as expressed in Chapter 128, Laws of 1973, to regulate and control Health Care Services Organizations in the State of Arizona, (including, but not limited to Certificate of Authority, licensing, fees for licensing, disciplinary procedures for agents and control of solicitation of members and evidences of coverage).
- C. Scope
1. The scope of this Rule is the scope of A.R.S. Title 20 as it relates to Insurers or Hospital or Medical Service Corporations. As it relates to Health Care Services Organizations, the scope of this rule is the scope of Title 20, Chapter 1 and Title 20, Chapter 4, Article 9, as provided in A.R.S. § 20-1068. This rule is applicable to agents of persons, and persons operating or proposing to operate Health Care Services Organizations in the State of Arizona.
 2. The statutory authority for this rule, A.R.S. Title 20, Chapter 4, Article 9, does not provide for exemptions therefrom for persons or agents of persons subject thereto, and no such exemption is intended or should be presumed by this rule or any provision thereof.
- D. Repeal. This rule does not repeal any known prior rule, memorandum, bulletin, directive or opinion on this subject matter. If such prior rule or directive exists and is in conflict herewith, the same is repealed hereby.
- E. Definitions. As used in this rule, unless the context otherwise requires:
1. "Agent" has the meaning of A.R.S. § 20-282.
 2. "Basic Health Care Services" has the meaning of A.R.S. § 20-1051.
 3. "Certificate of Authority" means a Certificate authorizing operation of a Health Care Services Organization.
 4. "Director" means the Director of Insurance of the State of Arizona.
 5. "Enrollee" has the meaning of A.R.S. § 20-1051.
 6. "Evidence of coverage" has the meaning of A.R.S. § 20-1051.
 7. "Health Care Plan" has the meaning of A.R.S. § 20-1051.

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8. "Health Care Services" has the meaning of A.R.S. § 20-1051.
 9. "Health Care Services Organizations" has the meaning of A.R.S. § 20-1051.
 10. "Hospital Service Corporation" has the meaning of A.R.S. § 20-822.
 11. "Insurer" has the meaning of A.R.S. § 20-106(C).
 12. "License" means the authority to act as an agent of a Health Care Services Organization.
 13. "Medical Service Corporation" has the meaning of A.R.S. § 20-822.
 14. "Net charges" means the total of all sums prepaid by or for all enrollees, less approved refunds, adjustments and deductions, as consideration for Health Care Services of a Health Care Plan under an Evidence of Coverage.
 15. "Person" has the meaning of A.R.S. § 20-1051.
 16. "Physician and patient relationship" has the meaning of A.R.S. § 20-833.
 17. "Prepaid Health Plans" means any Health Care Plan to pay or make reimbursement for Health Care Services on a prepaid basis other than insured plans otherwise authorized and approved under A.R.S. Title 20.
 18. "Prepaid Group Practice Plan" means a person authorized and approved under A.R.S. Title 20.
 19. "Provider" has the meaning of A.R.S. § 20-1051.
 20. "Transact" has the meaning of A.R.S. § 20-106(A) and (B).
 21. "Unqualified agent" means a person directly or indirectly representing or acting for a Health Care Services Organization and not qualified as an agent thereof.
- F. Certificate of Authority**
1. Policy. Persons and agents of persons operating Health Care Services Organizations as of May 7, 1973, shall comply with the application requirements of A.R.S. § 20-1052 on or before August 7, 1973.
 2. A Certificate of Authority shall not be granted until the Director is satisfied that the requirements of A.R.S. §§ 20-1052, 20-1053 and 20-1054 are met and will continue to be met.
 3. An examination of an applicant at the expense of the applicant for a Certificate of Authority may be ordered to be made if the applicant is not a resident, is controlled by a non-resident, or maintains a head or principal office out of its service area, and will be ordered to be made if the applicant contracts with providers, or for services outside a reasonable area, or has contract obligations under its evidence of coverage that are, or appear to be, inequitable or unreasonable as to the enrollees.
- G. Certificate of Authority – Application**
1. A person required to be qualified to do business in this State as a Health Care Services Organization, pursuant to A.R.S. § 20-1052 shall file an application for Certificate of Authority on Department Form E-104.
 2. Applications failing to comply with the requirements of A.R.S. § 20-1053 will be denied without prejudice to the filing of an application complying with such requirements.
 3. Health Care Services Organizations operating in this State as of May 7, 1973, and having submitted a sufficient application for Certificate of Authority as required by this rule, including the disclosure filings of paragraph (7) of this subsection, may continue to operate as an organization until the Director acts upon the application.
 4. The application for Certificate of Authority shall be verified by an authorized and qualified officer of the Health Care Services Organization.
5. The application for Certificate of Authority shall be accompanied by the fees required for a hospital or medical service corporation by A.R.S. § 20-167 and a tax return or returns on Department Form E-162, for the calendar year previous to the calendar year of application during which the applicant has done business in this State as a Health Care Services Organization, and the amount of tax due thereon after the effective date hereof, if any, as provided by A.R.S. § 20-1060. The filing of such returns or payment of such tax may be adjusted or waived by the Director upon application and affirmative showing in writing therefor justifying the adjustment or waiver.
 6. The Director may, upon written request accompanied by supporting documentation justifying the request, authorize the substitution of public information filed by an applicant under similar statutes or regulations in another state, or under federal requirements, or may waive such information or additional information.
 7. Pursuant to the authority of A.R.S. § 20-1053(13), the Director finds that biographical information disclosing the past activities, employment and financial transactions or principals, principal officers, controlling persons, and agents of applicant Health Care Services Organizations is necessary for the protection of residents of this State.
 8. Pursuant to the authority of A.R.S. § 20-1053(13), the Director finds that records of fingerprints of principal officers and agents of applicant Health Care Services Organizations may be necessary for the protection of citizens of this state and may be required prior to licensing or approval of a Certificate of Authority.
- H. Certificate of Authority – Application.** The application for Certificate of Authority shall be accompanied by a power of attorney as required by A.R.S. § 20-1053(A)(10) on Department Form E-128.
- I. Certificate of Authority – Grounds for denial**
1. Policy. A Certificate of Authority to operate a Health Care Services Organization shall not be granted until the Director is satisfied by the affirmative showing, verified by the applicant, that all of the requirements of A.R.S. §§ 20-1052, 20-1053 and 20-1054 are met and will continue to be met.
 2. Guidelines. The guidelines and standards for determination of appropriate mechanisms to achieve an effective Health Care Plan include, but are not limited to the following:
 - a. Ability to provide basic Health Care Services without undue restrictions, limitations, discrimination, unreasonable fee schedules, or unreasonable administrative costs; an affirmative showing that the form of organization does not evidence any coercion, duress or other compulsion over members;
 - b. The form of organization does not lend itself to practices prohibited by A.R.S. §§ 20-441 through 20-459, and
 - c. The evidence of coverage does not contain provisions or statements which are unjust, inequitable, misleading, deceptive or untrue or encourage misrepresentation.
 3. Failure to pay obligations. Applications for a Certificate of Authority to operate a Health Care Services Organization may be denied or rejected if the applicant has failed after 30 days from the entry of final judgment, to pay obligations within the provisions of an evidence of coverage issued by such applicant. The provisions of this Section may be waived by the Director upon a clear affirmative showing that the applicant is defending an

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action or appealing a judgment at law or equity in a court of this state, or is required to obtain a Certificate of Authority so as to maintain such action.

4. Unauthorized agents. Applications for a Certificate of Authority to operate a Health Care Services Organization may be denied or rejected, after stated cause and opportunity to answer, if the applicant has, 90 days after the effective date, permitted transactions by an unauthorized agent.
- J. Solicitation requirements**
1. Forms for evidences of coverage, advertising matter, sales material and amendments thereto, will not be approved until the Director is satisfied by filing of Department Form P-107 accompanying the filing of such form and the payment of necessary fees, that the requirements of A.R.S. §§ 20-1057, 20-1054(2), and 20-1061 have been met and will continue to be met.
 2. Each Health Care Services Organization shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement brochure, form letter of solicitation, evidence of coverage, certificate, agreement or contract, and a copy of all radio and television forms of the above hereafter disseminated in this or any other State with a notation attached to each such solicitation or inducement to indicate the manner and extent of distribution and the date of approval by the Department of such solicitation. Such advertising file shall be maintained for a period of not less than three years.
- K. Annual report.** Each Health Care Services Organization required to file an annual statement, shall, on or before March 1 of each year, file with the Director, together with its annual statement on Department Form E-13, a certificate executed by an authorized officer of the Health Care Services Organization stating that to the best of his knowledge, information and belief, all written solicitations disseminated during the preceding statement year complied or were made to comply with the provisions of Title 20, Chapter 4, Article 9, and this rule, and that no forms of solicitation were disseminated without the prior approval of the Director.
- L. Taxes**
1. All Health Care Services Organizations operating and transacting business in the State of Arizona shall on or before March 1 and with the filing of the Annual Report, file a tax return on Department Form E-162, and pay the tax due on such return pursuant to A.R.S. § 20-1060.
 2. A tax return required to be filed and filed with an application for Certificate of Authority may cover a period of time of less than a calendar year as specified in the return and approved by the Director. Annual tax returns required to be filed coincident with the annual report shall be for the full calendar year next preceding the date of filing the annual report.
 3. Net charges, as in this rule defined, shall represent the net charges received during the calendar year next preceding the date of filing the annual report and tax return.
- M. Deposit requirements**
1. In the event a Health Care Services Organization determines to maintain statutory deposits by a surety bond, such surety bond shall be in form as approved by the Director guaranteeing the payment of Health Care Services furnished to enrollees, and shall be deposited with the State Treasurer.
 2. In the event a Health Care Services Organization determines to maintain the deposit requirements by filing securities with the State Treasurer, a full and complete statement of the securities proposed to be deposited, together with sufficient information to permit a determination of eligibility of such securities shall be filed with the Director on Department Form E-123, and such securities shall not be deposited until such securities are approved by the Director in writing.
3. No securities deposited as herein provided shall be exchanged or substituted for similar securities, except upon the prior written approval of the Director.
 4. Health Care Services Organizations claiming to be exempt from the deposit requirement, pursuant to A.R.S. § 20-1055(f) shall submit to the Director an affirmative showing or certification executed by an authorized federal, state or municipal government or political subdivision thereof, demonstrating operational commitments equivalent to the statutory deposit requirements.
 5. Statutory deposits shall not be withdrawn or a surety bond cancelled until all contingent and perfected liens, including judgments, debts, and other liabilities for payment of Health Care Services to which the enrollee is entitled under the evidence of coverage shall have been paid and the Director has given his authority in writing to withdraw such deposits or cancel such bonds.
- N. Reserve requirements.** Reserves required by A.R.S. § 20-1056 shall be deposited or maintained as cash, as Certificates of Deposit, or as securities eligible for investment of the capital of domestic insurers, pursuant to A.R.S. §§ 20-537 and 20-538.
- O. Insurers and hospital and medical service corporations – Certificate of Authority**
1. Insurers, Hospital Service Corporation, Medical Service Corporations, and Hospital and Medical Service Corporations, holding current Certificates of Authority to do business in this state may organize and operate Health Care Services Organizations jointly or severally without compliance with the deposit and reserve requirements of the statute, if the application contains an affirmative showing that the applicant organization has complied with comparable provisions of Title 20, and is an appropriate mechanism to achieve an effective Health Care Plan.
 2. The provisions of statute and this rule applying to Certificates of Authority and Application therefor, shall apply to all insurers, Hospital Service Corporations, Medical Service Corporations, and Hospital and Medical Service Corporations doing business in this state.
 3. Organizations claiming exemption or partial exemption pursuant to A.R.S. § 20-1063(c) shall file with the Director simultaneously with the application for Certificate of Authority, a statement affirmatively showing that the applicant has complied with provisions of Title 20 A.R.S. comparable to or more restrictive than the provisions of Title 20, Chapter 4, Article 9, and shall have received the written approval of the Director for such exemption or partial exemption.
- P. Application, examination and licensing of agents**
1. No agent of a Health Care Services Organization shall be eligible for transactions of a Health Care Services Organization, unless, prior to making any solicitation or transaction, he has been appointed agent by a Health Care Services Organization holding a current valid Certificate of Authority and has been licensed as herein provided. Persons directly or indirectly representing or acting for a Health Care Services Organization and not licensed as herein provided, or otherwise qualified under A.R.S. Title 20, shall be an unqualified agent.

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2. Any person applying for a license as an agent of a Health Care Services Organization shall do so by filing with the Department of Insurance the following:
 - a. An application for such license on a form approved by the Director of the Department of Insurance;
 - b. The required fees for such license;
 - c. Such additional information as the Director may deem necessary.
 3. The licensing of an agent of a Health Care Services Organization shall not become effective until such applicant shall have satisfactorily passed a written examination in accordance with A.R.S. § 20-292 as supplemented by A.R.S. § 20-167.
 4. The examination shall be given in such places and at such times as the Director shall from time to time designate.
 5. The form of examination and the manual may be altered and amended from time to time, so as to represent a fair test of the applicant's qualifications.
 6. Every applicant for license shall satisfactorily complete the examination given with a grade of at least 70%, or such other percentage as may be fixed from time to time by the Director prior to the examination commensurate with the nature of the examination given.
 7. License and examination fees shall be in accordance with A.R.S. § 20-167.
 8. Report of the results of any examination given pursuant to this rule shall be mailed to the applicant and to the applicant's Health Care Services Organization at the address shown on the application.
 9. Except as modified by this rule, the provisions for examination, licensing, annual fees and disciplinary procedures of Chapter 2, Article 3 of Title 20, shall apply.
 10. Any agent licensed in this state shall immediately report to the Director any judgment or injunction entered against him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or other violation affecting his license and all complaints or charges of misconduct lodged with his employer, any public agency of the state, or another state.
 11. The Director may reject any application or suspend or revoke, or refuse to renew any agent's license for inducements or statements which are unjust, unfair, inequitable, misleading or deceptive, or which encourage misrepresentation, or are untrue or misleading.
 12. The rules, standards and guidelines governing any proceeding relating to the suspension or revocation of the license of a life insurance agent, where applicable, shall also govern any proceedings for suspension or revocation of the license of an agent of a Health Care Services Organization.
 13. Renewal of a license of an agent shall follow the same procedure as heretofore established for renewal of insurance agents' licenses in this state.
 14. Renewal of a license of an agent shall follow the same procedure as heretofore established for renewal of insurance agents' licenses in this state.
- Q. Forms**
1. The forms prescribed by this rule and the instructions applicable thereto are adopted as requirements of the Director and necessary for the protection of citizens of this state. Such forms, instructions, manuals or examinations are those currently in use, but the same may be amended without reference to this rule and when approved as amended are incorporated in this rule by reference. The form of manual or examination of agents, or any form adopted by the Director may be reproduced for the purpose of reporting or for other purposes.
 2. For good cause shown, the Director may authorize the filing of forms and reports on dates other than required by this rule, if applied for in writing not less than 10 days prior to the due date of such report and statement, exhibit, return or accounting.
- R. Severability.** In any provision of this rule or the forms, statements, returns or reports made part of this rule, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions of applications of this rule, which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.
- S. Effective date.** This rule became effective on the 7th day of May, 1973. Amendments to this rule shall become effective upon filing with the Secretary of State.
- Historical Note**
- Former General Rule 73-33; Amended subsections (E), (P), (R), (S), and (T) effective August 12, 1981 (Supp. 81-4). R20-6-405 recodified from R4-14-405 (Supp. 95-1).
- R20-6-406. Expired**
- Historical Note**
- Adopted effective May 18, 1978 (Supp. 78-3). R20-6-406 recodified from R4-14-406 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E), filed in the Office of the Secretary of State August 24, 2000 (Supp. 00-3).
- R20-6-407. Service Companies**
- A. Scope.** This rule shall apply to all service companies except those which are exempt under A.R.S. § 20-1095.02.
- B. Definitions.**
1. "Gray Market" auto means an imported motor vehicle which has not been certified for all safety, emission, and other federal and state standards prior to the arrival of the vehicle into the United States.
 2. "Service" within the meaning of Article 11, Chapter 4, Title 20 includes reimbursement for towing, car rental, lodging or travel breakdown expenses.
 3. The "Contract Holder" means the consumer as defined in A.R.S. § 20-1095(1).
- C. Application for service company permit.**
1. The application for a service company permit under this rule shall be on the form designated by the director which shall contain the following information:
 - a. The name of applicant;
 - b. Arizona address of applicant;
 - c. The home office address of applicant;
 - d. Type of entity (e.g. corporation, partnership);
 - e. Type of equipment to be serviced;
 - f. Fiscal year of applicant;
 - g. A list of suspensions, revocations or other disciplinary or rehabilitative actions against the service company in this or any other jurisdiction. The application form shall be signed under oath and acknowledged by the chief executive officer, chairman of the board of directors, or other person having power of attorney, in which case the power of attorney shall be attached.
 2. The following items shall be attached to the application form and shall complete the application:
 - a. A copy of the service company's most recent financial statement, sworn to and certified by the owner,

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- duly elected officers, or a certified public accountant.
- b. Evidence of having deposited cash or acceptable securities pursuant to A.R.S. § 20-1095.04.
 - c. Surety bond in lieu of deposit under subparagraph (b) on a form acceptable to the Director.
 - d. Initial nonrefundable permit fee of \$100 with each new application.
 - e. A biographical affidavit, on a form approved by the director, for each officer, director, manager or person owning 25% or more of the service company, and for each officer, director, manager or person owning 25% or more of an entity which owns the service company.
 - f. A copy of the service company's service contract, application, claim forms, brochures, and other forms used in connection with the sale.
- D. Deposit.** A service company providing a deposit of cash or alternatives to cash pursuant to A.R.S. § 20-1095.04 shall maintain the deposit in the amount required and such deposit shall not be encumbered. The deposit shall not be released except pursuant to one of the following:
1. The service company provides a bond or mechanical reimbursement policy which covers the outstanding service contract liabilities.
 2. All outstanding service contracts and liabilities thereunder have been assumed by a service company, in good standing, with the approval of the director, acknowledged by the assuming service company's administrator and acknowledged by endorsement by the mechanical reimbursement insurer or surety.
 3. Evidence satisfactory to the director that:
 - a. All outstanding service contracts and liabilities have expired or been cancelled in accordance with the service contract terms,
 - b. That all claims have been settled,
 - c. That there is no reason to believe there are any unreported claims, and
 - d. That the service company is financially able and agrees to be financially responsible for any valid unreported claims.
- E. The service contract, approval of forms.**
1. Each service company holding a service company permit or applying for such permit shall submit all contract, claim and application forms, brochures and other advertising material to the Director for approval not less than 30 days prior to the proposed effective date thereof. No form, brochure or other printed material may be used until approved by the Director or has been on file with the Director more than 30 days.
 2. No service contract shall be approved unless it contains a provision permitting the cancellation of the contract. The cancellation provision shall provide for a pro rata refund after deducting for administrative expenses associated with the cancellation. No claim incurred or paid shall be deducted from the amount to be returned. The cancellation provision shall not contain both cancellation penalty and a cancellation fee.
 3. No service contract or application shall be approved unless it:
 - a. Is written in nontechnical, readily understood language, using words with common everyday meanings;
 - b. Provides for the performance of services within a reasonable period of time of the request for such services by the holder of the contract;
- c. Discloses on the face of the application and the contract:
 - i. The name, address and telephone number of the service company;
 - ii. The name, address and telephone number of the service contract administrator, if any;
 - iii. The name of the individual who sold the service contract.
 - d. Clearly, conspicuously and plainly states:
 - i. The services to be performed by the service company and the terms and conditions of such performance;
 - ii. The service fee or deductible charge, if any, to be charged, or applied, for service calls and/or each covered repair.
 - iii. Each of the systems, products, appliances and components covered by the contract;
 - iv. The period during which the contract will remain in effect;
 - v. All limitations respecting the performance of services, including any restrictions as to time periods when services may be required or will be performed;
 - vi. The cost of the service contract;
 - vii. Those specific items or components which are excluded from coverage in large bold type;
 - viii. The conditions, if any, under which the service contract or coverage may be reinstated after coverage has been voided by acts or omissions by the service contract holder;
 - ix. The material acts or omissions by the contract holder which cancel or void coverage;
4. No service contract shall be approved if:
- a. The coverage may be cancelled or voided due to acts or omissions of the service company, its assignees or subcontractors for their failure to provide correct information of their failure to perform the services or repairs provided in a timely, competent, workmanlike manner;
 - b. Parts or components repaired or replaced under the service contract are excluded;
 - c. The contract can be cancelled or voided by the service company or its representatives for the following reasons including but not limited to:
 - i. Pre-existing conditions;
 - ii. Prior use or unlawful acts relating to the product;
 - iii. Misrepresentation by either the service company or its subcontractors;
 - iv. Ineligibility for the program, including gray market, high performance and GM diesel autos.
- F. Disapproval of contracts, applications or advertising.** The director may disapprove any service contract, application or advertising material that is in violation of this rule by issuing an order specifying in what respect the service contract, application or advertising material violates this rule. Any person aggrieved by such an order can demand a hearing thereon in accordance with A.R.S. § 20-1095.09.
- G. Permit expiration; renewal.**
1. Each permit issued pursuant to this rule shall expire at midnight on the last day of the service company's fiscal year. Thereafter, the service company shall have 90 days in which to file its completed renewal application including its certified financial statement and pay the renewal fee of \$100. A permit shall remain in effect upon the service company's timely payment of the renewal fee,

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timely filing of its annual financial statement and completed renewal application. An incomplete application will not be considered received until it is complete.

- 2. Any late filing of the renewal application, financial report or late payment of the renewal fee shall be subject to a late fee of \$25 per day. Such late fee shall not release the service company of liability for other violations of these rules or other laws.

Historical Note

Adopted effective April 30, 1981 (Supp. 81-2). Former Section R4-14-407 repealed and a new Section R4-14-407 adopted effective July 2, 1987 (Supp. 87-3). R20-6-407 recodified from R4-14-407 (Supp. 95-1).

R20-6-408. Expired

Historical Note

Former Section R4-14-408 renumbered as Section R4-14-409; a new Section R4-14-408 adopted effective July 15, 1987 (Supp. 87-3). R20-6-408 recodified from R4-14-408 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 3106, effective October 9, 2018 (Supp. 18-4).

R20-6-409. Hospital, Medical, Dental, and Optometric Service Corporations

- A. Applicability. This rule applies to all subscription contracts issued by hospital, medical, dental and optometric service corporations.
- B. Subscription contract provision. Subscription contracts of hospital, medical, dental and optometric service corporations subject to the provisions of Article 3, Chapter 4 of Title 20, A.R.S., shall meet the requirements of the following rules:
 - 1. R20-6-201. Advertisements of disability insurance.
 - 2. R20-6-209. Unfair sex discrimination.
 - 3. R20-6-210. Group coverage discontinuance and replacement.
 - 4. R20-6-213. Unfair discrimination on the basis of blindness, partial blindness, or physical disability.
 - 5. R20-6-216. Life and disability insurance policy language simplification.
 - 6. R20-6-302. Valuation of reserves for disability policies.
 - 7. R20-6-606. Medicare supplement insurance disclosure and minimum standards.
 - 8. R20-6-607. Reasonableness of benefits in relation to premium charged.

- C. Severability. If any provision of this rule or the application thereof to any person or circumstance is for any reason held invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

Historical Note

Adopted effective July 9, 1982 (Supp. 82-4). Former Section R4-14-408 renumbered without change as Section R4-14-409 effective July 15, 1987 (Supp. 87-3). R20-6-409 recodified from R4-14-409 (Supp. 95-1).

ARTICLE 5. THE INSURANCE CONTRACT

R20-6-501. Ten-day Period to Examine Disability Insurance Policy

For the purpose of implementing A.R.S. §§ 20-442, 20-443, 20-826, 20-1111 and 20-1113 and to make more specific the regulation therein provided relative to policies of individual disability insurance (accident and sickness, hospitalization, medical, surgical and loss of time) issued in the State of Arizona and further to provide satisfactory public remedy against the hazards of misunderstanding by an applicant, of deception and coercion by an agent and of certain policy exclusions and limitations that cheapen the value of coverage, the Insurance Department of Arizona adopts the following rule:

- 1. Each policy of individual disability insurance, except one for which no provision for renewal is made, issued for delivery in the State of Arizona on or after October 1, 1961, by an insurance company or by a hospital or medical service corporation shall have printed on the first page thereof or attached thereto or endorsed thereupon in prominent style a notice declaring that, during a period of 10 days (or, at the insurer's option, a longer period) from the date of delivery to the policyholder, such policy may be returned for cancellation to the insurer at its home office (or, at the insurer's option, to its branch office or to the agent through whom it was purchased) and declaring further that in the event of such return the insurer will refund the entirety of any premium paid therefor, including any policy fees or other charges, and that the policy shall be deemed void from the beginning and that the parties shall be returned to their original position as if no policy had been issued.
- 2. The Insurance Department does not specify the particular language the notice shall contain but prefers usage of a phraseology approximately along the lines of either the longer (Form A) or shorter (Form B) sample below:

Sample Form A

NOTICE OF TEN-DAY RIGHT TO EXAMINE POLICY

The _____ Insurance Company urges you to read this policy carefully and trusts that upon doing so you will fully understand, and will be pleased with, its coverage. If, however, questions arise or information is desired, do not hesitate to consult the selling agent. In addition, should the policy for any reason be unsatisfactory, by surrendering it within ten days following receipt to our office at _____ or to the selling agent, immediately full premium will be refunded and the policy will be cancelled and deemed void and as never in force and effect.

Sample Form B

IMPORTANT NOTICE

If for any reason this policy is unsatisfactory, it may be returned for cancellation within ten days following receipt – in which case the entire premium will be refunded.

Historical Note

Former General Rule 61-7. R20-6-501 recodified from R4-14-501 (Supp. 95-1).

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ARTICLE 6. TYPES OF INSURANCE CONTRACTS**R20-6-601. Regulations Governing Bail Transactions****A. General provisions**

1. Effective date
 - a. These regulations are effective November 1, 1960. On and after date, no bail transaction or severable portion thereof shall be conducted, directly or indirectly except in full conformity herewith.
 - b. No surety insurer shall furnish for use and no bail bond agent shall use any forms or documents which contain any provisions contrary to these regulations on or after the effective date hereof.
2. Authority. Authority for these regulations is A.R.S. §§ 20-142, 20-143 and 20-257 and A.R.S. Chapter 2, Article 3.
3. Public interest served. These regulations serve the public interest by prohibiting inequities in bail transactions and by establishing standards of licensing and conduct for bail bond agents.
4. Regulations as severable. These regulations shall be construed as severable, such that, where one or more Sections are held invalid, such remaining Sections will not be adversely affected.
5. Penalty. Violation of these regulations will subject the guilty party to the penalties of A.R.S. §§ 20-114, 20-220 and 20-316 and to the enforcement procedures of A.R.S. §§ 20-152 and 20-160 through 20-166.

B. Definitions

1. "Bail transaction" defined. As used in these regulations, the term "bail transaction" includes solicitation and inducement, preliminary negotiation and effectuation of a contract of surety insurance and the transaction of matters subsequent thereto and arising therefrom – all in connection with the release of persons arrested or confined.
2. "Bail bond agent" defined. As used in these regulations, the term "bail bond agent" means any person who engages in a bail transaction on behalf of a surety insurer or representative thereof.
3. "Arrestee" defined. As used in these regulations, the term "arrestee" means any person arrested or detained whose release on bail is solicited or procured or concerning whose release negotiations are commenced.
4. "Director" defined. As used in these regulations, the term "Director" means the Director of Insurance of the state.

C. Licensing

1. Application for license. Each application for original or renewal license as a bail bond agent shall be on a form furnished by the Director, and each applicant for such license shall furnish such supplementary information and supporting statements as the Director may require.
2. Prohibited associations. A bail bond license shall not be issued to, renewed for or maintained by any person who associates regularly with criminals, gamblers or persons of poor repute – except to the extent such association is required by business or professional duty and responsibility.
3. Transactions by unlicensed persons prohibited. No bail bond agent shall directly or indirectly permit any person on his behalf to solicit or negotiate bail transactions unless such person is duly licensed by the Director.
4. Employees. Employees of bail bond agents performing only clerical duties need not be licensed hereunder and shall be deemed not engaged in bail transactions.

D. Conduct of bail bond agents

1. Disclosure of business. Every bail bond agent shall conduct his business in such a manner that the public and

those dealing with him shall be aware of the capacity in which he is acting.

2. Control of employees. A bail bond agent shall exercise direct supervision over his employees and keep informed of their actions as his employees.
 3. Prohibited employees. No bail bond agent shall have in his employ at any time any criminal, gambler or person of poor repute.
 4. Acting for attorney. No bail bond agent shall receive, or collect for an attorney any money or other item of value for attorney's fee, costs or any other purpose on behalf of an arrestee, unless a receipt is given therefor.
 5. Informants prohibited. No bail bond agent shall for any purpose, directly or indirectly, enter into an arrangement of any kind or have an understanding with a law enforcement officer, with a newspaper employee, with a messenger service or employee thereof, with a trusty in a jail, with other person incarcerated in a jail, or with any person whatever, to inform or notify any bail bond agent directly or indirectly of:
 - a. The existence of a criminal complaint;
 - b. The fact of an arrest; or
 - c. The fact that an arrest of any person is pending or contemplated; or
 - d. Any information pertaining to matters set forth in (a), (b), and (c) hereof or to the persons involved therewith.
 6. Compliance with rules of public authority. No bail bond agent shall solicit any person in a bail transaction in a prison or jail or other place of detention, court or public institution connected with the administration of justice unless said bail bond agent has fully complied with every rule, regulation and ordinance issued by each public authority governing the conduct of persons in or about said premises.
 7. Representations to public authority
 - a. No bail bond agent shall make any misleading or untrue representation to a court or to a public official with respect to a bail transaction, nor for the purpose of avoiding or preventing a forfeiture of bail or of having set aside a forfeiture which has occurred.
 - b. Every bail bond agent shall truthfully and fully answer every question asked him by the Director or his representative respecting his bail transactions and matters relating to the conduct of his bail business. Any bail bond agent may have his attorney present when he answers any such question.
 8. Maintenance of records. Every bail bond agent shall keep complete records of all business done under authority of his license. Such records shall be open to inspection or examination by the Director or his representatives at all reasonable times at the principal place of business of the bail bond agent as designated in his license.
- E. Charges, collateral, refunds and rebates**
1. Rates
 - a. No bail bond agent shall issue or deliver a bail bond except at the premium rates most recently filed and approved by the Director in accordance with A.R.S. § 20-357.
 - b. Every bail bond agent shall post the premium rates of the surety insurer he represents in a conspicuous manner at his place of business.
 2. Charges permitted. No bail bond agent shall, in any bail transaction or in connection therewith, directly or indirectly, charge or collect money or other valuable consid-

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eration from any person except for the following purposes:

- a. To pay the premium at the rates established by the surety insurer and approved by the Director.
 - b. To provide collateral.
 - c. To reimburse himself for actual and reasonable expenses incurred in connection with the individual bail transaction, including:
 - i. Guard fees after the first 12 hours following release of an arrestee on bail;
 - ii. Notary fees, recording fees, necessary long distance telephone expenses, telegram charges, and travel expenses for other than local community travel.
 - iii. Any other actual expenditure necessary to the bail transaction which is not usually and customarily incurred in connection with the ordinary operation and conduct of bail transactions.
3. Delivery of documents to arrestee
- a. Every bail bond agent shall, at the time of obtaining the release of an arrestee on bail or immediately thereafter, deliver to such arrestee or to the principal person with whom negotiations were made, if other than the arrestee, a copy of the bail bond premium agreement, which shall include:
 - i. The name of the surety insurer and the name and business address of the bail bond agent.
 - ii. The amount of bail and the premium thereof.
 - b. The bail bond agent shall also deliver at such time a statement detailing all charges in addition to the premium, the amount received on account, the unpaid balance if any, and a description of and a receipt for any collateral received.
4. Collateral
- a. Any bail bond agent who receives collateral in connection with a bail transaction shall do so in a fiduciary capacity and, prior to any forfeiture of bail, shall keep such collateral separate and apart from any other funds, assets or property of such bail bond agent.
 - b. Any collateral received shall be returned to the person who deposited it with the bail bond agent or any assignee as soon as the obligation, the satisfaction of which was secured by the collateral, is discharged. Where such collateral has been deposited to secure the obligation of a bond, it shall be returned immediately upon the entry of any order by an authorized official by virtue of which liability under the bond is terminated, or, if any bail bond agent fails to cooperate fully with any authorized official to secure the termination of such liability, immediately upon the accrual of any right to secure an order of termination of liability.
 - c. When such collateral has been deposited as security for unpaid premium or charges and, if such premium or charges remained unpaid at the time of exoneration and after demand therefor has thereafter been made by the bail bond agent, collateral other than cash may be levied upon in the manner provided by law and cash collateral up to the amount of such unpaid premium on charges may be applied in payment thereof.
 - d. If collateral received by a bail bond agent is in excess of the bail forfeited, such excess shall be returned to the depositor immediately upon application of the collateral to the forfeiture subject, how-

ever, to any claim of the bail bond agent for unpaid premium or charges as provided in subparagraph (c) of paragraph (4) of subsection (E), or as agreed to in writing by the bail bond agent and arrestee or his indemnitor.

5. Premium refund upon surrender of arrestee. No bail bond agent shall surrender an arrestee to custody prior to the time specified in the bail bond for the appearance of the arrestee, or prior to any other occasion when the presence of the arrestee in court is lawfully required, without returning all premium paid therefor, unless as a result of judicial action, or material misrepresentation by the arrestee or his indemnitor with respect to the execution of the bail bond agreement, or a material and substantial increase in the hazard assumed. Failure of the arrestee to pay the premium, or charges permitted under these regulations or any part thereof, and failure to furnish collateral required by the bail bond agent, shall not be considered a material and substantial increase in the hazard assumed.
6. Rebating prohibited. No bail bond agent shall pay or allow in any manner, directly or indirectly, to any person who is not also a bail bond agent any commission or valuable consideration on or in connection with a bail transaction. This Section shall not prohibit payments by a bail bond agent to an unlicensed person of charges by such persons for services of the kind specified in paragraph (2) subsection (E) of this Section.

Historical Note

Former General Rule 60-5. R20-6-601 recodified from R4-14-601 (Supp. 95-1).

R20-6-602. Nationwide Inland Marine Definition

- A. Applicability. This rule applies to risks and coverages which may be classified or identified as Marine, Inland Marine or Transportation insurance but shall not be construed to mean that the kinds of risks and coverages are solely Marine, Inland Marine or Transportation insurance in all instances. This rule shall not be construed to restrict or limit in any way the exercise of any insuring powers granted under charters and license whether used separately, in combination or otherwise.
- B. Marine and/or transportation policies may cover under the following conditions:
 1. Imports.
 - a. Imports may be covered wherever the property may be and without restriction as to time, provided the coverage of the issuing companies includes hazards of transportation.
 - b. An import, as a proper subject of marine or transportation insurance, shall be deemed to maintain its character as such so long as the property remains segregated in such a way that it can be identified and has not become incorporated and mixed with the general mass of property in the United States, and shall be deemed to have been completed when such property has been:
 - i. Sold and delivered by the importer, factor or consignee; or
 - ii. Removed from place of storage and placed on sale as part of the importer's stock in trade at a point of sale or distribution; or
 - iii. Delivered for manufacture, processing or change in form to premises of the importer or of another for any such purposes.
 2. Exports.
 - a. Exports may be covered wherever the property may be located without restriction as to time, provided

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- the coverage of each issuing company includes hazards of transportation.
- b. An export, as a proper subject of marine or transportation insurance, shall be deemed to acquire its character as such when designated or while being prepared for export and retain that character unless diverted for domestic trade, and when so diverted, the provisions of this rule respecting domestic shipments shall apply, provided, however, that this provision shall not apply to long established methods of insuring certain commodities, e.g., cotton.
3. Domestic shipments.
 - a. Domestic shipments on consignment, for sale or distribution, exhibit, or trial, or approval or auction, while in transit, while in the custody of others and while being returned, provided the coverage of each issuing company includes hazards of transportation, and further provided that in no event shall the policy cover domestic shipments on consignment on premises owned, leased or operated by the consignor.
 - b. Domestic shipments not on consignment, provided the coverage of the issuing companies includes hazards of transportation, beginning and ending within the United States, and further provided that such shipments shall not be covered at manufacturing premises nor after arrival at premises owned, leased or operated by assured or purchaser.
 4. Bridges, tunnels and other instrumentalities of transportation and communication excluding buildings, their improvements and betterments, their furniture and furnishings, fixed contents and supplies held in storage. The foregoing includes:
 - a. Bridges, tunnels, other similar instrumentalities, including auxiliary facilities and equipment attendant thereto.
 - b. Piers, wharves, docks, slips, dry docks and marine railways.
 - c. Pipelines, including on-line propulsion, regulating and other equipment appurtenant to such pipelines, but excluding all property at manufacturing, producing, refining, converting, treating or conditioning plants.
 - d. Power transmission and telephone and telegraph lines, excluding all property at generating, converting or transforming stations, substations and exchanges.
 - e. Radio and television communication equipment in use as such including towers and antennae with auxiliary equipment, and appurtenant electrical operating and control apparatus.
 - f. Outdoor cranes, loading bridges and similar equipment used to load, unload and transport.
 5. Personal Property Floater Risks covering individuals and/or generally
 - a. Personal Effects Floater Policies
 - b. The Personal Property Floater
 - c. Government Service Floater
 - d. Personal Fur Floaters
 - e. Personal Jewelry Floaters
 - f. Wedding Present Floaters for not exceeding 90 days after the date of the wedding.
 - g. Silverware Floaters.
 - h. Fine Arts Floaters, covering paintings, etchings, pictures, tapestries, art glass windows, and other bona fide works of art of rarity, historical value or artistic merit.
 - i. Stamp and Coin Floaters.
 - j. Musical Instrument Floaters. Radios, televisions, record players and combinations thereof are not deemed musical instruments.
 - k. Mobile Articles, Machinery and Equipment Floaters, excluding vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway use, covering identified property of a mobile or floating nature pertaining to or usual to a household. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.
 - l. Installment Sales and Leased Property Policies covering property pertaining to a household and sold under conditional contract of sale, partial payment contract or installment sales contract or leased, but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest.
 - m. Live Animal Floaters.
 6. Commercial Property Floater Risks covering property pertaining to a business, profession or occupation.
 - a. Radium Floaters.
 - b. Physicians' and Surgeons Instrument Floaters. Such policies may include coverage of such furniture, fixtures and tenant assured's interest in such improvements and betterments of buildings as are located in that portion of the premises occupied by the assured in the practice of his profession.
 - c. Pattern and Die Floaters.
 - d. Theatrical Floaters, excluding buildings and their improvements and betterments, and furniture and fixtures that do not travel about with theatrical troupes.
 - e. Film Floaters, including builders' risk during the production and coverage on completed negatives and positives and sound records.
 - f. Salesmen's Samples Floaters.
 - g. Exhibition Policies on property while on exhibition and in transit to or from such exhibitions.
 - h. Live Animal Floaters.
 - i. Builders Risks and/or Installation Risks covering interest of owner, seller or contractor, against loss or damage to machinery, equipment, building materials or supplies, being used with and during the course of installation, testing, building, renovating or repairing. Such policies may cover at points or places where work is being performed, while in transit and during temporary storage or deposit, of property designated for and awaiting specific installation, building, renovating or repairing.
 - i. Such coverage shall be limited to Builders Risks or Installation Risks where Perils in addition to Fire and Extended Coverage are to be insured.
 - ii. If written for account of owner, the coverage shall cease upon completion and acceptance thereof; or if written for account of a seller or contractor the coverage shall terminate when the interest of the seller or contractor ceases.
 - j. Mobile Articles, Machinery and Equipment Floaters, excluding motor vehicles designed for highway use and auto homes, trailers and semi-trailers except when hauled by tractors not designed for highway

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- use and snow plows constructed exclusively for highway use covering identified property of a mobile or floating nature, not on sale or consignment, or in course of manufacture, which has come into the custody or control of parties who intend to use such property for the purpose for which it was manufactured or created. Such policies shall not cover furniture and fixtures not customarily used away from premises where such property is usually kept.
- k. Property in transit to and from and in custody of bailees not owned, controlled or operated by the bailor. Such policies shall not cover bailee's property at his premises.
- l. Installment sales and leased property. Policies covering property sold under conditional contract of sale, partial payment contract, installment sales contract, or leased but excluding motor vehicles designed for highway use. Such policies must cover in transit but shall not extend beyond the termination of the seller's or lessor's interest. This Section is not intended to include machinery and equipment under certain "lease-back" contracts.
- m. Garment Contractors Floaters.
- n. Furriers or Fur Storer's Customer's Policies, i.e., policies under which certificates or receipt are issued by furriers or fur storer's covering specified articles the property of customers.
- o. Accounts Receivable Policies, Valuable Papers and Records Policies.
- p. Floor Plan Policies, covering property for sale while in possession of dealers under a Floor Plan or any similar plan under which the dealer borrows money from a bank or lending institution with which to pay the manufacturer, provided:
- i. Such merchandise is specifically identifiable as encumbered to the bank or lending institution.
 - ii. The dealer's right to sell or otherwise dispose of such merchandise is conditioned upon its being released from encumbrance by the bank or lending institution.
 - iii. That such policies cover in transit and do not extend beyond the termination of the dealer's interest.
 - iv. That such policies shall not cover automobiles or motor vehicles; merchandise for which the dealer's collateral is the stock or inventory as distinguished from merchandise specifically identifiable as encumbered to the lending institution.
- q. Sign and Street Clock Policies, including neon signs, automatic or mechanical signs, street clocks, while in use as such.
- r. Fine Arts Policies covering paintings, etchings, pictures, tapestries, art glass windows, and other bona fide works of art of rarity, historical value or artistic merit, for account of museums, galleries, universities, businesses, municipalities and other similar interests.
- s. Policies covering personal property which, when sold to the ultimate purchaser, may be covered specifically, by the owner, under Inland Marine Policies including:
- i. Musical Instrument Dealers Policies, covering property consisting principally of musical instruments and their accessories. Radios, televisions, record players and combinations thereof are not deemed musical instruments.
 - ii. Camera Dealers Policies, covering property consisting principally of cameras and their accessories.
 - iii. Furrier's Dealers Policies, covering property consisting principally of furs and fur garments.
 - iv. Equipment Dealers Policies, covering mobile equipment consisting of binders, reapers, tractors, harvesters, harrows, tedders and other similar agricultural equipment and accessories therefor; construction equipment consisting of bulldozers, road scrapers, tractors, compressors, pneumatic tools, and similar equipment and accessories therefor; but excluding motor vehicles designed for highway use.
 - v. Stamp and Coin Dealers covering property of philatelic and numismatic nature.
 - vi. Jewelers' Block Policies.
 - vii. Fine Arts Dealers.
- Such policies may include coverage of money in locked safes or vaults on the Assured's premises. Such policies also may include coverage of furniture, fixtures, tools, machinery, patterns, molds, dies and tenant insureds interest in improvements of buildings.
- t. Wool Growers Floaters.
 - u. Domestic Bulk Liquids Policies, covering tanks and domestic bulk liquids stored therein.
 - v. Difference in Conditions Coverage excluding fire and extended coverage perils.
 - w. Electronic Data Processing Policies.
- C. Unless otherwise permitted, nothing in the foregoing shall be construed to permit MARINE OR TRANSPORTATION POLICIES TO COVER:
1. Storage of assured's merchandise, except as hereinbefore provided.
 2. Merchandise in course of manufacture, the property of and on the premises of the manufacturer.
 3. Furniture and fixtures and improvements and betterments to buildings.
 4. Monies and/or securities in safes, vaults, safety deposit vaults, bank or assured's premises, except while in course of transportation.

Historical Note

Former General Rule 59-4; Amended effective August 30, 1985 (Supp. 85-4). R20-6-602 recodified from R4-14-602 (Supp. 95-1).

R20-6-603. Repealed**Historical Note**

Former General Rule 69-18; Repealed effective July 27, 1981 (Supp. 81-4). R20-6-603 recodified from R4-14-603 (Supp. 95-1).

R20-6-604. Definitions

The definitions in A.R.S. § 20-1603 and this Section apply to R20-6-604 through R20-6-604.10.

"Actual loss ratio" means incurred claims divided by earned premiums at rates in use.

"Actuarially equivalent" means of equal actuarial present value determined as of a given date with each value based on the same set of actuarial assumptions. When used in this Article in reference to rates and coverage, "actuarially equivalent" means a rate or coverage that is actuarially determined to yield

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loss ratios of 50% for credit life insurance and 60% for credit disability insurance.

“Credit insurance” means credit life insurance, credit disability insurance, or both, but does not include any insurance for which there is no identifiable charge.

“Earned premiums” means earned premiums at prima facie rates and earned premiums at rates in use.

“Earned premiums at prima facie rates” means an insurer’s actual earned premiums, adjusted to the amount that the insurer would have earned if the insurer’s premium rates had equaled the prima facie rates in effect during the experience period.

“Earned premiums at rates in use” means the premiums that an insurer actually earns on the premium rates the insurer charges during an experience period.

“Evidence of individual insurability” means information about a debtor’s health status or medical history that a debtor provides as a condition of credit insurance becoming effective.

“Experience” means an insurer’s earned premiums and incurred claims during an experience period.

“Experience period” means a period of time for which an insurer reports income and expense information on the insurer’s credit insurance business.

“Final adjusted rates” means the prima facie rates referred to in R20-6-604.04 and R20-6-604.05, subject to any deviations approved under R20-6-604.08.

“Gross debt” means the sum of the remaining payments that a debtor owes a creditor.

“Identifiable charge” means a charge for credit insurance that is imposed on a debtor with credit insurance but not on a debtor without credit insurance, and includes a charge for insurance that is disclosed in the credit or other financial instrument furnished to the debtor, which sets forth the financial elements of a credit transaction, and any difference in finance, interest, service charges, or other similar charges made to a debtor in like circumstances except for the debtor’s status as insured or noninsured.

“Incurred claims” means the total claims an insurer pays during an experience period, adjusted for the change in the claim reserves.

“Net debt” means the amount necessary to liquidate a debt in a single lump-sum payment excluding unearned interest and other unearned finance charges.

“Plan of credit insurance” means an insurance plan based on one of the following rate and coverage categories:

Credit life insurance, other than on revolving accounts, including joint and single life coverage, decreasing and level insurance, and outstanding balance and single premium;

Credit life insurance on revolving accounts;

Credit life insurance on an age-graded basis;

Credit disability insurance, other than on revolving accounts, including outstanding balance and single premium, and each combination of waiting period and retroactive or non-retroactive benefits;

Credit disability insurance on revolving accounts, including each combination of waiting period and retroactive or non-retroactive benefits.

“Preexisting condition” means a condition:

For which a debtor received medical advice, consultation, or treatment within six months before the effective date of credit insurance coverage; and

From which the debtor dies, in the case of life insurance, or becomes disabled, in the case of disability insurance, within six months after the effective date of coverage.

“Prima facie adjusted loss ratio” means incurred claims divided by earned premiums at prima facie rates.

“Prima facie rates” means the rates established by the Director as prescribed in R20-6-604.03.

“Reasonableness standard” means the requirement in A.R.S. § 20-1610(B) that an insurer’s premiums for credit insurance shall not be excessive in relation to the benefits provided under the policy.

“Rule of Anticipation” means the product of the gross single premium per \$100 of indebtedness for a debtor’s remaining term of indebtedness, times the number of hundreds of dollars of remaining indebtedness.

Historical Note

Former General Rule 70-22; Correction, original publication did not include Exhibit C (Supp. 76-1). Amended effective January 8, 1980 (Supp. 80-1). Former Section R4-14-604 repealed, new Section R4-14-604 adopted effective April 1, 1982. See subsection (N) for further detail (Supp. 82-2). Amended subsection (N) and Exhibit A effective March 30, 1983 (Supp. 83-2). R20-6-604 recodified from R4-14-604 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

Exhibit A. Repealed

Historical Note

Former General Rule 70-22; Correction, original publication did not include Exhibit C (Supp. 76-1). Amended effective January 8, 1980 (Supp. 80-1). Former Section R4-14-604 repealed, new Section R4-14-604 adopted effective April 1, 1982. See subsection (N) for further detail (Supp. 82-2). Amended subsection (N) and Exhibit A effective March 30, 1983 (Supp. 83-2). R20-6-604 recodified from R4-14-604 (Supp. 95-1). Section repealed by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.01. Rights and Treatment of Debtors

A. Creditor Obligations.

1. Multiple plans of insurance. If a creditor makes more than one plan of credit insurance available to debtors, the creditor shall inform each debtor of each plan for which the debtor is eligible and of the premium and charges for each plan.
2. Substitution. If a creditor requires a debtor to have credit insurance as additional security for a debt, the creditor shall inform the debtor in writing of the debtor’s right to obtain alternative coverage as prescribed in A.R.S. § 20-1614 before the loan transaction is completed.
3. Remittance of premiums. If a creditor adds an insurance charge or premium to a debt, the creditor shall remit the insurance charge or premium to the insurer within 60 days after it is added to the debt.

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- B.** Creditor and insurer obligations regarding insurance on refinanced debt.
1. If a debt is discharged because the debtor refinances the debt before the scheduled maturity date, the creditor shall notify the insurer that issued the credit insurance on the discharged debt.
 2. An insurer shall not issue any credit insurance that covers the refinanced debt with an effective date preceding the termination date of the insurance on the original debt.
 3. The insurer issuing the coverage on the discharged debt shall refund to or credit the debtor with all unearned insurance charges or premium according to R20-6-604.06.
 4. If a debt is refinanced, the effective date of the policy provisions in any new insurance covering the refinanced debt shall be the first date on which the debtor became insured under the previous policy. An insurer may apply any new exclusion period or preexisting condition limitation only to the portion of the new loan that exceeds the previous loan.
- C.** Required policy provisions.
1. Termination provisions for group policies. A group credit insurance policy shall provide for continued coverage of debtors covered under the policy if the policy terminates, as follows:
 - a. For a policy with a single premium payment, or any other payment method that prepays coverage for more than one month, a provision requiring continued insurance coverage for the entire period for which the premium has been paid; and
 - b. For a policy with a monthly premium payment, a provision requiring the insurer to send the debtor a termination notice at least 30 days before the effective date of termination, unless an insurer is issuing replacement coverage in at least the same amount, without lapse of coverage.
 2. Maximum aggregate provisions. A provision in an individual policy or group certificate that sets a maximum limit on total claim payments shall apply only to that individual policy or group certificate.
- D.** Creditor and insurer obligations when debtor prepays debt.
1. Except as provided in subsection (D)(2), if a debtor prepays a debt in full, any credit insurance covering the debt shall terminate on the date of prepayment. The creditor and insurer shall refund to or credit the debtor with any unearned premium according to R20-6-604.06.
 2. If a debt is fully prepaid because of the debtor's death or any other lump-sum credit insurance payment, a creditor or insurer is not required to refund premium for the coverage under which the lump sum was paid.
 3. If a claim under credit disability coverage is in progress at the time of prepayment, the insurer:
 - a. May calculate the refund as if the prepayment did not occur until the end of the period for payment of benefits, and
 - b. Is not required to refund premiums for any period for which credit disability benefits are payable.
- E.** Benefits payable on revolving account. If a debtor is paying for credit insurance coverage on a revolving account and dies, the insurer shall pay a benefit amount equal to the amount of indebtedness outstanding on the date of death. The insurer may exclude preexisting conditions occurring within six months of any advance on the revolving account, running separately for each advance or charge.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.02. Satisfying the Reasonableness Standard

- A.** An insurer shall comply with all requirements of A.R.S. § 20-1610 regarding premium and insurance charges.
- B.** An insurer may satisfy the reasonableness standard in A.R.S. § 20-1610(B) if the insurer's premium rate develops a loss ratio of not less than 50% for credit life insurance and not less than 60% for credit disability insurance.
- C.** While in effect, the rates described in R20-6-604.04 and R20-6-604.05, subject to any deviations approved under R20-6-604.08 are conclusively presumed to develop the loss ratios described in subsection (B). For purposes of prospective effect, the Department may rebut this presumption by disapproving or withdrawing approval for the rates as prescribed in A.R.S. § 20-1610.
- D.** An insurer may provide coverage other than the standard coverage described in R20-6-604.04 and R20-6-604.05. An insurer that wishes to provide nonstandard coverage shall:
 1. File the nonstandard coverage policy information as prescribed in A.R.S. § 20-1609, and
 2. Demonstrate that the rates for the coverage are reasonably expected to develop a loss ratio of not less than 50% for credit life insurance and not less than 60% for credit disability insurance.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.03. Determination of Prima Facie Rates

- A.** The Director shall, by order, establish prima facie rates as prescribed in this Section.
- B.** At least once every three years, the Director shall:
 1. Determine the rate of expected claims on a statewide basis;
 2. Compare the rate of expected claims with the rate of actual claims for the past three years determined from the incurred claims and earned premiums at prima facie rates; and
 3. If the Director determines that the prima facie rates require adjustment, issue a notice of hearing and proposed order adjusting the actual statewide prima facie rates. The hearing date on the proposed order shall be no earlier than 45 days from the date of the notice.
- C.** The Director shall mail a copy of the notice and proposed order to:
 1. Each insurer that reported transaction of credit insurance on its annual statement immediately preceding the date of the notice, and
 2. Any other person who sends the Director a written request for notice of proceedings to adjust the prima facie rates.
- D.** Any person may submit written comments to the Director or appear at the hearing and provide oral comments on the record. Written comments shall be received no later than the close of record date specified in the notice of hearing.
- E.** The Director shall:
 1. Consider written and oral comments; and
 2. Issue a final order setting prima facie rates no later than 30 days after the close of record date specified in the notice of hearing.

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Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.04. Credit Life Insurance Rates and Provisions

- A.** Under the process prescribed in R20-6-604.03, the Director shall issue an order establishing prima facie rates for credit life insurance.
- B.** The Department shall presume that an insurer meets the loss ratios prescribed in R20-6-604.02(B) if the insurer uses the prima facie rates, subject to the requirements in this Section and R20-6-604.08. An insurer may use the prima facie rates without filing additional actuarial support.
- C.** A credit life insurance policy shall meet the requirements listed in this Section. The policy shall:
1. Provide coverage for death, by whatever means caused, to all eligible debtors, with or without evidence of individual insurability for debtors that purchase coverage within 30 days of being eligible;
 2. Have no exclusions other than for:
 - a. Suicide within six months after the effective date of coverage, or
 - b. A preexisting condition;
 3. Have no age restrictions, except the following permissible exclusions:
 - a. An age restriction providing that no insurance will become effective on a debtor on or after the attainment of age 70 and that all insurance shall terminate on a debtor attaining age 70; and
 - b. An age restriction for a revolving credit life insurance policy that:
 - i. Excludes a class of debtors determined by age, or
 - ii. Provides for termination of insurance or reduction in the amount of insurance when a debtor reaches age 70; and
 4. For insurance on revolving accounts, have the date on which an advance or charge occurs as the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account. Any exclusion period or preexisting condition limitation shall run separately for each advance or charge.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.05. Credit Disability Insurance Rates and Provisions

- A.** Under the process prescribed in R20-6-604.03, the Director shall issue an order establishing prima facie rates for credit disability insurance.
- B.** The Department shall presume that an insurer meets the loss ratios prescribed in R20-6-604.02(B) if the insurer uses the prima facie rates, subject to the requirements in this Section and R20-6-604.08. An insurer may use the prima facie rates without filing additional actuarial support.
- C.** A credit disability insurance policy shall meet the requirements listed in this Section. The policy shall:
1. Provide coverage for disability, by whatever means caused, to all eligible debtors, with or without evidence of individual insurability for debtors that purchase coverage within 30 days of becoming eligible;
 2. Include a definition of disability that is no more restrictive than the following:
 - a. For the first 12 months of disability, the inability of the insured to perform the essential functions of the insured's occupation; and

- b. After the first 12 months of disability, the inability of the insured to perform the essential functions of any occupation for which the insured is reasonably suited by virtue of education, training, or experience;
3. Not include any employment requirement that a debtor be employed more than full-time on the effective date of coverage, with a definition of "full-time" as a regular work week of at least 30 hours;
4. Have no exclusions other than for disabilities resulting from:
 - a. Normal pregnancy,
 - b. Intentionally self-inflicted injury, or
 - c. A preexisting condition;
5. For insurance on revolving accounts, have the date on which an advance or charge occurs as the effective date of coverage for each part of the insurance attributable to a different advance or a charge to the plan account. Any exclusion period or preexisting condition limitation shall run separately for each advance or charge;
6. Have no age restrictions, except the following permissible exclusion:

An age restriction providing that no insurance will become effective on a debtor on or after the attainment of age 65 and that all insurance shall terminate on a debtor attaining age 66; and
7. Include a provision for a daily benefit of not less than one-thirtieth of the monthly benefit payable under the policy.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.06. Refund Methods

- A.** When refunding premiums as prescribed in A.R.S. § 20-1611, an insurer shall use the following methods:
1. For insurance paid by a single premium, the Rule of Anticipation method; and
 2. For insurance paid by other than a single premium, a method that refunds at least the pro rata gross unearned amount charged to the debtor.
- B.** The Director may approve other refund methods similar to those described in subsection (A), that are actuarially equivalent to the type of coverage the debtor purchased.
- C.** An insurer's refund method may recognize adjustments to a daily basis for interest or payments if the adjustments are consistent with the underlying credit transaction.
- D.** An insurer is not required to refund any amount less than \$5.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.07. Experience Reports

- A.** By April 1 of each year, an insurer that transacts credit insurance in this state shall file with the Director an experience report, on a form specified by the Director, for each class of business that the insurer transacts as provided in this Section.
1. In this Section, a "class of business" means:
 - a. Credit unions;
 - b. Banks, savings and loan institutions, and mortgage companies;
 - c. Finance companies, small loan companies, and consumer lenders defined in A.R.S. § 6-601(5);
 - d. Dealers, including auto, truck, and boat dealers, retail stores, and other persons selling financed goods; and

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- e. All other persons selling credit insurance not specifically listed in subsection (A)(1)(a) through (d).
- 2. The report shall include the following information:
 - a. Mode of premium payment,
 - b. Plan of benefits description,
 - c. Earned premiums,
 - d. Incurred claims,
 - e. Loss ratios, and
 - f. For credit life insurance, mean insurance in force.
- B. For each day a report is late, the Director may assess a penalty as prescribed in A.R.S. § 20-223.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.08. Use of Prima Facie Rates; Rate Deviations

- A. Use of rates greater than prima facie rates. An insurer may file for approval and use of any deviated rates that are higher than the prima facie rates referred to in R20-6-604.04 and R20-6-604.05 as prescribed in A.R.S. § 20-1610.
 - 1. The deviated rates shall meet the minimum loss ratio standards and other requirements prescribed by R20-6-604.02.
 - 2. The filing shall specify the accounts to which the rates apply.
 - 3. The rates may be:
 - a. Applied uniformly to all accounts of the insurer; or
 - b. Applied on an equitable basis approved by the Director to accounts of the insurer for which the insurer's experience has been less favorable than expected.
- B. Approval period of deviated rates. An insurer may use a deviated rate for the same period of time as the experience period used to establish the rate, not to exceed a period of three years from the date of approval. An insurer may file for a new deviated rate before the end of the approval period, but not more often than once in any 12 month period.
- C. Approval is non-transferable. The Director's approval of a deviated rate is not transferable to another insurer. If an insurer acquires an account for which another insurer obtained a deviated rate, the successor insurer may not charge the deviated rate without obtaining approval for the deviated rate as prescribed in subsection (B).
- D. Use of rates lower than filed rates. An insurer may use a rate that is less than its filed rate without notice to the Director.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.09. Supervision of Consumer Credit Insurance Operations

- A. At least once every three years, an insurer transacting credit insurance in Arizona shall review the credit insurance operations of each creditor with whom the insurer does business to ensure that each creditor is complying with applicable credit insurance laws. The insurer shall review the following:
 - 1. The creditor does not charge rates in excess of the prima facie rates or any deviated rates for which the insurer obtains approval;
 - 2. The creditor makes benefit payments as prescribed in the policy; and
 - 3. The creditor refunds unearned premiums as prescribed in R20-6-604.06.
- B. The insurer shall maintain for the Director's inspection a written record of each review and action the insurer takes to

address any creditor noncompliance found by the insurer, for at least three years following the end of the review.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-604.10. Prohibited Transactions

- A. The practices listed in this Section are deemed unfair trade practices under A.R.S. § 20-442. An insurer that commits any of the following practices is subject to penalties as prescribed in A.R.S. § 20-456:
 - 1. Offering or providing a creditor with any special advantage or any service not set out in either the group insurance contract or in the agency contract, other than payment of commissions;
 - 2. Agreeing to deposit with a bank or financial institution, the insurer's money or securities as a substitute for a deposit of money or securities that the financial institution would otherwise require from the creditor as a compensating balance or deposit offset for a loan or other advancement; or
 - 3. Depositing money or securities without interest or at a lesser rate of interest than the creditor, bank, or financial institution is currently paying on other similar deposits.
- B. This Section does not prohibit an insurer from maintaining demand deposits or premium deposit accounts that are reasonably necessary for use in the ordinary course of the insurer's business.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2725, effective June 7, 2002 (Supp. 02-2).

R20-6-605. Emergency Expired**Historical Note**

Former General Rule 72-26. Repealed effective December 4, 1986 (Supp. 86-6). Adopted as an emergency effective January 9, 1990, pursuant to A.R.S. § 41-1026 valid for only 90 days; re-adopted as an emergency with changes effective March 26, 1990, pursuant to A.R.S. § 41-1026 valid for only 90 days (Supp. 90-1). Re-adopted as an emergency without change effective June 20, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-2). Emergency expired. R20-6-605 recodified from R4-14-605 (Supp. 95-1).

R20-6-606. Repealed**Historical Note**

Adopted effective July 1, 1980 (Supp. 80-3). Amended effective June 1, 1981. See also subsection (G) (Supp. 81-1). Amended subsections (D), (E)(3)(a), (F)(2)(b), (3)(a), (4)(e), (G), and (H) effective January 11, 1982 (Supp. 82-1). Amended subsections (G) and (H) as an emergency effective August 1, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Amended and readopted as an emergency effective November 18, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Corrected and readopted as an emergency effective February 10, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Amended effective August 4, 1989 (Supp. 89-3). Amended and adopted as an emergency effective September 13, 1989 (Supp. 89-3). Emergency expired (Supp. 89-4). Amended effective November 19, 1990 (Supp. 90-4). Repealed by emergency action effective December 18, 1991, pursuant to

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A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Repealed again by emergency action effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Repealed effective May 28, 1992 (Supp. 92-2). R20-6-606 recodified from R4-14-606 (Supp. 95-1).

R20-6-607. Reasonableness of Benefits in Relation to Premium Charged

- A. Applicability. This rule shall apply to individual disability insurance (as defined in A.R.S. § 20-253) policy forms and rates.
- B. When rate filing is required. Every individual policy form, rider or endorsement form affecting benefits which is submitted for approval shall be accompanied by a rate filing unless such rider or endorsement form does not require a change in the rate. Any subsequent addition to or change in rates applicable to such policy, rider or endorsement form shall also be filed.
- C. General contents of all rate filings. Each rate submission shall include an actuarial memorandum describing the basis on which rates were determined and shall indicate and describe the calculation of the ratio, hereinafter called "anticipated loss ratio," of the present value of the expected benefits to the present value of the expected premiums over the entire period for which rates are computed to provide coverage. Each rate submission must also include a certification by a qualified actuary that to the best of the actuary's knowledge and judgment, the rate filing is in compliance with applicable laws and regulations of this state and that the benefits are reasonable in relation to the premiums.
- D. Previously approved forms. Filings of rate revisions for a previously approved policy, rider or endorsement form shall also include the following:
 - 1. A statement of the scope and reason for the revision, and an estimate of the expected average effect on premiums including the anticipated loss ratio for the form.
 - 2. A statement as to whether the filing applies only to new business, only to in-force business, or both, and the reasons.
 - 3. A history of the experience under existing rates, including at least the data indicated in subsection (E). The history may also include, if available and appropriate, the ratios of actual claims to the claims expected according to the assumptions underlying the existing rates. All additional data must be reconciled, as appropriate, to the required data. Additional data might include:
 - a. Substitution of actual claim run-offs for claim reserves and liabilities,
 - b. Determination of loss ratios with the increase in policy reserves (other than unearned premium reserves) added to benefits rather than subtracted from premiums,
 - c. Substitution of net level policy reserves for preliminary term policy reserves,
 - d. Adjustment of premiums to an annual mode basis, or
 - e. Other adjustments or schedules suited to the form and to the records of the company.
 - 4. The date and magnitude of each previous rate change, if any.
- E. Experience records. Insurers shall maintain records of earned premiums and incurred benefits for each calendar year for each policy form, including data for rider and endorsement forms which are used with the policy form, on the same basis, including all reserves, as required for the Accident and Health Policy Experience Exhibit to the NAIC annual statement convention blank. Separate data may be maintained for each rider

or endorsement form to the extent appropriate. Experience under forms which provide substantially similar coverage may be combined. The data shall be for all years of issue combined, for each calendar year of experience since the year the form was first issued, except the data for calendar years prior to the most recent five years may be combined.

- F. Evaluation experience data. In determining the credibility and appropriateness of experience data, due consideration must be given to all relevant factors, such as:
 - 1. Statistical credibility of premiums and benefits, e.g., low exposure, low loss frequency.
 - 2. Experienced and projected trends relative to the kind of coverage, e.g., inflation in medical expenses, economic cycles affecting disability income experience.
 - 3. The concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations.
 - 4. The mix of business by risk classification.
- G. Anticipated loss ratio standard. With respect to a new form or a currently approved form, except currently approved non-cancelable policy forms, under which the average annual premium (as defined below) is expected to be at least \$700, benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio is at least as great as shown in the following table:

Type of Coverage	Renewal Clause			
	OR	CR	GR	NC
Medical expense	60%	55%	55%	50%
Loss of income and other	60%	55%	50%	45%

For a policy form including riders and endorsements, under which the expected average annual premium per policy is \$200 or more but less than \$700, subtract 5 percentage points from the numbers in the table above, or if less than \$200, subtract 10 percentage points.

The average annual premium per policy shall be computed by the insurer based on an anticipated distribution of business by all applicable criteria having a price difference, such as age, sex, amount, dependent status, rider frequency, etc., except assuming an annual mode for all policies (i.e., the fractional premium loading shall not affect the average annual premium or anticipated loss ratio calculation.)

The above anticipated loss ratio standards do not apply to a class of business which is regulated by specific statutes or regulations mandating loss ratios for such business, e.g., Medicare Supplement and Credit Life and Disability.

Definitions of Renewal Clause

OR – Optionally Renewable: renewal is at the option of the insurance company.

CR – Conditionally Renewable: renewal can be declined by the insurance company only for stated reasons other than deterioration of health.

GR – Guaranteed Renewable: renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis.

NC – Non-Cancelable: renewal cannot be declined nor can rates be revised by the insurance company.

- H. Rate revisions. With respect to filings of rate revisions for a previously approved form, benefits shall be deemed reasonable in relation to premiums provided both the following loss ratios meet the standards in subsection (G) above.

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1. The anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage;
 2. The anticipated loss ratio derived by dividing (a) by (b) where:
 - a. Is the sum of the accumulated benefits, from the original effective date of the form or the effective date of this regulation, whichever is later, to the effective date of the revision, and the present value of future benefits; and
 - b. Is the sum of the accumulated premiums from the original effective date of the form or the effective date of the regulation, whichever is later, to the effective date of the revision, and the present value of future premiums. Such present values shall be taken over the entire period for which the revised rates are computed to provide coverage, and such accumulated benefits and premiums to include an explicit estimate of the actual benefits and premiums from the last date as of which an accounting has been made to the effective date of the revision. Interest shall be used in the calculation of these accumulated benefits and premiums and present values only if it is a significant factor in the calculation of this loss ratio.
- I.** Anticipated loss ratios lower than those indicated in subsections (H)(1) and (H)(2) will require justification based on the special circumstances that may be applicable.
1. Examples of coverages requiring special consideration are as follows:
 - a. Accident only;
 - b. Short term nonrenewable, e.g., airline trip, student accident;
 - c. Specified peril, e.g., common carrier; and
 - d. Other special risks.
 2. Examples of other factors requiring special consideration are as follows:
 - a. Marketing methods, giving due consideration to acquisition and administration costs and to premium mode;
 - b. Extraordinary expenses;
 - c. High risk of claim fluctuation because of the low loss frequency of the catastrophic, or experimental nature of the coverage;
 - d. Product features such as long elimination periods, high deductibles and high maximum limits;
 - e. The industrial or debit method of distribution; and
 - f. Forms issued prior to the effective date of this rule. Companies are urged to review their experience periodically and to file rate revisions, as appropriate, in a timely manner to avoid the necessity of later filing of exceptionally large rate increases.
 3. Notwithstanding the foregoing paragraphs to the contrary, hospital indemnity and cancer and other dread diseases policies shall develop the loss ratios pursuant to subsection (G).
- J.** Severability provision. If any provision of this rule or the application thereof to any person or circumstances is held invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.
- K.** Effective date. This rule shall become effective upon filing with the Secretary of State and shall apply to all individual disability policy form and rate filings submitted on and after said date.

Historical Note

Adopted effective July 14, 1981 (Supp. 81-1). R20-6-607 recodified from R4-14-607 (Supp. 95-1). Amended by final rulemaking at 24 A.A.R. 103, effective February 17, 2018 (Supp. 17-4).

ARTICLE 7. LICENSING PROVISIONS AND PROCEDURES**R20-6-701. Repealed****Historical Note**

Former General Rule 56-1; Repealed effective January 1, 1981 (Supp. 80-6). R20-6-701 recodified from R4-14-701 (Supp. 95-1).

R20-6-702. Expired**Historical Note**

Former General Rule 56-2. R20-6-702 recodified from R4-14-702 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-703. Expired**Historical Note**

Former General Rule 61-6. R20-6-703 recodified from R4-14-703 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-704. Expired**Historical Note**

Former General Rule 6-19. R20-6-704 recodified from R4-14-704 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-705. Expired**Historical Note**

Former General Rule 66-13. R20-6-705 recodified from R4-14-705 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-706. Expired**Historical Note**

Former General Rule 69-15; Repealed effective February 22, 1977 (Supp. 77-1). New Section R4-14-706 adopted effective November 5, 1980 (Supp. 80-5). R20-6-706 recodified from R4-14-706 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-707. Expired**Historical Note**

Former General Rule 69-18; Amended effective March 17, 1981 (Supp. 81-2). R20-6-707 recodified from R4-14-707 (Supp. 95-1). Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 2115, effective April 30, 2003 (Supp. 03-2).

R20-6-708. Licensing Time-frames

- A.** Definitions. The definitions listed below apply in this Section.
1. *“Administrative completeness review time frame” means the number of days from the Department’s receipt of an application for a license until the Department determines that the application contains all components required by statute or rule, including all information required to be*

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submitted by other government agencies A.R.S. § 41-1072 (1).

2. "License" has the meaning prescribed in A.R.S. § 41-1001(10).
 3. "Overall time frame" means the number of days after the Department's receipt of an application for a license during which the Department determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame A.R.S. § 41-1072 (2).
 4. "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which the Department determines whether an application or applicant for a license meets all substantive criteria required by state or rule A.R.S. § 41-1072(3).
- B.** The time-frames listed in Table A apply to licenses issued by the Department. The licensing time-frames consist of an administrative completeness review, a substantive review, and an overall review.
- C.** Within the time-frame for the administrative completeness review set forth in Table A, the Department shall notify the applicant in writing of whether the application is complete or incomplete. If the application is incomplete, the Department shall issue a notice of deficiency to the applicant specifying what information or component is required to make the application administratively complete.
1. If the Department determines that an application for a license is not administratively complete, the Department shall include a comprehensive list of the specific deficiencies in the written notice provided under subsection (C). If the Department issues a written notice of deficiency within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall review time-frame are suspended from the date the notice is issued until the date that the Department receives the missing information from the applicant.
 2. If an applicant does not make some response to each specific deficiency in a notice of deficiency issued during an administrative completeness review, the Department may issue a notice to the applicant within 10 days after receipt of the applicant's response, stating that the response is inadequate. The notice of inadequate response shall identify each specified deficiency to which the applicant did not make some response.
 - a. If the Department issues a notice of inadequate response under this subsection, the suspension of the administrative completeness review time-frame and the overall time-frame is not terminated.
 - b. If the Department does not issue a notice of inadequate response under this subsection, the Department is not precluded from issuing additional notices of deficiency during an administrative completeness review.
 3. If an applicant does not make some response to each specified deficiency in a notice of deficiency issued under subsection (C)(2) within 60 days after the date of a notice of deficiency or within 60 days after a notice of inadequate response issued under subsection (C)(2), the application is deemed withdrawn, and the Department is not required to take further action with respect to the application.
- D.** Within the time-frame for the substantive review set forth in Table A, the Department may issue one comprehensive written request for additional information to the applicant specifying each component or item of information required.
1. If the Department issues a comprehensive written request for additional information within the substantive review time-frame, the substantive review time-frame and the overall time-frame are suspended from the date the written request is issued until the date that the Department receives the additional information from the applicant.
 2. If an applicant does not make some response to each component or item of information requested in a comprehensive written request for additional information, the Department may issue a notice to the applicant within 10 days after receipt of the applicant's response stating that the response is inadequate. The notice of inadequate response shall identify each component or item of information required, to which the applicant did make some response.
 - a. If the Department issues a notice of inadequate response under this subsection, the suspension of the substantive review time-frame and overall time-frame is not terminated.
 - b. If the Department does not issue a notice of inadequate response under this subsection, the Department is not precluded from later issuing supplemental requests by mutual agreement for additional information, during the substantive review.
 3. If an applicant does not make some response to each component or item of information required in a comprehensive written request or a supplemental request for additional information, within 60 days after the date of a comprehensive written request or within 60 days after the date of the supplemental request, the application is deemed withdrawn, and the Department is not required to take further action with respect to the application.
- E.** Within the overall time-frames set forth in Table A, unless extended by mutual agreement under A.R.S. § 41-1075, the Department shall notify the applicant in writing that the application is granted or denied. If the application is denied, the Department shall provide written justification for the denial and a written explanation of the applicant's right to a hearing or the applicant's right to appeal.
- F.** In computing the time periods prescribed in these time-frame rules, the last day of a notice period is included in the computation, unless it is a Saturday, Sunday, or legal holiday.
- G.** This rule applies to applications filed on or after January 1, 1999.

Historical Note

Former General Rule 70-22; Correction, original publication did not include Exhibit C. (Supp. 76-1). Repealed effective January 8, 1980 (Supp. 80-1). R20-6-708 recodified from R4-14-708 (Supp. 95-1). Amended effective January 1, 1999; filed in the Office of the Secretary of State December 4, 1998 (Supp. 98-4).

R20-6-709. Repealed**Historical Note**

Former General Rule 71-23; Repealed effective January 1, 1981 (Supp. 80-6). R20-6-709 recodified from R4-14-709 (Supp. 95-1).

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Table A. Licensing Time-frames Table

License	Relevant A.R.S.	Administrative Completeness	Substantive Review	Overall Time-frame
Certificate of Authority*	§ 20-216	210	90	300
Certificate of Exemption	§ 20-401.05	92	30	122
Reinsurance Intermediary	§ 20-486.01	120	60	180
Hospital, Medical, Dental, and Optometric Service Corporation	§ 20-825	210	90	300
Prepaid Dental Plan Organization	§ 20-1004	210	90	300
Life Care Provider Permit*	§ 20-1803	60	30	90
Health Care Services Organization	§ 20-1052	210	90	300
Mechanical Reimbursement Reinsurer	§ 20-1096.04	210	90	300
Prepaid Legal Insurer*	§ 20-1097.02	45	15	60
Service Representative	§ 20-285	120	60	180
Managing General Agent-Firm	§ 20-284	120	60	180
Managing General Agent-Individual	§ 20-288	120	60	180
Risk Management Consultant	§ 20-289	120	60	180
Agent, Broker and Solicitor	§ 20-291	120	60	180
Nonresident Agent and Broker	§ 20-303	120	60	180
Vending Machine	§ 20-306	120	60	180
Limited Travel Agent	§ 20-306.01	120	60	180
Adjuster	§ 20-312	120	60	180
Bail Bond Agent	§ 20-319	120	60	180
Surplus Lines Broker	§ 20-411	120	60	180
Title Insurance Agent	§ 20-1580	120	60	180
Credit Life and Disability Agents	§ 20-1612	120	60	180
Variable Contract Agent	§ 20-2662	120	60	180
Utilization Review Agent	§ 20-2505	30	90	120
Rating Organization*	§ 20-361	30	30	60
Rate Service Organization	§ 20-389	60	60	120
Qualifying Surplus Lines Insurer	§ 20-413	45	30	75
Third Party Administrator	§ 20-485.12	45	45	90
Service Companies	§ 20-1095.01	30	30	60
Risk Retention Group (Foreign)*	§ 20-2403	60	0	60
Risk Purchasing Groups	§ 20-2407	30	30	60

* Statutory time-frames

Historical Note

Table 1 adopted effective January 1, 1999; filed in the Office of the Secretary of State December 4, 1998 (Supp. 98-4).

ARTICLE 8. PROHIBITED PRACTICES, PENALTIES

R20-6-801. Unfair Claims Settlement Practices

- A. Applicability. This rule applies to all persons and to all insurance policies, insurance contracts and subscription contracts except policies of Worker’s Compensation and title insurance. This rule is not exclusive, and other acts not herein specified, may also be deemed to be a violation of A.R.S. § 20-461, The Unfair Claims Settlement Practices Act.
- B. Definitions
 - 1. “Agent” means any individual, corporation, association, partnership or other legal entity authorized to represent an insurer with respect to a claim.
 - 2. “Claimant” means either a first party claimant, a third party claimant, or both and includes such claimant’s designated legal representative and includes a member of the claimant’s immediate family designated by the claimant.
 - 3. “Director” means the Director of Insurance of the State of Arizona.
 - 4. “First party claimant” means an individual, corporation, association, partnership or other legal entity asserting a right to payment under an insurance policy or insurance

- contract arising out of the occurrence of the contingency of loss covered by such policy or contract.
- 5. “Insurance policy or insurance contract” has the meaning of A.R.S. § 20-103.
- 6. “Insurer” has the meaning of A.R.S. § 20-106(C).
- 7. “Investigation” means all activities of an insurer directly or indirectly related to the determination of liabilities under coverages afforded by an insurance policy or insurance contract.
- 8. “Notification of claim” means any notification, whether in writing or other means, acceptable under the terms of any insurance policy or insurance contract, to an insurer or its agent, by a claimant, which reasonably apprises the insurer of the facts pertinent to a claim.
- 9. “Person” has the meaning of A.R.S. § 20-105.
- 10. “Third party claimant” means any individual, corporation, association, partnership or other legal entity asserting a claim against any individual, corporation, association, partnership or other legal entity insured under an insurance policy or insurance contract of an insurer.

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11. "Worker's compensation" includes, but is not limited to, Longshoremen's and Harbor Worker's Compensation.
- C.** File and record documentation. The insurer's claim files shall be subject to examination by the Director or by his duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed.
- D.** Misrepresentation of policy provisions
1. No insurer shall fail to fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented.
 2. No agent shall conceal from first party claimants benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.
 3. No insurer shall deny a claim on the basis that the claimant has failed to exhibit the damaged property to the insurer, unless the insurer has requested the claimant to exhibit the property and the claimant has refused without a sound basis therefor.
 4. No insurer shall, except where there is a time limit specified in the policy, make statements, written or otherwise, requiring a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if such a time limit is not complied with unless the failure to comply with such time limit prejudices the insurer's rights.
 5. No insurer shall request a first party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.
 6. No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage which contain language that releases the insurer or its insured from its total liability.
- E.** Failure to acknowledge pertinent communications
1. Every insurer, upon receiving notification of a claim shall, within 10 working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.
 2. Every insurer, upon receipt of any inquiry from the Department of Insurance respecting a claim shall, within fifteen working days of receipt of such inquiry, furnish the Department with an adequate response to the inquiry.
 3. An appropriate reply shall be made within 10 working days on all other pertinent communications from a claimant which reasonably suggest that a response is expected.
 4. Every insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within 10 working days of notification of a claim shall constitute compliance with subsection (E)(1).
- F.** Standards for prompt investigation of claims. Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless such investigation cannot reasonably be completed within such time.
- G.** Standards for prompt, fair and equitable settlements applicable to all insurers
1. Notice of acceptance of denial of claim.
 - a. Within fifteen working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to such provision, condition or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.
 - b. If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall also notify the first party claimant within fifteen working days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, 45 days from the date of the initial notification and every 45 days thereafter, send to such claimant a letter setting forth the reasons additional time is needed for investigation.
 - c. Where there is a reasonable basis supported by specific information available for review by the Director for suspecting that the first party claimant has fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements of subsections (G)(1)(a) and (b). Provided, however, that the claimant shall be advised of the acceptance or denial of the claim by the insurer within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.
 2. If a claim is denied for reasons other than those described in subsections (G)(1)(a), and is made by any other means than writing, an appropriate notation shall be made in the claim file of the insurer.
 3. Insurers shall not fail to settle first party claims on the basis that responsibility for payment should be assumed by others, except as may otherwise be provided by policy provisions.
 4. Insurers shall not continue negotiations for settlement of a claim directly with a claimant who is neither an attorney nor represented by an attorney until the claimant's rights may be affected by a statute of limitations or a policy or contract time limit, without giving the claimant written notice that the time limit may be expiring and may affect the claimant's right. Such notice shall be given to first party claimants 30 days and to third party claimants 60 days before the date on which such time limit may expire.
 5. No insurer shall make statements which indicate that the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying the third party claimant of the provision of a statute of limitations.
- H.** Standards for prompt, fair and equitable settlements applicable to automobile insurance
1. When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:
 - a. The insurer may elect to offer a replacement automobile which is a specific comparable automobile available to the insured, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the pol-

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- icy. The offer and any rejection thereof must be documented in the claim file.
- b. The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. Such cost may be determined by:
 - i. The cost of a comparable automobile in the local market area when a comparable automobile is available in the local market area.
 - ii. One of two or more quotations obtained by the insurer from two or more qualified dealers located within the local market area when a comparable automobile is not available in the local market area.
 - c. When a first party automobile total loss is settled on a basis which deviates from the methods described in subsections (H)(1)(a) and (b), the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first party claimant.
2. Where liability and damages are reasonably clear, insurers shall not recommend that third party claimants make claim under their own policies solely to avoid paying claims under such insurer's policy or insurance contract.
 3. Insurers shall not require a claimant to travel unreasonably either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.
 4. Insurers shall, upon the claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense.
 5. If an insurer prepares an estimate of the cost of automobile repairs, such estimate shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and may furnish to the claimant the names of one or more conveniently located repair shops.
 6. When the amount claimed is reduced because of betterment or depreciation all information for such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.
 7. When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.
 8. The insurer shall not use as a basis for cash settlement with a first party claimant an amount which is less than the amount which the insurer would pay if the repairs

were made, other than in total loss situations, unless such amount is agreed to by the insured.

- I. Severability. If any provision of this rule or the application thereof to any person or circumstances is held invalid, the remainder of the rule and the application of such provision to other persons and circumstances shall not be affected.
- J. Effective date. This rule shall become effective 90 days from the date of filing with the Secretary of State.

Historical Note

Adopted effective January 12, 1982 (Supp. 81-5). R20-6-801 recodified from R4-14-801 (Supp. 95-1). The reference to subsections as "subparagraphs" in this Section has been updated to current Chapter style (Supp. 22-1).

R20-6-802. Emergency Expired**Historical Note**

Emergency rule adopted effective May 31, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Emergency rule readopted without change effective September 5, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency expired. R20-6-802 recodified from R4-14-802 (Supp. 95-1).

ARTICLE 9. TERMINATION OR DISSOLUTION**R20-6-901. Reserved****ARTICLE 10. LONG-TERM CARE INSURANCE****R20-6-1001. Applicability and Scope**

Except as otherwise specifically provided, this Article applies to all long-term care insurance policies, including qualified long-term care contracts and life insurance policies that accelerate benefits for long-term care, delivered or issued for delivery in this state by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health care service organizations and all similar organizations.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1001 recodified from R4-14-1001 (Supp. 95-1). Amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1002. Definitions

The definitions in A.R.S. § 20-1691 and the following definitions apply in this Article.

- A. "Benefit trigger," for purposes of a tax-qualified long-term care insurance contract, as defined in Section 7702B(b) of the Internal Revenue Code of 1968, as amended, "benefit trigger" shall include a determination by a licensed health care practitioner that an insured is a chronically ill individual.
- B. "Exceptional increase" means only those rate increases that an insurer has filed as exceptional and that the Director determines the need for the premium rate increase is justified due to changes in laws or regulations applicable to long-term care coverage in this state; or due to increased and unexpected utilization that affects the majority of insurers of similar products.
 1. Except as provided in Sections R20-6-1014 and R20-6-1015, exceptional increases are subject to the same requirements as other premium rate schedule increases.
 2. The Director may request independent actuarial review on the issue of whether an increase should be deemed an exceptional increase.
 3. The Director may also determine whether there are any potential offsets to higher claims costs.

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- C. "Incidental," as used in R20-6-1014(L) and R20-6-1015(L), means that the value of the long-term care benefits provided is less than 10% of the total value of the benefits provided over the life of the policy, with value measured as of the date of issue.
- D. "Licensed health care professional" means an individual qualified by education and experience in an appropriate field, to determine, by record review, an insured's actual functional or cognitive impairment.
- E. "Long-term care benefit classification" means one of the following:
1. Institutional long-term care – benefits only;
 2. Non-institutional long-term care – benefits only; or
 3. Comprehensive long-term care benefits.
- F. "Managed care plan" means a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management, use of specific provider networks, or a combination of these methods.
- G. "Personal information" has the same meaning prescribed in A.R.S. § 20-2102(19).
- H. "Privileged information" has the same meaning prescribed in A.R.S. § 20-2102(22).
- I. "Qualified actuary" means a member in good standing of the American Academy of Actuaries.
- J. "Similar policy forms" means all long-term care insurance policies and certificates that are issued by a particular insurer and that have the same long-term care benefit classification as a policy form being reviewed.
- i. Being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to loss of functional capacity; or
 - ii. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.
- b. The term "chronically ill individual" does not include an individual otherwise meeting these requirements unless within the preceding twelve-month period a licensed health care practitioner has certified that the individual meets these requirements.
7. "Cognitive impairment" means a deficiency in a person's:
- a. Short or long-term memory;
 - b. Orientation as to person, place, or time;
 - c. Deductive or abstract reasoning; or
 - d. Judgment as it relates to safety awareness.
8. "Continence" means the ability to maintain control of bowel and bladder function, or when unable to maintain control, the ability to perform associated personal hygiene, such as caring for a catheter or colostomy bag.
9. "Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs.
10. "Eating" means feeding oneself by getting food into the body from a receptacle such as a plate, cup, or table, or by a feeding tube or intravenously.
11. "Guaranteed renewable" means the insured has the right to continue a long-term-care insurance policy in force by the timely payment of premiums and the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that the insurer may revise rates on a class basis.
12. "Hands-on assistance" means physical help to an individual who could not perform an activity of daily living without help from another individual, and includes minimal, moderate, or maximal help.
13. "Home health services" means the services described at A.R.S. § 36-151.
14. "Level premium" means that an insurer does not have any right to change the premium, even at renewal.
15. "Licensed health care practitioner" has the same meaning as A.R.S. § 20-1691(7).
16. "Maintenance or personal care services" has the same meaning as A.R.S. § 20-1691(10).
17. "Medicare" means "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.
18. "Noncancellable" means the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally cancel or make any change in any provision of the insurance or in the premium rate.
19. "Personal care" means the provision of hands-on assistance to help an individual with activities of daily living in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.
20. "Qualified long-term care services" has the meaning prescribed for this term under A.R.S. § 20-1691(14) and

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1002 recodified from R4-14-1002 (Supp. 95-1).

Amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1003. Policy Terms

- A. A long-term care insurance policy delivered or issued for delivery in this state shall not use the terms set forth below, unless the terms are defined in the policy and the definitions satisfy the following requirements:
1. "Activities of daily living" means eating, toileting, transferring, bathing, dressing, or continence.
 2. "Acute condition" means that an individual is medically unstable and requires frequent monitoring by medical professionals, such as physicians and registered nurses, to maintain the individual's health status.
 3. "Adult day care" means a program of social and health-related services for six or more individuals, that is provided during the day in a community group setting, for the purpose of supporting frail, impaired, elderly, or other disabled adults who can benefit from the services and care in a setting outside the home.
 4. "Agent" means an insurance producer as defined in A.R.S. § 20-281(5).
 5. "Bathing" means washing oneself by sponge bath, or in a tub or shower, and includes the act of getting in and out of the tub or shower.
 6. "Chronically ill individual" has the meaning prescribed for this term by A.R.S. § 20-1691(3) and Section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended.
 - a. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

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means services that meet the requirements of Section 7702B(c)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventative, therapeutic, curing, treating, mitigating and rehabilitative services, and maintenance or personal care services which are required by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

21. "Toileting" means getting to and from the toilet, getting on and off the toilet, and performing tasks associated with personal hygiene.
22. "Transferring" means moving into or out of a bed, chair, or wheelchair.

B. Any long-term care policy delivered or issued for delivery in this state shall include the following policy terms and provisions as specified in this subsection:

1. "Home care" shall be defined in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.
2. "Intermediate care" shall be defined in relation to the level of skill required, the nature of the care, and the setting in which the care must be delivered.
3. "Mental or nervous disorder" shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.
4. "Skilled nursing care," "specialized care," "assisted living care" and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care is delivered.
5. Service providers, including "skilled nursing facility," "extended care facility," "convalescent nursing home," "personal care facility," "specialized care providers," "assisted living facility" and "home care agency" shall be defined in relation to the services and facilities required to be available and the licensure, certification, registration or degree status of those providing or supervising the services. When the definition requires that the provider be appropriately licensed, certified or registered, it shall also state what requirements a provider must meet in lieu of licensure, certification or registration when the state in which the service is to be furnished does not require a provider of these services to be licensed, certified or registered, or when the state licenses, certifies or registers the provider of services under another name.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1003 recodified from R4-14-1003 (Supp. 95-1). Amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1004. Required Policy Provisions

A. Renewability

1. An individual long-term care insurance policy shall contain a renewability provision which shall be either "guaranteed renewable" or "noncancellable." The renewability provision shall be appropriately captioned, shall appear on the first page of the policy, and shall state that the coverage is guaranteed renewable or noncancellable. This requirement does not apply to a long-term care insurance policy that is part of or combined with a life insurance policy that does not contain a renewability provision and that reserves the right not to renew solely to the policyholder.

2. An insurer shall not use the terms "guaranteed renewable" and "noncancellable" in any individual long-term care insurance policy without further explanatory language according to the disclosure requirements of this Article.
3. A qualified long-term care insurance policy shall have the guaranteed renewability provisions specified in Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended, in the policy.
4. A long-term care insurance policy or certificate shall include a statement that premium rates are subject to change, unless the policy does not afford the insurer the right to raise premiums.

B. Limitations and Exclusions

1. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations."
2. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility not prohibited by A.R.S. §§ 20-1691.03 and 20-1691.05 shall describe the limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label the paragraph "Limitations or Conditions on Eligibility for Benefits."
3. A policy shall not be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:
 - a. Preexisting conditions or disease;
 - b. Mental or nervous disorders; however, this shall not permit exclusion or limitation of the benefits on the basis of Alzheimer's Disease;
 - c. Alcoholism and drug addiction;
 - d. Illness, treatment or medical condition arising out of:
 - i. War, declared or undeclared, or act of war;
 - ii. Participation in a felony, riot or insurrection;
 - iii. Service in the armed forces or auxiliary units;
 - iv. Suicide, attempted suicide, or intentionally self-inflicted injury; or
 - v. Aviation, if non-fare-paying passenger;
 - e. Treatment provided in a government facility, unless otherwise required by law;
 - f. Services for which benefits are available under Medicare or other governmental program, except Medicaid;
 - g. Any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law;
 - h. Services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance;
 - i. Expenses for services or items available or paid under another long-term care insurance or health insurance policy; or
 - j. In the case of a qualified long-term care insurance policy, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act or would be reimbursable but for the application of a deductible or coinsurance amount;
4. Subsection (B) does not prohibit exclusions and limitations by type of provider or territorial limitations. No

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long-term care issuer may deny a claim because services are provided in a state other than the state of policy issued under the following conditions:

- a. When the state other than the state of policy issue does not have the provider licensing, certification or registration required in the policy, but where the provider satisfies the policy requirements outlined for providers in lieu of licensure, certification or registration; or
 - b. When the state other than the state of policy issue licenses, certifies or registers the provider under another name.
5. "State of policy issue" means the state in which the insurer issued the individual policy or certificate.
- C.** Extension of benefits. A long-term care insurance policy shall provide that termination of long-term care insurance is without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. An insurer may limit this extension of benefits period to the duration of the benefit period, if any, or to payment of the maximum benefits and the insurer may still apply any policy waiting period and all other applicable provisions of the policy.
- D.** Reinstatement. A long-term care insurance policy shall include a provision for reinstatement of coverage if a lapse occurs if the insurer receives proof that the insured was cognitively impaired or had a loss of functional capacity before expiration of the grace period in the policy. The option to reinstate shall be available to the insured for at least five months after the date of termination and shall allow for the collection of past due premiums, as appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria for these conditions set forth in the original long-term care policy.
- E.** Continuation or conversion.
1. A group long-term care insurance policy shall provide covered individuals with a basis for continuation or conversion of coverage as specified in this subsection.
 2. The policy shall include a provision that maintains coverage under the existing group policy when the coverage would otherwise terminate, subject only to the continued timely payment of premiums when due. A group policy that restricts provision of benefits and services to, or has incentives to use certain providers or facilities, may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The Director shall make a determination as to the substantial equivalency of benefits and, in doing so, shall take into consideration the differences between managed care and non-managed care plans, including provider system arrangements, service availability, benefit levels and administrative complexity.
 3. The policy shall include a provision that an individual, whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuation of the group policy in its entirety or with respect to an insured class, who has been continuously insured under the group policy (and any group policy which it replaced) for at least six months immediately prior to termination, is entitled to the issuance of a converted policy by the insurer under whose group policy the individual is covered, without evidence of insurability.
 4. A converted policy shall be an individual policy of long-term care insurance providing benefits identical to or benefits that the Director determines to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the Director, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity, and other plan elements.
 5. An insurer may require an individual seeking a conversion policy to make a written application for the converted policy and pay the first premium due, if any, as directed by the insurer not later than 31 days after termination of coverage under the group policy. The insurer shall issue the converted policy effective on the day following the termination of coverage under the group policy. The converted policy shall be renewable annually.
 6. Unless the group policy from which conversion is made replaced previous group coverage, the insurer shall calculate the premium for the converted policy on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. If the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.
 7. An insurer is required to provide continuation of coverage or issuance of a converted policy as provided in this subsection, unless:
 - a. Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or
 - b. The terminating coverage is replaced not later than 31 days after termination, by group coverage that:
 - i. Is effective on the day following the termination of coverage;
 - ii. Provides benefits identical to or benefits the Director determines to be substantially equivalent to or in excess of those provided by the terminating coverage; and
 - iii. Has a premium calculated in a manner consistent with the requirements of subsection (E)(6).
 8. Notwithstanding any other provision of this Section, a converted policy that an insurer issues to an individual who at the time of conversion is covered by another long-term care insurance policy providing benefits on the basis of incurred expenses, may contain a provision that reduces benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than 100% of incurred expenses. An insurer may include this provision in the converted policy only if the converted policy also provides for a premium decrease or refund that reflects the reduction in payable benefits.
 9. The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.
 10. Notwithstanding any other provision of this Section, an insured individual whose eligibility for group long-term care coverage is based upon the individual's relationship

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to another person, is entitled to continuation of coverage under the group policy if the qualifying relationship terminates by death or dissolution of marriage.

- F. Discontinuance and replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

1. Shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and
2. Shall not vary or otherwise depend on the individual's health or disability status, claim experience, or use of long-term care services.

- G. Premium Increases.

1. An insurer shall not increase the premium charged to an insured because of:
 - a. The increasing age of the insured at ages beyond 65, or
 - b. The duration of coverage under the policy.
2. Purchase of additional coverage is not considered a premium rate increase, however, for the calculation required under R20-6-1019, an insurer shall add to and consider the portion of the premium attributable to the additional coverage as part of the initial annual premium.
3. A reduction in benefits is not considered a premium change, however, for the calculation required under R20-6-1019, an insurer shall base the initial annual premium on the reduced benefits.

- H. Electronic enrollment for group policies.

1. For coverage offered to a group defined in A.R.S. § 20-1691(5)(a), any requirement that an insurer or insurance producer obtain an insured's signature is satisfied if:
 - a. The group policyholder or insurer obtains the insured's consent by telephonic or electronic enrollment, and provides the enrollee with verification of enrollment information within five business days of enrollment; and
 - b. The telephonic or electronic enrollment process has necessary and reasonable safeguards to assure the accuracy, retention, and prompt retrieval of records, and the confidentiality of individually identifiable and privileged information.
2. If the Director requests, the insurer shall make available records showing the insurer's ability to confirm enrollment and coverage amounts.

- I. Minimum standards for home health and community care benefits.

1. If an insurer issues a long-term care insurance policy or certificate that provides benefits for home-health or community care, the policy or certificate shall not limit or exclude benefits by any of the following:
 - a. Requiring that the insured would need skilled care in a skilled nursing facility if home health services are not provided;
 - b. Requiring that the insured first or simultaneously receive nursing or therapeutic services, or both, in a home, community or institutional setting before home health services are covered;
 - c. Requiring that eligible services be provided by a registered nurse or licensed practical nurse;
 - d. Requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide or other licensed or certified home

care worker acting within the scope of licensure or certification;

- e. Requiring that the insured or claimant have an acute condition before home health services are covered;
 - f. Limiting benefits to services provided by Medicare-certified agencies or providers;
 - g. Excluding coverage for personal care services provided by a home health aide;
 - h. Requiring that home health care services be provided at a level of certification or licensure greater than that required by the eligible service; or
 - i. Excluding coverage for adult day care services.
2. If a long-term care insurance policy provides benefits for home health or community care services, it shall provide home health or community care coverage that equals a dollar amount equivalent to at least one-half of one year's missing home benefit coverage available at the time covered home health or community care services are being received. This requirement does not apply to policies or certificates issued to residents of continuing care retirement communities.
 3. An insurer may apply home health care coverage to non-home health care benefits in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.
- J. Appeals. Policy shall include a clear description of the process for appealing and resolving benefit determinations.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1004 recodified from R4-14-1004 (Supp. 95-1).

Amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1005. Unintentional Lapse

- A. An insured may designate in writing at least one person to receive notice of lapse or termination of a long-term care insurance policy for nonpayment of premium, in addition to the insured. Designation shall not constitute acceptance of any liability by the third-party notice recipient for services provided to the insured.
- B. An insurer shall not issue an individual long-term care insurance policy or certificate until the applicant has provided either a written designation of at least one person, in addition to the applicant, who shall receive notice of lapse or termination of the policy or certificate for nonpayment of premium, with the person's full name and home address, or the applicant's written waiver, dated and signed, indicating that the applicant chooses not to designate a notice recipient.
- C. The insurer shall use a form for written designation or waiver that provides space clearly delineated for the designation. The insurer shall include the following language on the form for waiver of the right to name a designated recipient: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that this notice will not be given until 30 days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."
- D. At least once every two years, an insurer shall notify the insured of the right to change the person designated to receive notice in subsection (A). An insured may add, delete, or change a designated recipient or change a designated recipient at any time by notifying the insurer in writing, and providing

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the name and home address for the new designated recipient or the designated recipient to be deleted.

- E. If the insured pays premiums for the long-term care insurance policy or certificate through a payroll or pension deduction plan, the insurer is not required to comply with the requirements in subsections (A) through (D) until 60 days after the insured is no longer on the payment plan.
- F. An individual long-term care insurance policy shall not lapse or be terminated for nonpayment of premium unless the insurer gives the insured and any recipient designated under subsections (A) through (D) written notice at least 30 days before the effective date of termination or lapse, by first class mail, postage prepaid, at the address provided by the insured for purposes of receiving notice of lapse or termination. An insurer shall not give notice until 30 days after the date on which a premium is due and unpaid. Notice is deemed given five days after the date of mailing.
- G. Reinstatement. In addition to the requirement in subsections (A) through (D), a long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage in the event of a lapse if the insurer is provided proof that the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option shall be available to the insured if requested within five months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy or certificate. Reinstatement after termination for other than unintentional lapse shall be governed by A.R.S. § 20-1348.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1005 recodified from R4-14-1005 (Supp. 95-1). Section R20-6-1005 renumbered to R20-6-1006; new Section R20-6-1005 made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1006. Inflation Protection

- A. An insurer shall not offer a long-term care insurance policy unless the insurer offers to the policyholder, at the time of purchase, in addition to any other inflation protection, the option to purchase a policy with an inflation protection provision that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. The terms of the required provision shall be no less favorable than one of the following:
 1. A provision that provides for annual increases in benefit levels compounding annually at a rate of not less than 5%;
 2. A provision that guarantees an insured the right to periodically increase benefit levels without providing evidence of insurability or health status, if the insured did not decline the option for the previous period. The increased benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least 5% for the period beginning from the purchase of the existing benefit and extending until the year in which the offer is made; or

3. A provision for coverage of a specified percentage of actual or reasonable charges that is not subject to a maximum specified indemnity amount or limit.
- B. If the policy is issued to a group, the insurer shall extend the offer required by subsection (A) to the group policyholder; except, if the policy is issued under A.R.S. § 20-1691.04(C) to a group, other than to a continuing care retirement community, the insurer shall make the offer to each proposed certificateholder.
 - C. An insurer is not required to make the offer in subsection (A) for life insurance policies or riders with accelerated long-term care benefits.
 - D. An insurer shall include the information listed in this subsection in or with the outline of coverage.
 1. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a 20-year period.
 2. Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. If premium increases or additional premiums will be based on the attained age of the applicant at the time of the increase, the insurer shall provide a revised schedule of attained-age premiums. An insurer may use a reasonable hypothetical or a graphic demonstration for this disclosure.
 - E. Inflation-protection benefit increases shall continue without regard to an insured's age, claim status, claim history, or length of time the person has been insured under the policy.
 - F. An insurer's offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium that the insurer expects to remain constant. The insurer shall disclose in the offer in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.
 - G. An insurer shall include in a long-term care insurance policy inflation protection as provided in subsection (A)(1) unless the insurer obtains a rejection of inflation protection signed by the insured as required in subsection (H). The rejection may be either on the application form or on a separate form.
 - H. A rejection of inflation protection is deemed part of an application and shall state: "I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I reviewed Plans [insert description of plans], and I reject inflation protection."

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1006 recodified from R4-14-1006 (Supp. 95-1). R20-6-1006 renumbered to R20-6-1007; new Section R20-5-1006 renumbered from R20-6-1005 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1007. Required Disclosure Provisions

- A. Riders and endorsements. Except for riders or endorsements by which an insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, if an insurer adds a rider or endorsement to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduces or eliminates benefits or coverage in the policy, the insurer shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement that increases benefits or coverage

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with a concomitant increase in premium during the policy term shall require the signed written agreement of the insured unless the increased benefits or coverage are required by law. If the insurer charges a separate additional premium for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, rider, or endorsement.

- B.** Payment of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as “usual and customary,” “reasonable and customary” or words of similar import shall define the terms and explain them in its accompanying outline of coverage.
- C.** Disclosure of tax consequences. For life insurance policies that provide an accelerated benefit for long-term care, an insurer shall provide a disclosure statement at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted, that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax adviser. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. This subsection shall not apply to qualified long-term care insurance contracts.
- D.** Benefit triggers. A long-term care insurance policy shall use activities of daily living and cognitive impairment to measure an insured’s need for long-term care. The long-term care insurance policy shall describe these terms and provisions in a separate paragraph in the policy labeled “Eligibility for the Payment of Benefits” that includes and explains:
 1. Any additional benefit triggers,
 2. Benefit triggers that result in payment of different benefit levels, and
 3. Any requirement that an attending physician or other specified person certify a certain level of functional dependency for the insured to be eligible for benefits.
- E.** A long-term care insurance contract shall contain a disclosure statement in the policy and in the outline of coverage indicating whether it is intended to be a qualified long-term care insurance contract as specified in the outline of coverage in Appendix J, paragraph 3. The contract shall also include a Specification Page which shall include the benefits, amounts, durations, the premium rate including all optional benefits selected by the insured, and any other benefit data applicable to the insured.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1007 recodified from R4-14-1007 (Supp. 95-1). Former Section R20-6-1007 renumbered to R20-6-1010; new Section R20-6-1007 renumbered from R20-6-1006 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1008. Required Disclosure of Rating Practices to Consumers

A. This Section applies as follows:

1. Except as provided in subsection (A)(2), this Section applies to any long-term care policy or certificate issued in this state on or after May 10, 2005.
2. For certificates issued under an in-force, long-term care insurance policy issued to a group as defined in A.R.S. § 20-1691(5)(a), the provisions of this Section apply on the first policy anniversary that occurs on or after November 10, 2005.

- B.** Unless a policy is one for which an insurer cannot increase the applicable premium rate or rate schedule, the insurer shall provide the information listed in this subsection to the applicant at the time of application or enrollment. If the method of application does not allow for delivery at that time, the insurer shall provide the information to the applicant no later than at the time of delivery of the policy or certificate.
 1. A statement that the policy may be subject to rate increases in the future.
 2. An explanation of potential future premium rate revisions, and the policyholder’s or certificateholder’s option if a premium rate revision occurs.
 3. The premium rate or rate schedules applicable to the applicant that will be in effect until the insurer makes a request for an increase.
 4. A general explanation for applying premium rate or rate schedule adjustments that includes:
 - a. A description of when premium rate or rate-schedule adjustments will be effective (e.g., next anniversary date, next billing date); and
 - b. The insurer’s right to a revised premium rate or rate schedule as provided in subsection (B)(3) if the premium rate or rate schedule is changed.
 5. Information regarding each premium rate increase on this policy form or similar policy form over the past 10 years for this state or any other state that, at a minimum, identifies:
 - a. The policy forms for which premium rates have been increased;
 - b. The calendar years when the form was available for purchase; and
 - c. The amount or percent of each increase, which may be expressed as a percentage of the premium rate before the increase, or as minimum and maximum percentages if the rate increase is variable by rating characteristics.
 6. The insurer may, in a fair manner, provide explanatory information related to the rate increases in addition to the information required under subsection (B)(5).
- C.** An insurer may exclude from the disclosure required under subsection (B)(5), premium rate increases applicable to:
 1. Blocks of business acquired from other nonaffiliated insurers, and
 2. Policies acquired from other nonaffiliated insurers if the increases occurred before the acquisition.
- D.** If an acquiring insurer files for a rate increase on a long-term care insurance policy form or a block of policy forms acquired from a nonaffiliated insurer on or before the later of the January 10, 2005, or the end of a 24-month period following the acquisition of the policies or block of policies, the acquiring insurer may exclude that rate increase from the disclosure required under subsection (B)(5). However, the nonaffiliated insurer that sells the policy form or a block of policy forms shall include that rate increase in the disclosure required under subsection (B)(5). If the acquiring insurer files for a subsequent rate increase, even within the 24-month period, on the same policy form acquired from a nonaffiliated insurer or block of policy forms acquired from nonaffiliated insurers, the acquiring insurer shall make all disclosures required by subsection (B)(5), including disclosure of the earlier rate increase.
- E.** Unless the method of application does not allow an insured to sign an acknowledgement that the insurer made the disclosures required under subsection (B) at the time of application, the applicant shall sign an acknowledgement of disclosure at that time. Otherwise, the applicant shall sign a disclosure acknowl-

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edgement no later than at the time of delivery of the policy or certificate.

- F. An insurer shall use the forms in Appendix A and Appendix B to comply with the requirements of subsections (B) through (E). The text and format of an insurer's forms shall be substantially similar to the text and format of Appendices A and B.
- G. An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least 45 days before the effective date of the increase. The notice shall include the information required by subsection (B).

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1008 recodified from R4-14-1008 (Supp. 95-1). Former Section R20-6-1008 renumbered to R20-6-1011; new Section R20-6-1008 made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1009. Initial Filing Requirements

- A. This Section applies to any long-term care policy issued in this state on or after May 10, 2005.
- B. At the time of making a filing under A.R.S. § 20-1691.08, an insurer shall provide to the Director a copy of the disclosure documents required under R20-6-1008 and an actuarial certification that includes the following:
 - 1. The initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;
 - 2. The policy design and coverage provided have been reviewed and taken into consideration;
 - 3. The underwriting and claims adjudication processes have been reviewed and taken into consideration;
 - 4. The premiums contain at least the minimum margin for moderately adverse experience as defined in subsection (4)(a) or the specification of and justification for a lower margin as required by subsection (4)(b).
 - a. A composite margin shall not be less than 10% of lifetime claims.
 - b. A composite margin that is less than 10% may be justified in uncommon circumstances. The proposed amount, full justification of the proposed amount and methods to monitor developing experience that would be the basis for withdrawal of approval for such lower margins must be submitted.
 - c. A composite margin lower than otherwise considered appropriate for the stand-alone long-term care policy may be justified for long-term care benefits provided through a life policy or an annuity contract. Such lower composite margin, if utilized, shall be justified by appropriate actuarial demonstration addressing margins and volatility when considering the entirety of the product.
 - d. A greater margin may be appropriate in circumstances where the company has less credible experience to support its assumptions used to determine the premium rates.
- 5. A statement that the premium rate schedule:
 - a. Is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits, or

- b. A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences; and
- 6. A statement that reserve requirements have been reviewed and considered. Support for this statement shall include:
 - a. Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held; and
 - b. A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship.
 - C. An actuarial memorandum shall be included that is signed by a member of the Academy of Actuaries and that addresses and supports each specific item required as part of the actuarial certification and provides at least the following:
 - 1. An explanation of the review performed by the actuary prior to making the statements in subsections (B)(2) and (B)(3);
 - 2. A complete description of pricing assumptions;
 - 3. Sources and levels of margins incorporated into the gross premiums that are the basis for the statement in subsection (B)(1) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. The actuary shall clearly describe deviations in margins between ages, sexes, plans or states. Deviations in margins required to be described are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating gross premium scales; and
 - 4. A demonstration that the gross premiums include the minimum composite margin specified in subsection (B)(4).
 - D. In any review of the actuarial certification and actuarial memorandum, the Director may request review by an actuary with experience in long-term care pricing who is independent of the insurer. In the event the Director asks for additional information as a result of any review, the period in A.R.S. § 20-1691.08 does not include the period during which the insurer is preparing the requested information.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1009 recodified from R4-14-1009 (Supp. 95-1). Section R20-6-1009 renumbered to R20-6-1012; new Section R20-6-1009 made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1010. Requirements for Application Forms and Replacement Coverage; Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates; Reporting Requirements

- A. An insurer's application form for a long-term care insurance policy shall include the questions listed in this Section to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other health or long-term care policy or certificate presently in force. An insurer may include the

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questions in a supplementary application or other form to be signed by the applicant and insurance producer, except where the coverage is sold without an insurance producer. For a replacement policy issued to a group as defined in A.R.S. § 20-1691(5)(a), the insurer may modify the questions only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced if the certificateholder has been notified of the replacement.

1. Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?
 2. Did you have another long-term care insurance policy or certificate in force during the last 12 months?
 - a. If so, with which company?
 - b. If that policy lapsed, when did it lapse?
 3. Are you covered by Medicaid?
 4. Do you intend to replace any of your medical or health insurance coverage with this policy or certificate?
- B.** The application or enrollment form for such policies or certificates shall clearly indicate the payment plan the applicant selects.
- C.** An insurance producer shall list any other health insurance policies the insurance producer has sold to the applicant, including:
1. Policies that are still in force, and
 2. Policies sold in the past five years that are no longer in force.
- D.** Solicitations Other than Direct Response. On determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its insurance producer; shall furnish the applicant, before issuing or delivering the individual long-term care insurance policy, a notice that substantially conforms to the form prescribed in Appendix C or D regarding replacement of health or long-term care coverage. The insurer shall:
1. Give one copy of the notice to the applicant, and
 2. Keep an additional copy signed by the applicant.
- E.** Direct Response Solicitations. Insurers using direct response solicitation methods as defined in A.R.S. § 20-1661 shall deliver a notice that substantially conforms to the form prescribed in Appendix C or D regarding replacement of health or long-term care coverage to the applicant upon issuance of the policy.
- F.** If replacement is intended, the replacing insurer shall send the existing insurer written notice of the proposed replacement within five working days from the date the replacing insurer receives the application or issues the policy, whichever is sooner. The notice shall identify the existing policy by name of the insurer and the insured, and policy number or insured's address including zip code.
- G.** A life insurance policy that accelerate benefits for long-term care shall comply with this Section if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of Title 20, Chapter 6, Article 1.1. If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with the requirements of this Section and with A.R.S. Title 20, Chapter 6, Article 1.1.
- H.** Prohibition against preexisting conditions and probationary periods in replacement policies or certificates. If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits if similar exclusions are satisfied under the original policy.
- I.** Reporting requirements.
1. An insurer shall maintain the following records for each insurance producer:
 - a. The amount of the insurance producer's replacement sales as a percent of the insurance producer's total annual sales, and
 - b. The amount of lapses of long-term care insurance policies sold by the insurance producer as a percent of the insurance producer's total annual sales.
 2. No later than June 30 of each year, on the forms specified in Appendix E and Appendix F, an insurer shall report the following information for the preceding calendar year to the Department:
 - a. The 10% of its insurance producers licensed in Arizona with the greatest percentages of lapses and replacements as measured by subsection (I)(1);
 - b. The number of lapsed policies as a percent of the total annual sales and as a percent of the insurer's total number of policies in force as of the end of the preceding calendar year;
 - c. The number of replacement policies sold as a percent of the insurer's total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year; and
 - d. For qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied.
- J.** In subsection (I):
1. "Claim" means a request for payment of benefits under an in-force policy, regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met.
 2. "Denied" means the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition.
 3. "Policy" means only long-term care insurance.
 4. "Report" means on a statewide basis.
- K.** Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance. Reports required under this Section shall be filed with the Director.
- L.** Annual rate certification requirements. This subsection applies to any long-term care policy issued in Arizona on or after November 10, 2017. The following annual submission requirements apply subsequent to initial rate filings for individual long-term care insurance policies made under this Section:
1. An actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries which contains a statement of the sufficiency of the current premium rate schedule, including:
 - a. For the rate schedules currently marketed, that the premium rate schedule continues to be sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated or a statement that margins for moderately adverse experience may no longer be sufficient. For a statement that margins for moderately adverse experience may no longer be sufficient, the insurer

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shall provide to the Director, within 60 days of the date the actuarial certification is submitted to the Director, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience so that the ultimate premium rate schedule would be reasonably expected to be sustainable over the future life of the form with no future premium increases anticipated. Failure to submit a plan of action to the Director within 60 days or to comply with the time frame stated in the plan of action constitutes grounds for the Director to withdraw or modify approval of the form for future sales pursuant to A.R.S. § 20-1691.08.

- b. For the rate schedules that are no longer marketed, that the premium rate schedule continues to be sufficient to cover anticipated costs under best estimate assumptions or that the premium rate schedule may no longer be sufficient. If the premium rate schedule is no longer sufficient, the insurer shall provide to the Director, within 60 days of the date the actuarial certification is submitted to the Director, a plan of action, including time frame, for the re-establishment of adequate margins for moderately adverse experience;
2. A description of the review performed that led to the statement; and
3. An actuarial memorandum dated and signed by a member of the American Academy of Actuaries who prepares the information shall be prepared to support the actuarial certification and provide at least the following information:
 - a. A detailed explanation of the data sources and review performed by the actuary prior to making the statement in subsection (L)(1),
 - b. A complete description of experience assumptions and their relationship to the initial pricing assumptions,
 - c. A description of the credibility of the experience data, and
 - d. An explanation of the analysis and testing performed in determining the current presence of margins.
4. The actuarial certification required pursuant to subsection (L)(1) must be based on calendar year data and submitted annually starting in the second year following the year in which the initial rate schedules are first used. The actuarial memorandum required pursuant to subsection (L)(3) must be submitted at least once every three years with the certification.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1010 recodified from R4-14-1010 (Supp. 95-1). R20-6-1010 renumbered to R20-6-1013; new Section R20-6-1010 renumbered from R20-6-1007 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1011. Prohibition Against Post-claims Underwriting

- A. An application for a long-term care insurance policy or certificate that is not guaranteed issue shall meet the requirements of this Section.
 1. The application shall contain clear and unambiguous questions designed to ascertain the applicant's health condition.
 - a. If the application has a question asking whether the applicant has had medication prescribed by a physi-

cian, the application shall also ask the applicant to list the prescribed medication.

- b. If the insurer knew or reasonably should have known that the medications listed in the application are related to a medical condition for which coverage would otherwise be denied, the insurer shall not rescind the policy or certificate for that condition.
2. The application shall include the following language which shall be set out conspicuously and in close conjunction with the applicant's signature block: "**Caution: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy.**"
3. The policy or certificate shall contain, at the time of delivery, the following language, or language substantially similar to the following, set out conspicuously: "**Caution: The issuance of this long-term care insurance [policy] [certificate] is based on your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address].**"
- B. Before issuing a long-term care insurance policy or certificate that is not guaranteed issue to an applicant age 80 or older, the insurer shall obtain one of the following:
 1. A report of a physical examination,
 2. An assessment of functional capacity,
 3. An attending physician's statement, or
 4. Copies of medical records.
- C. The insurer or its insurance producer shall deliver a copy of the completed application or enrollment form, as applicable, to the insured no later than at the time of delivery of the policy or certificate unless the insurer gave a copy to the applicant it at the time of application.
- D. An insurer selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and country-wide, except those which the insured voluntarily effectuated.
- E. On or before March 31 of each year, an insurer shall report the following information to the Director for the preceding calendar year, using the form prescribed in Appendix G:
 1. Insurer name, address, phone number;
 2. As to each rescission except those voluntarily effectuated by the insured:
 - a. Policy form number,
 - b. Policy and certificate number,
 - c. Name of the insured,
 - d. Date of policy issuance,
 - e. Date claim submitted,
 - f. Date of rescission, and
 - g. Detailed reason for rescission; and
 3. Signature, name and title of the preparer, and date prepared.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1011 recodified from R4-14-1011 (Supp. 95-1). R20-6-1011 renumbered to R20-6-1014; new Section R20-6-1011 renumbered from R20-6-1008 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005

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(Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1012. Reserve Standards

- A. If long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders, an insurer shall determine policy reserves for long-time care benefits under A.R.S. § 20-510. An insurer shall also establish claim reserves for a policy or rider in claim status.
- B. An insurer shall base reserves for policies and riders under subsection (A) on the multiple decrement model using all relevant decrements except for voluntary termination rates. An insurer may use single decrement approximations if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The insurer, when calculating reserves, may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. The insurer shall not set the reserves for the long-term care benefit and the life insurance benefit to be less than the reserves for the life insurance benefit assuming no long-term care benefit.
- C. In the development and calculation of reserves for policies and riders subject to this Section, an insurer shall give due regard to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which impact projected claim costs including the following:
1. Definition of insured events,
 2. Covered long-term care facilities,
 3. Existence of home convalescence care coverage,
 4. Definition of facilities,
 5. Existence or absence of barriers to eligibility,
 6. Premium waiver provision,
 7. Renewability,
 8. Ability to raise premiums,
 9. Marketing method,
 10. Underwriting procedures,
 11. Claims adjustment procedures,
 12. Waiting period,
 13. Maximum benefit,
 14. Availability of eligible facilities,
 15. Margins in claim costs,
 16. Optional nature of benefit,
 17. Delay in eligibility for benefit,
 18. Inflation protection provisions,
 19. Guaranteed insurability option, and
 20. Other similar or comparable factors affecting risk.
- D. A member of the American Academy of Actuaries shall certify an insurer's use of any applicable valuation morbidity table as appropriate as a statutory valuation table.
- E. When long-term care benefits are provided other than as described in subsection (A), an insurer shall determine reserves under A.R.S. § 20-508.
- B. Benefits under an individual long-term care insurance policy are deemed reasonable in relation to premiums if the expected loss ratio is at least 60% calculated in a manner that provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, the director shall consider all relevant factors, including:
1. Statistical credibility of incurred claims experience and earned premiums;
 2. The period for which rates are computed to provide coverage;
 3. Experienced and projected trends;
 4. Concentration of experience within early policy duration;
 5. Expected claim fluctuation;
 6. Experience refunds, adjustments, or dividends;
 7. Renewability features;
 8. All appropriate expense factors;
 9. Interest;
 10. Experimental nature of the coverage;
 11. Policy reserves;
 12. Mix of business by risk classification; and
 13. Product features such as long elimination periods, high deductibles, and high maximum limits.
- C. A premium rate schedule or proposed revision to a premium rate schedule that is expected to produce, over the lifetime of the long-term care insurance policy, benefits that are less than 60% of the proposed premium rate schedule is deemed to be unreasonable.
- D. Subsections (B) and (C) do not apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is deemed to provide reasonable benefits in relation to premiums paid if the policy complies with all of the following:
1. The interest credited internally to determine cash value accumulations, including long-term care, if any, is guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
 2. The portion of the policy that provides life insurance benefits complies with the nonforfeiture requirements of A.R.S. § 20-1231;
 3. The policy complies with the disclosure requirements of A.R.S. § 20-1691.06(A) through (E);
 4. At the time of making a filing under A.R.S. § 20-1691.08, the insurer files an actuarial memorandum that includes the following information:
 - a. A description of the basis on which the long-term care rates were determined;
 - b. A description of the basis for the reserves;
 - c. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
 - d. A description and a table of each actuarial assumption used; for expenses, an insurer shall include percent of premium dollars per policy and dollars per unit of benefits, if any;
 - e. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
 - f. The estimated average annual premium per policy and the average issue age;
 - g. A statement as to whether underwriting is performed, including:
 - i. Time of underwriting;

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1012 recodified from R4-14-1012 (Supp. 95-1). R20-6-1012 renumbered to R20-6-1016; new Section R20-6-1012 renumbered from R20-6-1009 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section repealed; new Section renumbered from R20-6-1013 and amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1013. Loss Ratio

- A. This Section applies to policies and certificates issued any time prior to May 10, 2005.

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- ii. A description of the type of underwriting used, such as medical underwriting or functional assessment underwriting; and
- iii. For a group policy, whether an enrollee's dependents are subject to underwriting; and
- h. A description of the effect of the long-term care policy provisions on the required premiums, nonforfeiture values, and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1013 recodified from R4-14-1013 (Supp. 95-1). Section R20-6-1013 renumbered to R20-6-1017; new Section R20-6-1013 renumbered from R20-6-1010 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section R20-6-1013 renumbered to R20-6-1012; new Section R20-6-1013 renumbered from R20-6-1014 and amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1014. Premium Rate Schedule Increase

- A. This Section applies to any long-term care policy or certificate issued in this state on or after May 10, 2005 and prior to November 10, 2017.
 - B. An insurer shall notify the Director of a proposed premium rate schedule increase, including an exceptional increase, at least 60 days before issuing notice to its policyholders. The notice to the Director shall include:
 - 1. Information required by R20-6-1008;
 - 2. Certification by a qualified actuary that:
 - a. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;
 - b. The premium rate filing complies with the provisions of this Section; and
 - c. The insurer may request a premium rate schedule increase less than what is required under this Section and the Director may approve the premium rate schedule increase, without submission of the certification required by subsection (B)(2)(a), if the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required by subsection (B)(2)(a), the premium rate schedule increase filing satisfies all other requirements of this Section, and is, in the opinion of the Director, in the best interest of the policyholders.
 - 3. An actuarial memorandum justifying the rate schedule change request that includes:
 - a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including the following:
 - i. Any assumptions that deviate from those used for pricing other forms currently available for sale;
 - ii. Annual values for the five years preceding and the three years following the valuation date, provided separately;
 - iii. Development of the lifetime loss ratio, unless the rate increase is an exceptional increase; and
 - iv. A demonstration of compliance with subsection (C).
 - b. For exceptional increases, the actuarial memorandum shall also include:
 - i. The projected experience that is limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and
 - ii. If the Director determines under Section R20-6-1002(B)(3) that offsets may exist, the insurer shall use appropriate net projected experience;
 - c. Disclosure of how reserves have been incorporated in this rate increase when the rate increase will trigger contingent benefit upon lapse;
 - d. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and any other actions of the insurer on which the actuary has relied;
 - e. A statement that the actuary has considered policy design, underwriting, and claims adjudication practices;
 - f. Composite rates reflecting projections of new certificates in the event it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase; and
 - g. A demonstration that actual and projected costs exceed costs anticipated at the time of the initial pricing under moderately adverse experience and that the composite margin specified in R20-6-1009(B)(4) is projected to be exhausted;
4. A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless the insurer provides the Director with documentation justifying the greater rate; and
5. Upon the Director's request, other similar and related information the Director may require to evaluate the premium rate schedule increase.
- C. All premium rate schedule increases shall be determined in accordance with the following requirements:
 - 1. The insurer shall return 70% of the present value of projected additional premiums from an exceptional increase to policyholders in benefits;
 - 2. The sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, shall not be less than the sum of the following:
 - a. The accumulated value of the initial earned premium times 58%;
 - b. 85% of the accumulated value of prior premium rate schedule increases on an earned basis;
 - c. The present value of future projected initial earned premiums times 58%; and
 - d. 85% of the present value of future projected premiums not in subsection (C)(2)(c) on an earned basis;
 - 3. If a policy form has both exceptional and other increases, the values in subsections (C)(2)(b) and (C)(2)(d) shall also include 70% for exceptional rate increase amounts; and
 - 4. All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in the NAIC Accounting Practices and Procedures Manual to which insurers are subject under A.R.S. § 20-223. The actuary

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shall disclose the use of any appropriate averages in the actuarial memorandum required under subsection (B)(3).

- D.** For each rate increase that is implemented, the insurer shall file for approval by the Director updated projections, as defined in subsection (B)(3)(a), annually for the next three years and shall include a comparison of actual results to projected values. The Director may extend the period to greater than three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (M), the insurer shall provide the projections required by this subsection to the policyholder in lieu of filing with the Director.
- E.** If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, the insurer shall file lifetime projections, as defined in subsection (B)(3)(a), for the Director's approval every five years following the end of the required period in subsection (D). For group insurance policies that meet the conditions in subsection (M), the insurer shall provide the projections required by this subsection to the policyholder instead of filing with the Director.
- F.** If the Director finds that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (C), the Director may require the insurer to implement premium rate schedule adjustments or other measures to reduce the difference between the projected and actual experience. In determining whether the actual experience matches the projected experience, the Director shall consider subsection (B)(3)(f), if applicable.
- G.** If the majority of the policies or certificates to which the increase applies are eligible for the contingent benefit upon lapse, the insurer shall file:
1. A plan, subject to Director approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form experience requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the Director may impose the conditions in subsections (H) through (J); and
 2. The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection (C) had the greater of the original anticipated lifetime loss ratio or 58% been used in the calculations described in subsections (C)(2)(a) and (C)(2)(c).
- H.** For a rate increase filing that meets the criteria listed in this subsection, the Director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if lapsation in excess of projected lapsation has occurred or is anticipated:
1. The rate increase is not the first rate increase requested for the specific policy form or forms,
 2. The rate increase is not an exceptional increase, and
 3. The majority of the policies or certificates to which the increase applies are eligible for the contingent benefit upon lapse.
- I.** If the Director finds excess lapsation under subsection (H) has occurred, is anticipated in the filing or is evidenced in the actual results as presenting in the updated projections provided by the insurer following the requested rate increase, the Director may find that a rate spiral exists and may require the insurer to offer, without underwriting, to all in-force insureds subject to the rate increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The information communicating the offer is subject to the Director's approval. The offer shall:
1. Be based on actuarially sound principles, but not on attained age;
 2. Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy; and
 3. Allow the insured the option of retaining the existing coverage.
- J.** The insurer shall maintain the experience of the insureds whose coverage was replaced under subsection (I) separate from the experience of insureds originally issued the policy forms. If the insurer requests a rate increase on the policy form, the rate increase shall be limited to the lesser of:
1. The maximum rate increase determined based on the combined experience; and
 2. The maximum rate increase determined based only on the experience of the insureds originally issued the form, plus 10%.
- K.** If the Director finds that an insurer has exhibited a history or pattern of filing inadequate initial premium rates for long-term care insurance, after considering the total number of policies filed over a period of time and the percentage of policies with inadequate rates, the Director may, in addition to remedies available under subsections (H) through (J), prohibit the insurer from the following:
1. Filing and marketing comparable coverage for a period of up to five years, and
 2. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.
- L.** Subsections (A) through (K) shall not apply to a policy for which long-term care benefits provided by the policy are incidental, as defined under R20-6-1002(C), if the policy complies with all of the following provisions:
1. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
 2. The portion of the policy that provides insurance benefits other than long-term care coverage meets the applicable nonforfeiture requirements under state law, including A.R.S. §§ 20-1231, 20-1232 and 20-2636;
 3. The policy meets the disclosure requirements of A.R.S. § 20-1691.06;
 4. The portion of the policy that provides insurance benefits other than long-term care coverage meets the disclosure requirements as applicable in the following:
 - a. A.R.S. Title 20, Chapter 6, Article 1.2; and
 - b. A.R.S. Title 20, Chapter 16, Article 2;
 5. At the time of making a filing under A.R.S. § 20-1691.08, the insurer files an actuarial memorandum that includes:
 - a. Description of the bases on which the actuary determined the long-term care rates and the reserves;
 - b. A summary of the type of policy, benefits, renewability provisions, general marketing method, and limits on ages of issuance;
 - c. A description and a table of each actuarial assumption used, with the percent of premium dollars per policy and dollars per unit of benefits, if any, for expenses;

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- d. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
- e. The estimated average annual premium per policy and the average issue age;
- f. A statement as to whether the insurer performs underwriting at the time of application with an explanation of the following:
- i. Whether underwriting is used, and if used, a description of the type of underwriting, such as medical underwriting or functional assessment underwriting; and
 - ii. For a group policy, whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
- g. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.
- M.** Subsections (F) and (H) through (J) shall not apply to group insurance as defined in A.R.S. § 20-1691(6) where:
1. The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or
 2. The policyholder, and not the certificateholder, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.
- Historical Note**
- Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1014 recodified from R4-14-1014 (Supp. 95-1). Section repealed; R20-6-1014 renumbered from R20-6-1011 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section R20-6-1014 renumbered to R20-6-1013; new Section R20-6-1014 renumbered from R20-6-1015 and amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).
- R20-6-1015. Premium Rate Schedule Increases for Policies Subject to Loss Ratio Limits Related to Original Filings**
- A.** This Section applies to any long-term care policy or certificate issued in this state on or after November 10, 2017.
- B.** An insurer shall notify the Director of a proposed premium rate schedule increase, including an exceptional increase, at least 60 days before issuing notice to its policyholders. The notice to the Director shall include:
1. Information required by R20-6-1008;
 2. Certification by a qualified actuary that:
 - a. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated;
 - b. The premium rate filing complies with the provisions of this Section; and
 - c. The insurer may request a premium rate schedule increase less than what is required under this Section and the Director may approve the premium rate schedule increase, without submission of the certification required by subsection (B)(2)(a), if the actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required by subsection (B)(2)(a), the premium rate schedule increase filing satisfies all other requirements of this Section, and is, in the opinion of the Director, in the best interest of the policyholders.
- 3.** An actuarial memorandum justifying the rate schedule change request that includes:
- a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including the following:
 - i. Any assumptions that deviate from those used for pricing other forms currently available for sale;
 - ii. Annual values for the five years preceding and the three years following the valuation date, provided separately;
 - iii. Development of the lifetime loss ratio, unless the rate increase is an exceptional increase; and
 - iv. A demonstration of compliance with subsection (C).
 - b. For exceptional increases, the actuarial memorandum shall also include:
 - i. The projected experience that is limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and
 - ii. If the Director determines under Section R20-6-1002(B)(3) that offsets may exist, the insurer shall use appropriate net projected experience;
 - c. Disclosure of how reserves have been incorporated in this rate increase when the rate increase will trigger contingent benefit upon lapse;
 - d. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and any other actions of the insurer on which the actuary has relied;
 - e. A statement that the actuary has considered policy design, underwriting, and claims adjudication practices;
 - f. Composite rates reflecting projections of new certificates in the event it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase; and
 - g. A demonstration that actual and projected costs exceed costs anticipated at the time of the initial pricing under moderately adverse experience and that the composite margin specified in R20-6-1009(B)(4) is projected to be exhausted.
- 4.** A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless the insurer provides the Director with documentation justifying the greater rate; and
- 5.** Upon the Director's request, other similar and related information the Director may require to evaluate the premium rate schedule increase.
- C.** All premium rate schedule increases shall be determined in accordance with the following requirements:
1. Exceptional increases shall provide that 70% of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;
 2. The insurer shall calculate premium rate increases such that the sum of the lesser of either the accumulated value of the actual incurred claims (without the inclusion of active life reserves) or the accumulated value of historic

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expected claims (without the inclusion of active life reserves) plus the present value of the future expected incurred claims (projected without the inclusion of active life reserves) will not be less than the sum of the following:

- a. The accumulated value of the initial earned premium times the greater of 58% or the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience;
 - b. 85% of the accumulated value of prior premium rate schedule increases on an earned basis;
 - c. The present value of future projected initial earned premiums times the greater of 58% or the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience; and
 - d. 85% of the present value of future projected premiums not in subsection (C)(2)(c) on an earned basis;
3. Historic expected claims shall be calculated based on the original filing assumptions assumed until new assumptions are filed as part of a rate increase. New assumptions shall be used for all periods beyond each requested effective date of a rate increase. Historic expected claims are calculated for each calendar year based on the in-force at the beginning of the calendar year. Historic expected claims shall include margins for moderately adverse experience; either amounts included in the claims that were used to determine the lifetime loss ratio consistent with the original filing or as modified in any rate increase filing;
 4. In the event that a policy form has both exceptional and other increases, the values in subsections (C)(2)(b) and (C)(2)(d) will also include 70% for exceptional rate increase amounts; and
 5. All present and accumulated values used to determine rate increases, including the lifetime loss ratio consistent with the original filing reflecting margins for moderately adverse experience, shall use the maximum valuation interest rate for contract reserves as specified in A.R.S. § 20-508. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.
- D.** For each rate increase that is implemented, the insurer shall file for approval by the Director updated projections, as defined in subsection (B)(3)(a), annually for the next three years and shall include a comparison of actual results to projected values. The Director may extend the reporting period beyond three years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (M), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the Director.
- E.** If any premium rate in the revised premium rate schedule is greater than 200% of the comparable rate in the initial premium schedule, the insurer shall file lifetime projections, as defined in subsection (B)(3)(a), for the Director's approval every five years following the end of the required period in subsection (D). For group insurance policies that meet the conditions in subsection (M), the insurer shall provide the projections required by this subsection to the policyholder instead of filing with the Director.
- F.** If the Director finds that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (C), the Director may require the insurer to implement premium rate schedule adjustments or other measures to reduce the difference between the projected and actual experience. In determining whether the actual experience matches the projected experience, the Director shall consider subsection (B)(3)(f), if applicable.
- G.** If the majority of policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file a plan, subject to approval by the Director, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form experience requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect. Otherwise, the Director may impose the conditions in subsections (H) through (J).
- H.** For a rate increase filing that meets the criteria listed in this subsection, the Director shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if lapsation in excess of projected lapsation has occurred or is anticipated:
1. The rate increase is not the first rate increase requested for the specific policy form or forms;
 2. The rate increase is not an exceptional increase; and
 3. The majority of the policies or certificates to which the increase applies are eligible for the contingent benefit upon lapse.
- I.** If the Director finds excess lapsation under subsection (H) has occurred, is anticipated in the filing or is evidenced in the actual results as presenting in the updated projections provided by the insurer following the requested rate increase, the Director may find that a rate spiral exists and may require the insurer to offer, without underwriting, to all in-force insureds subject to the rate increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The information communicating the offer is subject to the Director's approval. The offer shall:
1. Be based on actuarially sound principles, but not on attained age; and
 2. Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy; and
 3. Allow the insured the option of retaining the existing coverage.
- J.** The insurer shall maintain the experience of the insureds whose coverage was replaced under subsection (I) separate from the experience of insureds originally issued the policy forms. If the insurer requests a rate increase on the policy form, the rate increase shall be limited to the lesser of:
1. The maximum rate increase determined based on the combined experience; and
 2. The maximum rate increase determined based only on the experience of the insureds originally issued the form, plus 10%.
- K.** If the Director finds that an insurer has exhibited a history or pattern of filing inadequate initial premium rates for long-term care insurance, after considering the total number of policies filed over a period of time and the percentage of policies with inadequate rates, the Director may, in addition to remedies available under subsections (H) through (J), prohibit the insurer from the following:
1. Filing and marketing comparable coverage for a period of up to five years; and
 2. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

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L. Subsections (A) through (K) shall not apply to a policy for which long-term care benefits provided by the policy are incidental, as defined under R20-6-1002(C), if the policy complies with all of the following provisions:

1. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
2. The portion of the policy that provides insurance benefits other than long-term care coverage meets the applicable nonforfeiture requirements under state law, including A.R.S. §§ 20-1231, 20-1232 and 20-2636;
3. The policy meets the disclosure requirements of A.R.S. § 20-1691.06;
4. The portion of the policy that provides insurance benefits other than long-term care coverage meets the disclosure requirements as applicable in the following:
 - a. A.R.S. Title 20, Chapter 6, Article 1.2; and
 - b. A.R.S. Title 20, Chapter 16, Article 2.
5. At the time of making a filing under A.R.S. § 20-1691.08, the insurer files an actuarial memorandum that includes:
 - a. Description of the bases on which the actuary determined the long-term care rates and the reserves;
 - b. A summary of the type of policy, benefits, renewability provisions, general marketing method, and limits on ages of issuance;
 - c. A description and a table of each actuarial assumption used, with the percent of premium dollars per policy and dollars per unit of benefits, if any, for expenses;
 - d. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
 - e. The estimated average annual premium per policy and the average issue age;
 - f. A statement as to whether the insurer performs underwriting at the time of application with an explanation of the following:
 - i. Whether underwriting is used, and if used, a description of the type of underwriting, such as medical underwriting or functional assessment underwriting; and
 - ii. For a group policy, whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
 - g. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

M. Subsections (F) and (H) through (J) shall not apply to group insurance as defined in A.R.S. § 20-1691(6) where:

1. The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or
2. The policyholder, and not the certificateholder, pays a material portion of the premium, which shall not be less than 20% of the total premium for the group in the calendar year prior to the year a rate increase is filed.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1015 recodified from R4-14-1015 (Supp. 95-1). Section R20-6-1015 renumbered to R20-6-1022; new Section R20-6-1015 made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section R20-6-

1015 renumbered to R20-6-1014; new Section R20-6-1015 made by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1016. Filing Requirements for Group Policies

- A. Out-of-State Policies. Before an insurer or similar organization may offer group long-term care insurance to a resident of this state under A.R.S. § 20-1691.02(D), the insurer or organization shall file with the Director evidence that a state with statutory or regulatory long-term care insurance requirements substantially similar to those of this state has approved the group policy or certificate for use in that state.
- B. Associations. For long-term policies marketed or issued to associations, the insurer or organization shall file with the insurance department the policy, certificate, and corresponding outline of coverage.

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). R20-6-1016 recodified from R4-14-1016 (Supp. 95-1). Section R20-6-1016 renumbered to R20-6-1023; new Section R20-6-1016 renumbered from R20-6-1012 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4).

R20-6-1017. Standards for Marketing

- A. Every insurer marketing long-term care insurance coverage in this state, directly or through an insurance producer shall:
1. Establish marketing procedures to assure that any comparison of policies by its insurance producers is fair and accurate, and that excessive insurance is not sold or issued;
 2. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy, the following language: "Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations;"
 3. Provide the applicant with copies of the disclosure forms in Appendices A and B;
 4. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has health or long-term care insurance and the types and amounts of any such insurance;
 5. Provide an explanation of contingent benefit upon lapse as provided for in R20-6-1019(D)(3);
 6. Provide written notice to an applicant or prospective policyholder or certificateholder advising of this state's senior insurance counseling program (SHIP), and the name, address, and phone number for the SHIP, at the time of solicitation; and
 7. Establish auditable procedures for verifying compliance with this subsection (A).
- B. In addition to the practices prohibited in A.R.S. § 20-441 et seq., the following acts and practices are prohibited:
1. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.
 2. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit

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- or implied, or undue pressure to purchase or recommend the purchase of insurance.
3. Cold lead advertising. Making use directly or indirectly or any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.
 4. Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.
- C. An insurer shall not market or issue a long-term care policy or certificate to an association unless the insurer files the information required under R20-6-1016(B) and annually certifies that the association has complied with the requirements of this Section.

Historical Note

New Section R20-5-1017 renumbered from R20-6-1013 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1018. Suitability

- A. This Section does not apply to life insurance policies that accelerate benefits for long-term care.
- B. Every insurer or other person marketing long-term care insurance, including an insurance producer or managing general agent, (the "issuer") shall:
 1. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant,
 2. Train its insurance producers in the use of its suitability standards, and
 3. Maintain a copy of its suitability standards and make them available for inspection upon the Director's request.
- C. To determine whether an applicant meets an issuer's suitability standards, the insurance producer and issuer shall develop procedures that take the following into consideration:
 1. The applicant's ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;
 2. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and
 3. The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.
- D. The issuer shall make reasonable efforts to obtain the information set out in subsection (C), including giving the applicant the "Long-Term Care Insurance Personal Worksheet" prescribed in Appendix A, to complete before or at the time of application. The issuer shall use a personal worksheet that contains, at a minimum, the information contained in Appendix A, in substantially the same text and format, in not less than 12 point type. The issuer may ask the applicant to provide additional information to comply with its suitability standards. An issuer shall file a copy of its personal worksheet with the Director.
- E. An issuer shall not consider an applicant for coverage until the issuer has received the applicant's completed personal worksheet, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.
- F. No one shall sell or disseminate information obtained through the personal worksheet outside the issuer that obtains the worksheet.

- G. The issuer shall use its suitability standards to determine whether issuance of long-term care insurance coverage to a particular applicant is appropriate.
- H. An insurance producer shall use the suitability standards developed by the issuer in marketing long-term care insurance.
- I. When giving an applicant a personal worksheet, the issuer shall also provide the applicant with a disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance." The form shall be in substantially the same format and text contained in Appendix H, in not less than 12 point type.
- J. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter that is substantially similar to Appendix I. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent to purchase the long-term care policy. The issuer shall have either the applicant's returned Appendix I letter or a record of the alternative method of verification as part of the applicant's file.
- K. The issuer shall report annually to the Director the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter as prescribed in subsection (J).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1019. Nonforfeiture Benefit Requirement

- A. This Section does not apply to life insurance policies or riders containing accelerated long-term care benefits.
- B. To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of A.R.S. § 20-1691.11, an insurer shall meet the following requirements:
 1. A policy or certificate offered with nonforfeiture benefits shall have the same coverage elements, eligibility, benefit triggers and benefit length as a policy or certificate issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in subsection (E); and
 2. The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder.
- C. If the offer required to be made under A.R.S. § 20-1691.11 is rejected, the insurer shall provide the contingent benefit upon lapse described in this Section. Even if the non-forfeiture benefit offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in subsection (D)(4) shall still apply.
- D. Contingent Benefit Upon Lapse.
 1. If a prospective policyholder rejects the offer of a nonforfeiture benefit, the insurer shall provide the contingent benefit upon lapse described in this Section for individual and group policies without the nonforfeiture benefit, issued after January 10, 2005.
 2. If a group policyholder elects to make the nonforfeiture benefit an option to a certificateholder, the certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

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- 3. The contingent benefit on lapse is triggered when:
 - a. An insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in the chart below, based on the insured's issue age; and
 - b. The policy or certificate lapses within 120 days of the due date of the increased premium.
 - c. Unless otherwise required, an insurer shall notify policyholders at least 30 days before the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase	
Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

- 4. A contingent benefit on lapse is also triggered for policies with a fixed or limited premium paying period when:

- a. An insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in the chart below, based on the insured's issue age; and
- b. The policy or certificate lapses within 120 days of the due date of the increased premium; and
- c. The ratio in subsection (D)(6)(b) is 40% or more.
- d. Unless otherwise required, an insurer shall notify policyholders at least 30 days before the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase on policies with a fixed or limited premium paying period	
Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

- e. This provision shall be in addition to the contingent benefit provided by subsection (D)(3) and where both are triggered, the benefit provided shall be at the option of the insured.
- 5. On or before the effective date of a substantial premium increase as defined in subsection (D)(3), an insurer shall:
 - a. Offer the insured the option of reducing policy benefits under the current coverage consistent with the requirements of R20-6-1025 so that required premium payments are not increased;
 - b. Offer to convert the coverage to a paid-up status with a shortened benefit period according to the terms of subsection (E), which the insured may elect at any time during the 120-day period referenced in subsection (D)(3); and
 - c. Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (D)(3) is deemed to be the election of the offer to convert under subsection (5)(b) unless the automatic option in subsection (D)(6)(c) applies.
- 6. On or before the effective date of a substantial premium increase on policies with a fixed or limited premium paying period as defined in subsection (D)(4), an insurer shall:
 - a. Offer the insured the option of reducing policy benefits under the current coverage consistent with the requirements of R20-6-1025 so that required premium payments are not increased;
 - b. Offer to convert the coverage to paid-up status where the amount payable for each benefit is 90% of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. The insured may elect this option at any time during the 120-day period referenced in subsection (D)(4); and
 - c. Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (D)(4) is deemed to be the election of the offer to convert under subsection (D)(6)(b) if the ratio is 40% or more.
- 7. For any long-term care policy issued on or after November 10, 2017, that an insurer issued at least 20 years prior to the effective date of a substantial premium increase,

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the insurer shall use a rate increase value of 0% in place of all values in the above tables.

- E.** Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse in accordance with subsection (D)(3) but not subsection (D)(4), mean any of the following:
1. Attained age rating is defined as a schedule of premiums starting from the issue date that increases age at least 1% per year before age 50, and at least 3% per year beyond age 50.
 2. For purposes of this subsection, the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in subsection (E)(3).
 3. The standard nonforfeiture credit equals 100% of the sum of all premiums paid, including the premiums paid before any change in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. The minimum nonforfeiture credit shall not be less than 30 times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of subsection (F).
 4. When the nonforfeiture benefit begins.
 - a. The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three years, and thereafter.
 - b. Notwithstanding subsection (E)(4)(a), for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:
 - i. The end of the tenth year following the policy or certificate issue date, or
 - ii. The end of the second year following the date the policy or certificate is no longer subject to attained age rating.
 5. Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.
- F.** All benefits paid by the insurer while the policy or certificate is in premium-paying status and in the paid-up status shall not exceed the maximum benefits that would be payable if the policy or certificate had remained in premium-paying status.
- G.** There shall be no difference in the minimum nonforfeiture benefits for group and individual policies.
- H.** The requirements in this Section are effective on or after November 10, 2005 and shall apply as follows:
1. Except as provided in subsection (H)(2) and (H)(3), this Section applies to any long-term care policy issued in this state on or after January 10, 2005.
 2. The provisions of this Section do not apply to certificates issued on or after January 10, 2005, under a group long-term care insurance policy as defined in A.R.S. § 20-1691(5)(a), that was in force on January 10, 2005.
 3. The provisions of this Section that apply to fixed or limited premium paying period policies shall only apply to policies issued on or after November 10, 2017.
- I.** Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of R20-6-1013, R20-6-

1014 or R20-6-1015, whichever is applicable, treating the policy as a whole.

- J.** To determine whether contingent nonforfeiture upon lapse provisions are triggered under subsection (D)(3) or (D)(4), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium the insured paid when first buying the policy from the original insurer.
- K.** An insurer shall offer a nonforfeiture benefit for a qualified long-term care insurance contract that is a level premium contract and the benefit shall meet the following requirements:
1. The nonforfeiture provision shall be separately captioned using the term "nonforfeiture benefit" or a substantially similar caption;
 2. The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the insurer may adjust the amount of the benefit initially granted only as needed to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying contracts approved by the Director under to A.R.S. § 20-1691.08 for the same contract form; and
 3. The nonforfeiture provision shall provide at least one of the following:
 - a. Reduced paid-up premiums,
 - b. Extended term insurance,
 - c. Shortened benefit period, or
 - d. Other similar offerings that the Director has approved.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1020. Standards for Benefit Triggers

- A.** A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Except as otherwise provided in R20-6-1021, eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than three of the activities of daily living or the presence of cognitive impairment.
- B.** Activities of daily living shall include at least the following as defined in R20-6-1003(A)(1) and in the policy:
1. Bathing,
 2. Continence,
 3. Dressing,
 4. Eating,
 5. Toileting, and
 6. Transferring.
- C.** An insurer may use additional activities of daily living to trigger covered benefits if the activities are defined in the policy.
- D.** An insurer may use additional provisions to determine when benefits are payable under a policy or certificate; however the provisions shall not restrict, and are not in lieu of, the requirements in subsections (A), (B) and (C).
- E.** For purposes of this Section the determination of a deficiency shall not be more restrictive than:
1. Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or
 2. If the deficiency is due to the presence of a cognitive impairment, requiring supervision or verbal cueing by another person to protect the insured or others.

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- F. Licensed or certified professionals, such as physicians, nurses or social workers, shall perform assessments of activities of daily living and cognitive impairment.
- G. The requirements in this Section are effective on and after November 10, 2005 and shall apply as follows:
1. Except as provided in subsection (G)(2), the provisions of this Section apply to a long-term care policy issued in this state on or after January 10, 2005.
 2. The provisions of this Section do not apply to certificates issued on or after January 10, 2005, under a long-term care insurance policy issued to a group as defined in A.R.S. § 20-1691(5)(a), which policy was in force on January 10, 2005.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1021. Additional Standards for Benefit Triggers for Qualified Long-term Care Insurance Contracts

- A. A qualified long-term care insurance contract shall pay only for qualified long-term care services received by a chronically ill individual provided under a plan of care prescribed by a licensed health care practitioner, which is not subject to approval or modification by the insurer.
- B. A qualified long-term care insurance contract shall condition the payment of benefits on a certified determination of the insured's inability to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity or to severe cognitive impairment.
- C. Licensed health care practitioners shall perform the certified determinations regarding activities of daily living and cognitive impairment required under subsection (B).
- D. Certified determinations required under subsection (B) may be performed at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least 90 days due to a loss of functional capacity and the insured is in claim status, the certified determination may not be rescinded and additional certified determinations may not be performed until after the expiration of the 90-day period.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1022. Standard Format Outline of Coverage

- A. The outline of coverage prescribed in A.R.S. § 20-1691.06 shall be a free-standing document, using no smaller than 10 point type, and shall contain no advertising or promotional material.
- B. Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that give prominence equivalent to capitalization or underscoring.
- C. An insurer shall use the text and sequence of text in the standard format outline of coverage prescribed in Appendix J, unless otherwise specifically indicated.

Historical Note

New Section R20-6-1022 renumbered from R20-6-1015 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4).

R20-6-1023. Requirement to Deliver Shopper's Guide

- A. All prospective applicants of a long-term care insurance policy or certificate shall receive a long-term care insurance shopper's guide approved by the Director. This requirement may be satisfied by delivery of the current edition of the long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners.
1. In the case of insurance producer solicitation, an insurance producer shall deliver the shopper's guide before presenting an application or enrollment form.
 2. In the case of direct response solicitations, the insurer shall provide the shopper's guide with any application or enrollment form.
- B. A prospective applicant for a life insurance policy or rider containing accelerated long-term care benefits is not required to receive the guide described in subsection (A), but shall receive the policy summary required under A.R.S. § 20-1691.06.

Historical Note

New Section R20-6-1023 renumbered from R20-6-1016 and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1024. Availability of New Health Care Services or Providers

- A. An insurer shall notify policyholders of the availability of a new long-term policy series that provides coverage for new long-term care services or health care providers material in nature and not previously available through the insurer to the general public. The notice shall be provided within 12 months of the date the new policy series is made available for sale in this state.
- B. Notwithstanding subsection (A), notification is not required for any policy issued prior to the effective date of this Section or to any policyholder or certificateholder who is currently eligible for benefits, within an elimination period or on a claim, or who previously had been in claim status, or who would not be eligible to apply for coverage due to issue age limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium to add such new services or providers.
- C. The insurer shall make the new coverage available in one of the following ways:
1. By adding a rider to the existing policy and charging a separate premium for the new rider based on the insured's attained age;
 2. By exchanging the existing policy or certificate for one with an issue age based on the present age of the insured and recognizing past insured status by granting premium credits toward the premiums for the new policy or certificate. The premium credits shall be based on premiums paid or reserves held for the prior policy or certificate;
 3. By exchanging the existing policy or certificate for a new policy or certificate in which consideration for past insured status shall be recognized by setting the premium for the new policy or certificate at the issue age of the policy or certificate being exchanged. The cost for the new policy or certificate may recognize the difference in reserves between the new policy or certificate and the original policy or certificate; or

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4. By an alternative program developed by the insurer that meets the intent of this Section if the program is filed with and approved by the Director.
- D.** An insurer is not required to notify policyholders of a new proprietary policy series created and filed for use in a limited distribution channel. For purposes of this subsection, "limited distribution channel" means through a discrete entity, such as a financial institution or brokerage, for which specialized products are available that are not available for sale to the general public. Policyholders who purchased such a new proprietary policy shall be notified when a new long-term care policy series that provides coverage for new long-term care services or providers material in nature is made available to that limited distribution channel.
- E.** Policies issued pursuant to this Section shall be considered exchanges and not replacements. These exchanges shall not be subject to R20-6-1010(A), (C) through (G) and R20-6-1018 and are not subject to the reporting requirements of R20-6-1010(I)(1), (I)(2)(a) through (I)(2)(c).
- F.** Where an employer, labor organization, professional, trade or occupational association offers the policy, the required notification in subsection (A) shall be made to the offering entity. However, if the policy is issued to a group defined in A.R.S. § 20-1691(5), the notification shall be to each certificateholder.
- G.** Nothing in this Section shall prohibit an insurer from offering any policy, rider, certificate or coverage change to any policyholder or certificateholder. However, upon request, any policyholder may apply for currently available coverage that includes the new services or providers. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the required premium, to add such new services or providers.
- H.** This Section does not apply to life insurance policies or riders containing accelerated long-term care benefits.
- I.** This Section shall become effective on or after November 10, 2017.
- C.** In the event the reduction in coverage involves the reduction or elimination of the inflation protection provision, the insurer shall allow the policyholder to continue the benefit amount in effect at the time of the reduction.
- D.** The provision in subsection (A) shall include a description of the process for requesting and implementing a reduction in coverage.
- E.** The premium for the reduced coverage shall:
1. Be based on the same age and underwriting class used to determine the premium for the coverage currently in force, and
 2. Be consistent with the approved rate table.
- F.** The issuer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable.
- G.** If a policy or certificate is about to lapse, the insurer shall provide a written reminder to the policyholder or certificateholder of his or her right to reduce coverage and premiums in the notice required by R20-6-1005(F).
- H.** This Section does not apply to life insurance policies or riders containing accelerated long-term benefits.
- I.** The requirements of subsections (A) through (H) shall apply to any long-term care policy issued in this state on or after November 10, 2017.
- J.** A premium increase notice required by R20-6-1008(G) shall include:
1. An offer to reduce policy benefits provided by the current coverage consistent with the requirements of this Section;
 2. A disclosure stating that all options available to the policyholder may not be of equal value; and
 3. In the case of a partnership policy, a disclosure that some benefit reduction options may result in a loss in partnership status that may reduce policyholder protections.
- K.** The requirements of subsection (J) shall apply to any rate increase implemented in this state on or after November 10, 2017.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Section R20-6-1024 renumbered to R20-6-1026; new Section R20-6-1024 made by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1025. Right to Reduce Coverage and Lower Premiums

- A.** Every long-term care insurance policy and certificate shall include a provision that allows the policyholder or certificateholder to reduce coverage and lower the policy or certificate premium in at least one of the following ways:
1. Reducing the maximum benefit; or
 2. Reducing the daily, weekly or monthly benefit amount.
- B.** The insurer may also offer other reduction options that are consistent with the policy or certificate design or the carrier's administrative processes.

Historical Note

New Section R20-6-1025 made by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

R20-6-1026. Instructions for Appendices

Information that is designated as a "Drafting Instruction" in a form appended to this Article is not required to be included as part of the form. Any person using the form shall abide by the instructions when drafting, preparing, or completing the form.

Historical Note

New Section R20-6-1026 renumbered from R20-6-1024 by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix A. Long-term Care Insurance Personal Worksheet

Long-term Care Insurance
Personal Worksheet

People buy long-term care insurance for many reasons. Some don't want to use their own assets to pay for long-term care. Some buy insurance to make sure they can choose the type of care they get. Others don't want their family to have to pay for care or don't want to go on Medicaid. But long-term care insurance may be expensive, and may not be right for everyone.

By state law, the insurance company must fill out part of the information on this worksheet and ask you to fill out the rest to help you and the company decide if you should buy this policy.

Premium Information

Policy Form Numbers _____

The premium for the coverage you are considering will be [\$_____ per month, or \$_____ per year,] [a one-time single premium of \$_____.]

Type of Policy (noncancellable/guaranteed renewable): _____

The Company's Right to Increase Premiums: _____

[The company cannot raise your rates on this policy.] [The company has a right to increase premiums on this policy form in the future, provided it raises rates for all policies in the same class in this state.] [Insurers shall use appropriate bracketed statement. Rate guarantees shall not be shown on this form.]

Rate Increase History

The company has sold long-term care insurance since [year] and has sold this policy since [year]. [The company has never raised its rates for any long-term care policy it has sold in this state or any other state.] [The company has not raised its rates for this policy form or similar policy forms in this state or any other state in the last 10 years.] [The company has raised its premium rates on this policy form or similar policy forms in the last 10 years. Following is a summary of the rate increases.]

(Drafting Instruction: A company may use the first bracketed sentence above only if it has never increased rates under any prior policy forms in this state or any other state. The issuer shall list each premium increase it has instituted on this or similar policy forms in this state or any other state during the last 10 years. The list shall provide the policy form, the calendar years the form was available for sale, and the calendar year and the amount (percentage) of each increase. The insurer shall provide minimum and maximum percentages if the rate increase is variable by rating characteristics. The insurer may provide, in a fair manner, additional explanatory information as appropriate.)

Questions Related to Your Income

How will you pay each year's premium?

From my Income From my Savings/Investments My Family will Pay

Have you considered whether you could afford to keep this policy if the premiums went up, for example, by 50%?

(Drafting Instruction: The issuer is not required to use the bracketed sentence if the policy is fully paid up or is a noncancellable policy.)

What is your annual income? (check one) Under \$10,000 \$[10-20,000] \$[20-30,000] \$[30-50,000] Over \$50,000

(Drafting Instruction: The issuer may choose the numbers to put in the brackets to fit its suitability standards.)

How do you expect your income to change over the next 10 years? (check one)

No change Increase Decrease

If you will be paying premiums with money received only from your own income, a rule of thumb is that you may not be able to afford this policy if the premiums will be more than 7% of your income.

Will you buy inflation protection? (check one) Yes No

If not, have you considered how you will pay for the difference between future costs and your daily benefit amount?

From my Income From my Savings/Investments My Family will Pay

The national average annual cost of care in [insert year] was [insert \$ amount], but this figure varies across the country. In ten years the national average annual cost would be about [insert \$ amount] if costs increase 5% annually.

(Drafting Instruction: The projected cost can be based on federal estimates in a current year. In the above statement, the second figure equals 163% of the first figure.)

What elimination period are you considering? Number of days _____ Approximate cost \$ _____ for that period of care.

How are you planning to pay for your care during the elimination period? (check one)

From my Income From my Savings/Investments My Family will Pay

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Questions Related to Your Savings and Investments

Not counting your home, about how much are all of your assets (your savings and investments) worth? (check one)

- Under \$20,000 \$20,000-\$30,000 \$30,000-\$50,000 Over \$50,000

How do you expect your assets to change over the next ten years? (check one)

- Stay about the same Increase Decrease

If you are buying this policy to protect your assets and your assets are less than \$30,000, you may wish to consider other options for financing your long-term care.

Disclosure Statement

Form with checkboxes: The answers to the questions above describe my financial situation. or I choose not to complete this information. (Check one.) I acknowledge that the carrier and/or its insurance provider (below) has reviewed this form with me including the premium, premium rate increase history and potential for premium increases in the future. [For direct mail situations, use the following: I acknowledge that I have reviewed this form including the premium, premium rate increase history and potential for premium increases in the future.] I understand the above disclosures. I understand that the rates for this policy may increase in the future. (This box must be checked).

Signed: (Applicant) (Date)

I explained to the applicant the importance of completing this information.

Signed: (Insurance Producer) (Date)

Insurance Producer's Printed Name:

[In order for us to process your application, please return this signed statement to [name of company], along with your application.]

[My insurance provider has advised me that this policy does not seem to be suitable for me. However, I still want the company to consider my application.]

Signed: (Applicant) (Date)

(Drafting Instruction: Choose the appropriate sentences depending on whether this is a direct mail or insurance producer sale.) The company may contact you to verify your answers.

(Drafting Instruction: When the Long-term Care Insurance Personal Worksheet is furnished to employees and their spouses under employer group policies, the text from the heading "Disclosure Statement" to the end of the document may be removed.)

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). Former Appendix A renumbered to Appendix C; new Appendix A made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix B. Long-term Care Insurance Potential Rate Increase Disclosure Form

Instructions:

This form provides information to the applicant regarding premium rate schedules, rate schedule adjustments, potential rate revisions, and policyholder options in the event of a rate increase.

Insurers shall provide all of the following information to the applicant:

**Long-term Care Insurance
Potential Rate Increase Disclosure Form**

1. **[Premium Rate] [Premium Rate Schedules]:** [Premium rate] [Premium rate schedules] that [is][are] applicable to you and that will be in effect until a request is made and [approved] for an increase [is][are] [on the application][(\$_____)]
2. **The [premium] [premium rate schedule] for this policy [will be shown on the schedule page of] [will be attached to] your policy.**

3. **Rate Schedule Adjustments:**

The company will provide a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.) (fill in the blank): _____.

4. **Potential Rate Revisions:**

This policy is Guaranteed Renewable. This means that the rates for this product may be increased in the future. Your rates can NOT be increased due to your increasing age or declining health, but your rates may go up based on the experience of all policyholders with a policy similar to yours.

If you receive a premium rate or premium rate schedule increase in the future, you will be notified of the new premium amount and you will be able to exercise at least one of the following options:

- Pay the increased premium and continue your policy in force as is.
- Reduce your policy benefits to a level such that your premiums will not increase. (Subject to state law minimum standards.)
- Exercise your nonforfeiture option if purchased. (This option is available for purchase for an additional premium.)
- Exercise your contingent nonforfeiture rights.* (This option may be available if you do not purchase a separate nonforfeiture option.)

***Contingent Nonforfeiture**

If the premium rate for your policy goes up in the future and you didn't buy a nonforfeiture option, you may be eligible for contingent nonforfeiture. Here's how to tell if you are eligible:

You will keep some long-term care insurance coverage, if:

- Your premium after the increase exceeds your original premium by the percentage shown (or more) in the following table; and
- You lapse (not pay more premiums) within 120 days of the increase.

The amount of coverage (i.e., new lifetime maximum benefit amount) you will keep will equal the total amount of premiums you have paid since your policy was first issued. If you have already received benefits under the policy, so that the remaining maximum benefit amount is less than the total amount of premiums you've paid, the amount of coverage will be that remaining amount.

Except for this reduced lifetime maximum benefit amount, all other policy benefits will remain at the levels attained at the time of the lapse and will not increase thereafter.

Should you choose this Contingent Nonforfeiture option, your policy, with this reduced maximum benefit amount, will be considered "paid-up" with no further premiums due.

Example:

- You bought the policy at age 65 and paid the \$1,000 annual premium for 10 years, so you have paid a total of \$10,000 in premium.
- In the eleventh year, you receive a rate increase of 50%, or \$500 for a new annual premium of \$1,500, and you decide to lapse the policy (not pay any more premiums).
- Your "paid-up" policy benefits are \$10,000 (provided you have a least \$10,000 of benefits remaining under your policy.)

Contingent Nonforfeiture Cumulative Premium Increase over Initial Premium That qualifies for Contingent Nonforfeiture	
(Percentage increase is cumulative from date of original issue. It does NOT represent a one-time increase.)	
Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%

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63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). Former Appendix B renumbered to Appendix D; new Appendix B made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix C. Notice to Applicant Regarding Replacement of Individual Health or Long-term Care Insurance

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL HEALTH OR LONG-TERM CARE INSURANCE

[Insurance company’s name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing health or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all health or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY [INSURANCE PRODUCER OR OTHER REPRESENTATIVE]:

Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations which I call to your attention:

1. Health conditions that you may presently have (preexisting conditions), may not be immediately or fully covered under your new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all of the relevant factors involved in replacing your present coverage.
4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Insurance Producer or Other Representative)

(Typed Name and Address of Insurance Producer)

The above “Notice to Applicant” was delivered to me on:

(Date)

(Applicant’s Signature)

Historical Note

Adopted effective August 10, 1992 (Supp. 92-3). New Appendix C renumbered from Appendix A and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix D. Notice to Applicant Regarding Replacement of Health or Long-term Care Insurance

NOTICE TO APPLICANT REGARDING REPLACEMENT OF HEALTH OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing health or long-term care insurance and replace it with the long-term care insurance policy being delivered and issued by [company name] Insurance Company. Your new policy gives you thirty (30) days to decide, without cost, whether you want to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all health or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, even though a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its insurance producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

Historical Note

New Appendix D renumbered from Appendix B and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix E. Long-Term Care Insurance Replacement and Lapse Reporting Form

Long-term Care Insurance Replacement and Lapse Reporting Form

For the State of _____
 For the Reporting Year of _____

Company Name: _____ Due: June 30 annually
 Company Address: _____ Company NAIC Number: _____
 Contact Person: _____ Phone Number: (____) _____

Instructions

The purpose of this form is to report on a statewide basis information regarding long-term care insurance policy replacements and lapses. Every insurer shall maintain the following records for each insurance producer: (1) the amount of long-term care insurance replacement sales as a percent of the insurance producer's total annual sales and (2) the amount of lapses of long-term care insurance policies sold by the insurance producer as a percent of the insurance producer's total annual sales. The tables below should be used to report the 10% of the insurer's insurance producers with the greatest percentages of replacements and lapses.

Listing of the 10% of Insurance Producers with the Greatest Percentage of Replacements

Insurance Producer's Name	Number of Policies Sold By This Insurance Producer	Number of Policies Replaced By This Insurance Producer	Number of Replacements as % of Number of Policies Sold By This Insurance Producer

Listing of the 10% of Insurance Producers with the Greatest Percentage of Lapses

Insurance Producer's Name	Number of Policies Sold By This Insurance Producer	Number of Policies Lapsed By This Insurance Producer	Number of Lapses As % of Number Sold By This Insurance Producer

Company Totals

Percentage of Replacement Policies Sold to Total Annual Sales ____%
 Percentage of Replacement Policies Sold to Policies In Force (as of the end of the preceding calendar year) ____%
 Percentage of Lapsed Policies to Total Annual Sales ____%
 Percentage of Lapsed Policies to Policies In Force (as of the end of the preceding calendar year) ____%

Historical Note

New Appendix E made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix F. Long-term Care Insurance Claims Denial Reporting Form

**Long-term Care Insurance
Claims Denial Reporting Form**

For the State of _____
For the Reporting Year of _____

Company Name: _____ Due: June 30 annually
Company Address: _____

Company NAIC Number: _____
Contact Person: _____ Phone Number: _____
Line of Business: Individual Group

Instructions

The purpose of this form is to report all long-term care claim denials under in-force long-term care insurance policies. Indicate the manner of reporting by checking one of the boxes below:

- Per Claimant - counts each individual who makes one or a series of claim requests
- Per Transaction - counts each claim payment request

“Denied” means a claim that is not paid for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition. It does not include a request for payment that is in excess of the applicable contractual limits.

Inforce Data

	State Data	Nationwide Data ¹
Total Number of Inforce Policies [Certificates] as of December 31st		

Claims & Denial Data

	State Data	Nationwide Data ¹
1 Total Number of Long-Term Care Claims Reported		
2 Total Number of Long-Term Care Claims Denied/Not Paid		
3 Number of Claims Not Paid due to Preexisting Condition Exclusion		
4 Number of Claims Not Paid due to Waiting (Elimination) Period Not Met		
5 Net Number of Long-Term Care Claims Denied for Reporting Purposes (Line 2 Minus Line 3 Minus Line 4)		
6 Percentage of Long-Term Care Claims Denied of Those Reported (Line 5 Divided By Line 1)		
7 Number of Long-Term Care Claim Denied due to:		
8 • Long-Term Care Services Not Covered under the Policy ²		
9 • Provider/Facility Not Qualified under the Policy ³		
10 • Benefit Eligibility Criteria Not Met ⁴		
11 • Other		

1. The nationwide data may be viewed as a more representative and credible indicator where the data for claims reported and denied for your state are small in number.
2. Example—home health care claim filed under a nursing home only policy.
3. Example—a facility that does not meet the minimum level of care requirements or the licensing requirements as outlined in the policy.
4. Examples—a benefit trigger not met, certification by a licensed health care practitioner not provided, no plan of care.

Historical Note

New Appendix F made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix G. Rescission Reporting Form for Long-term Policies

RESCISSION REPORTING FORM FOR LONG-TERM CARE POLICIES

FOR THE STATE OF _____ FOR THE REPORTING YEAR _____

Company Name _____ Address: _____

Phone Number: _____ Due: March 1 annually

Instructions:

The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

Table with 6 columns: Policy Form #, Policy and Certificate #, Name of Insured, Date of Policy Issuance, Date/s Claim/s Submitted, Date of Rescission

Detailed reason for rescission:

Three horizontal lines for providing detailed reason for rescission.

Signature _____

Name and Title (please type) _____

Date _____

Historical Note

New Appendix G made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4).

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Appendix H. Things You Should Know Before You Buy Long-term Care Insurance

**Things You Should Know Before You Buy
Long-term Care Insurance**

**Long-Term
Care
Insurance**

- A long-term care insurance policy may pay most of the costs for your care in a nursing home. Many policies also pay for care at home or other community settings. Since policies can vary in coverage, you should read this policy and make sure you understand what it covers before you buy it.

- **[WARNING! You should *not* buy this insurance policy unless you can afford to pay the premiums every year. You are making a multi-year financial commitment.]** [Remember that the company can increase premiums in the future.]

(Drafting Instruction: For single premium policies, delete this bullet; for noncancellable policies, delete the second sentence only.)

- The personal worksheet includes questions designed to help you and the company determine whether this policy is suitable for your needs.

Medicare

- Medicare does **not** pay for most long-term care.

Medicaid

- Medicaid will generally pay for long-term care if you have very little income and few assets. You probably should not buy this policy if you are now eligible for Medicaid.

- Many people become eligible for Medicaid after they have used up their own financial resources by paying for long-term care services.

- When Medicaid pays your spouse's nursing home bills, you are allowed to keep your house and furniture, a living allowance, and some of your joint assets.

- Your choice of long-term care services may be limited if you are receiving Medicaid. To learn more about Medicaid, contact your local or state Medicaid agency.

**Shopper's
Guide**

- Make sure the insurance company or agent gives you a copy of a book called the National Association of Insurance Commissioners' "Shopper's Guide to Long-Term Care Insurance." Read it carefully. If you have decided to apply for long-term care insurance, you have the right to return the policy within 30 days and get back any premium you have paid if you are dissatisfied for any reason or choose not to purchase the policy.

Counseling

- Free counseling and additional information about long-term care insurance are available through your state's insurance counseling program. Contact your state insurance department or department on aging for more information about the senior health insurance counseling program in your state.

Facilities

- Some long-term care insurance contracts provide for benefit payments in certain facilities only if they are licensed or certified, such as in assisted living centers. However, not all states regulate these facilities in the same way. Also, many people move into a different state from where they purchased their long-term care insurance policy. Read the policy carefully to determine what types of facilities qualify for benefit payments and to determine that payment for a covered service will be made if you move to a state that has a different licensing scheme for facilities than the one in which you purchased the policy.

Historical Note

New Appendix H made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix I. Long-term Care Insurance Suitability Letter

Long-term Care Insurance Suitability Letter

Dear [Applicant]:

Your recent application for long-term care insurance included a "personal worksheet," which asked questions about your finances and your reasons for buying long-term care insurance. For your protection, state law requires us to consider this information when we review your application, to avoid selling a policy to those who may not need coverage.

[Your answers indicate that long-term care insurance may not meet your financial needs. We suggest that you review the information provided along with your application, including the booklet "Shopper's Guide to Long-Term Care Insurance" and the page titled "Things You Should Know Before Buying Long-Term Care Insurance." Your state insurance department also has information about long-term care insurance and may be able to refer you to a counselor free of charge who can help you decide whether to buy this policy.]

[You chose not to provide any financial information for us to review.]

(Drafting Instruction: Choose the paragraph that applies.)

We have suspended our final review of your application. If, after careful consideration, you still believe this policy is what you want, check the appropriate box below and return this letter to us within the next 60 days. We will then continue reviewing your application and issue a policy if you meet our medical standards.

If we do not hear from you within the next 60 days, we will close your file and not issue you a policy. You should understand that you will not have any coverage until we hear back from you, approve your application and issue you a policy.

Please check one box and return in the enclosed envelope.

- Yes,** [although my worksheet indicates that long-term care insurance may not be a suitable purchase,] I wish to purchase this coverage. Please resume review of my application.

Drafting Instruction: Delete the phrase in brackets if the applicant did not answer the questions about income.

- No.** I have decided not to buy a policy at this time.

APPLICANT'S SIGNATURE DATE

Please return to [issuer] at [address] by [date].

Historical Note

New Appendix I made by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

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Appendix J. Long-term Care Insurance Outline of Coverage

[COMPANY NAME]
 [ADDRESS - CITY & STATE]
 [TELEPHONE NUMBER]
 LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE
 [Policy Number or Group Master Policy and Certificate Number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, shall appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance] [a group policy] which was issued in the [indicate jurisdiction in which group policy was issued].
2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!
3. FEDERAL TAX CONSEQUENCES
 This [POLICY] [CERTIFICATE] is intended to be a federally tax-qualified long-term care insurance contract under Section 7702(B)(b) of the Internal Revenue Code of 1986, as amended.

OR

Federal Tax Implications of this [POLICY] [CERTIFICATE]. This [POLICY] [CERTIFICATE] is not intended to be a federally tax-qualified long-term care insurance contract under Section 7702(B)(b) of the Internal Revenue Code of 1986, as amended. Benefits received under the [POLICY] [CERTIFICATE] may be taxable as income.

4. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED
 - (a) [For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:
 - (1) Policies and certificates that are guaranteed renewable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, [certificate] to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.
 - (2) [Policies and certificates that are noncancellable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELLABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.
 - (b) [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;]
 - (c) [Describe waiver of premium provisions or state that there are not such provisions;]
5. TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.
 [In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium, and if a right exists, describe clearly and concisely each circumstance under which the premium may change.]
6. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.
 - (a) [Provide a brief description of the right to return - "free look" provision of the policy.]
 - (b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]
7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the insurance company.
 - (a) [For insurance producers] Neither [insert company name] nor its [agents or insurance producers] represent Medicare, the federal government or any state government.
 - (b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.
8. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute-care unit of a hospital, such as in a nursing home, in the community or in the home.
 This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]
9. BENEFITS PROVIDED BY THIS POLICY.
 - (a) [Covered services, related deductible(s), waiting periods, elimination periods and benefit maximums.]
 - (b) [Institutional benefits, by skill level.]
 - (c) [Non-institutional benefits, by skill level.]
 - (d) Eligibility for Payment of Benefits
 [Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be defined

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and described as part of the outline of coverage.]

[Any additional benefit triggers shall be explained in this Section. If these triggers differ for different benefits, explanation of the triggers shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]

10. LIMITATIONS AND EXCLUSIONS.

[Describe:

- (a) Preexisting conditions;
- (b) Non-eligible facilities and providers;
- (c) Non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);
- (d) Exclusions and exceptions;
- (e) Limitations.]

[This Section shall provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in paragraph 6 above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

11. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

- (a) That the benefit level will not increase over time;
- (b) Any automatic benefit adjustment provisions;
- (c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;
- (d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;
- (e) Describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

12. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

13. PREMIUM.

[(a)State the total annual premium for the policy;

(b) If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

14. ADDITIONAL FEATURES.

[(a)Indicate if medical underwriting is used;

(b)Describe other important features.]

15. CONTACT THE STATE SENIOR HEALTH INSURANCE ASSISTANCE PROGRAM IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

Historical Note

New Appendix J renumbered from Appendix C and amended by final rulemaking at 10 A.A.R. 4661, effective January 3, 2005 (Supp. 04-4). Amended by final exempt rulemaking at 23 A.A.R. 1119, effective November 10, 2017 (Supp. 17-2).

ARTICLE 11. MEDICARE SUPPLEMENT INSURANCE**R20-6-1101. Incorporation by Reference and Modifications**

- A. The Department incorporates by reference the Model Regulation to Implement the National Association of Insurance Commissioners (NAIC) Medicare Supplement Insurance Minimum Standards Model Act, August 2016 (Model Regulation), and no future editions or amendments, which is on file with the Department of Insurance, 100 N. 15th Ave., Suite 102, Phoenix, AZ 85007-2624 and available from the National Association of Insurance Commissioners, Publications Department, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197.
- B. The Model Regulation is modified as follows:
 - 1. In addition to the terms defined in the Model Regulation, the following definitions apply:
 - a. "Agent" means an insurance producer as defined in A.R.S. § 20-281(5).
 - b. "Commissioner" means the Director of the Arizona Department of Insurance.
 - c. "HMO" and "health maintenance organization" mean a health care services organization as defined in A.R.S. § 20-1051(7).
 - d. "Regulation" means Article.
 - 2. Section 3(A)(2) reads:
 - (2) All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in this state including association plans.
 - 3. Section 8(A)(7)(c) reads:

- c. Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss of the group health plan and pays the premium attributable to the supplemental policy period, effective as of the date of termination of enrollment in the group health plan.

- 4. Section 8.1 is revised to insert the citation to A.R.S. § 20-1133 as follows:

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any [1990 Standardized Medicare supplement benefit plan] for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued before June 1,

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2010 remain subject to the requirements of A.R.S. § 20-1133.

5. Section 8.1(A)(7)(c) is revised to read as follows: Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862(b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstated (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan.
6. Section 9.1 is revised to insert the citation to A.R.S. § 20-1133 as follows:

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued before June 1, 2010 remain subject to the requirements of A.R.S. § 20-1133.
7. Section 9.2 is revised to insert the citation to A.R.S. § 20-1133 as follows:

The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) requires the following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state to individuals newly eligible for Medicare on or after January 1, 2020. No policy or certificate that provides coverage of the Medicare Part B deductible may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate to individuals newly eligible for Medicare on or after January 1, 2020. All policies must comply with the following benefit standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued to individuals eligible for Medicare before January 1, 2020, remain subject to the requirements of A.R.S. § 20-1133.
8. Section 15(G) is revised as follows:

An insurer shall not file or request approval of a rate structure for its Medicare supplement policies or certificates based upon attained-age rating as a structure or methodology.
9. Section 23 is revised as follows:
 - A. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer shall waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate to the extent such time was spent under the original policy.
 - B. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six months, the replacing policy shall not provide any time period applicable to preexisting conditions,

waiting periods, elimination periods and probationary periods.

Historical Note

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1101 recodified from R4-14-1101 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 15 A.A.R. 996, effective June 2, 2009 (Supp. 09-2). Amended by final rulemaking at 25 A.A.R. 1923, effective September 8, 2019 (Supp. 19-3).

R20-6-1102. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted with changes effective May 28, 1992 (Supp. 92-2). R20-6-1102 recodified from R4-14-1102 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by final rulemaking at 5 A.A.R. 618, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1102.01 Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 618, effective February 4, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1103. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1103 recodified from R4-14-1103 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1104. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for

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only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1104 recodified from R4-14-1104 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1105. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1105 recodified from R4-14-1105 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1106. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1106 recodified from R4-14-1106 (Supp. 95-1). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 910 effective March 3, 1999 (Supp. 99-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1107. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted with changes effective May 28, 1992 (Supp. 92-2). R20-6-1107 recodified from R4-14-1107 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1108. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1108 recodified from R4-14-1108 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by final rulemaking at 5 A.A.R. 910 effective March 3, 1999 (Supp. 99-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1109. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1109 recodified from R4-14-1109 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1110. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1110 recodified from R4-14-1110 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1111. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1111 recodified from R4-14-1111 (Supp. 95-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1112. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1112 recodified from R4-14-1112 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1113. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1113 recodified from R4-14-1113 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 910 effective March 3, 1999 (Supp. 99-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1114. Repealed

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Historical Note

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1114 recodified from R4-14-1114 (Supp. 95-1). Amended effective August 16, 1996 (Supp. 96-3). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1115. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1115 recodified from R4-14-1115 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1116. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1116 recodified from R4-14-1116 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1117. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1117 recodified from R4-14-1117 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1118. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1118 recodified from R4-14-1118 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1119. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28,

1992 (Supp. 92-2). R20-6-1119 recodified from R4-14-1119 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1120. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). R20-6-1120 recodified from R4-14-1120 (Supp. 95-1). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

R20-6-1121. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Section repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix A. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again and correction made to heading of form on last page of Appendix A effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Appendix A repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix B. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again and corrections made to Plan C (Medicare (Part B) - Medical Services - Per Calendar Year) and Plan J (Other Benefits) effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Amended effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 2454, effective May 13, 2002 (Supp. 02-2). Appendix B repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix C. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Amended effective August 16, 1996 (Supp. 96-3). Appendix C repealed by final rulemaking at

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11 A.A.R. 3671, effective November 12, 2005
(Supp. 05-3).

Appendix D. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Amended effective August 16, 1996 (Supp. 96-3). Appendix D repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix E. Repealed**Historical Note**

Emergency rule adopted effective December 18, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective March 17, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Adopted effective May 28, 1992 (Supp. 92-2). Appendix E repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

Appendix F. Repealed**Historical Note**

Appendix F adopted effective August 16, 1996 (Supp. 96-3). Amended effective June 15, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 910, effective March 3, 1999 (Supp. 99-1). Appendix F repealed by final rulemaking at 11 A.A.R. 3671, effective November 12, 2005 (Supp. 05-3).

ARTICLE 12. HIV/AIDS: PROHIBITED AND REQUIRED PRACTICES**R20-6-1201. Definitions**

- A. "AIDS" means Acquired Immune Deficiency Syndrome.
- B. "Applicant" means an applicant for a life or disability insurance policy or coverage under a health care plan, as well as any potential certificate holder or dependent covered under such policy or plan.
- C. "Insurer" means life and disability insurers (including but not limited to health insurers), hospital and medical service corporations, and health care services organizations, including all employees, contractors, and agents thereof.
- D. "Person" means any individual, company, insurer, association, organization, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, or entity.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1201 recodified from R4-14-1201 (Supp. 95-1).

R20-6-1202. Applications for Insurance

- A. Insurers shall not use questions on applications for life or disability policies or health care plans that inquire directly or indirectly about:
 - 1. The sexual orientation of an applicant;
 - 2. An applicant's receipt of transfusions of blood or blood products; or
 - 3. Whether or not the applicant has had any HIV-related test, except as provided in subsection (B) of this rule.
- B. Insurers may include specific questions on applications for life or disability insurance policies or health care plans asking if the applicant has ever been diagnosed or treated for AIDS or

AIDS-related conditions or tested positive for the presence of HIV antibodies, antigens, or the virus. No adverse underwriting decision shall be made on the basis of any prior positive HIV-related test or tests unless the insurer has verified that the prior test(s) consisted of both a positive screening test such as enzyme-linked immunoassay (ELISA) and a positive supplemental test such as a Western Blot. All such tests used shall be approved and licensed by the Food and Drug Administration and conducted in accordance with the manufacturer's directions for use, including but not limited to the manufacturers' specified interpretation of positivity.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1202 recodified from R4-14-1202 (Supp. 95-1).

R20-6-1203. Testing for HIV; Consent Form

- A. An insurer may test for HIV infection in the same way that the insurer tests for other conditions that affect mortality and morbidity. No adverse underwriting decision shall be made on the basis of a positive result to an HIV-related test unless the result consists of both a positive screening test such as enzyme-linked immunoassay (ELISA) and a positive supplemental test such as a Western Blot. All such tests used shall be approved and licensed by the Food and Drug Administration and conducted in accordance with the manufacturers' directions for use, including but not limited to the manufacturers' specified interpretation of positivity.
- B. If an applicant is requested to take an HIV-related test in connection with an application for a life or disability insurance policy or a health care plan, the insurer shall reveal the use of such test to the applicant and shall obtain the written consent of the applicant prior to the administration of such test. The insurer shall allow the applicant up to 10 days within which to decide whether or not to sign the consent form, and no adverse underwriting decision may be made on the basis of the applicant's delay during this time period. Insurers need not provide pretest counseling to applicants but shall advise applicants of the availability of counseling in accordance with subsection (C) of this rule.
- C. The written consent form, which shall be approved by the Director in advance of its use, shall contain the following information:
 - 1. Purpose of the consent form. The form shall contain a clear disclosure that the test to be performed is a test for the presence of HIV antibodies, antigens, or the virus, and that underwriting decisions will be based on the results of such test. The form shall further provide notice of a period of not less than 10 days during which the applicant may decide whether or not to sign the form, along with a disclosure that the applicant's refusal to be tested may be used as a reason to deny coverage.
 - 2. Information on HIV. The form shall provide clear, concise, and accurate information on how the disease is spread and what behavior places persons at risk of contracting the virus.
 - 3. Pretest counseling considerations. The written consent form shall contain information advising the applicant that counseling is recommended by many public health organizations and that the applicant may obtain such counseling at the applicant's own expense. The form shall contain current information as provided by the Department regarding the availability in Arizona of free confidential or anonymous counseling through county health departments and through other governmental or government-funded agencies.

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4. Disclosure of test results. The form shall advise the applicant that all test results shall be treated confidentially and that results shall be released only to the applicant and the named insurer or upon the applicant's written consent or as otherwise required or allowed by law, including but not limited to the release of information to the Department of Health Services as provided by law.
5. Meaning of positive test results. The form shall advise the applicant of the type of test (including but not limited to antibody, antigen, or viral culture) to be used, and that a positive test result indicates that the applicant has been infected with HIV but does not necessarily have AIDS. The form shall explain that a positive test result will adversely affect the application for insurance.
6. Consent. The consent form shall contain an attestation to be signed by the applicant or, if the applicant lacks legal capacity to consent, a person authorized pursuant to law to consent on behalf of the applicant, that he or she has read and understands the written consent form and voluntarily consents to the performance of a test for HIV and to the disclosure of the test results as described in the consent form. The applicant or the applicant's legal representative shall have the right to request and receive a copy of the written consent form. A photocopy of the form shall be as valid as the original.
7. Optional release of information to personal physician. In addition to the release of information to the insurer provided in the consent form, the applicant may, at the applicant's option, consent to the release of information to the applicant's personal physician. The form shall provide for such release to be separately signed and dated by the applicant, or if the applicant lacks legal capacity to consent, by a person authorized pursuant to law to consent on behalf of the applicant.
8. Time period during which release of information is effective. The consent form shall specify the time period during which any and all release provisions of the consent form shall be effective, but in no case shall such time period exceed 180 days from the date the consent form is signed by the applicant or the applicant's legal representative. No HIV-related information shall be released to any person after the expiration of that time period unless the insurer obtains the express written consent, pursuant to R20-6-1204, of the applicant or, if the applicant lacks legal capacity to consent, by a person authorized by law to consent on behalf of the applicant.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1203 recodified from R4-14-1203 (Supp. 95-1).

R20-6-1204. Release of Confidential HIV-related Information; Release Form

- A. Except as required by law or authorized pursuant to a written consent to be tested, an insurer shall not disclose confidential HIV-related information to any person unless a written release form is executed by the applicant or, if the applicant lacks legal capacity to consent to such release, by a person authorized by law to consent to the release of information on behalf of the applicant. The applicant or the applicant's legal representative shall be entitled to receive a copy of the release. A photocopy shall be as valid as the original.
- B. Such written release form shall contain the following information:
 1. The name and address of the person to whom the information shall be disclosed;

2. The specific purpose for which disclosure is to be made; and
3. The time period during which the written release is to be effective but in no case shall such time period exceed 180 days from the date the release is signed by the applicant or the applicant's legal representative;
4. The signature of the applicant or of the person authorized by law to consent to such release, and the date the release form was signed.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1204 recodified from R4-14-1204 (Supp. 95-1).

R20-6-1205. Benefits; Prohibited Practices

- A. Life and disability insurance policies or health care plans that provide benefits for prescription drugs shall provide benefits for any and all drugs and pharmaceutical forms of treatment for HIV and/or AIDS approved by the Food and Drug Administration pursuant to 21 U.S.C. Chapter 9 or licensed by the Food and Drug Administration pursuant to 42 U.S.C. Chapter 6A, including but not limited to Zidovudine, formerly Azidothymidine ("AZT"), Didanosine (ddl) and Zalcitabine (ddC), to the same extent as other prescription drugs and treatments.
- B. Insurers shall provide benefits for HIV, AIDS, and AIDS-related conditions in the same manner and to the same extent as those benefits provided for all other diseases.

Historical Note

Adopted effective March 7, 1994 (Supp. 94-1). R20-6-1205 recodified from R4-14-1205 (Supp. 95-1).

ARTICLE 13. RESERVED**ARTICLE 14. INSURANCE HOLDING COMPANY****R20-6-1401. Definitions**

- A. "The Act" means the Insurance Holding Company Systems Act, A.R.S. §§ 20-481 through 20-481.32.
- B. "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.
- C. "Ultimate controlling person" means that person which is not controlled by any other person.
- D. Unless the context otherwise requires, other terms found in these regulations and in A.R.S. § 20-481 are used as defined in the Act. Other nomenclature or terminology is according to Title 20, A.R.S. or industry usage if not defined by Title 20, A.R.S.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1401 recodified from R4-14-1401 (Supp. 95-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1402. Acquisition of Control – Statement Filing

- A. A person required to file a statement pursuant to A.R.S. § 20-481.02 shall furnish the required information on Form A, attached hereto as Appendix A and on Form E, attached hereto as Appendix E, and described in subsections (D) and (E) of this section.
- B. The applicant shall promptly advise the Director of any changes in the information furnished on Form A arising subsequent to the date upon which the information was furnished but prior to the Director's disposition of the application.
- C. If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of A.R.S. § 20-

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481.02(G), the name of the domestic insurer on the cover page should be indicated as follows: “[ABC Insurance Company], a subsidiary of [XYZ Holding Company].” Where a A.R.S. § 20-481.02(G) insurer is being acquired, references to “the insurer” contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

- D. If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to A.R.S. § 20-481.02(A), that person shall file a pre-acquisition notification form, Form E, which was developed pursuant to A.R.S. § 20-481.25(C).
- E. Additionally, if a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to A.R.S. § 20-481.25, that person shall file a pre-acquisition notification form, Form E. No pre-acquisition notification form need be filed if the acquisition is beyond the scope of A.R.S. § 20-481.25 as set forth in A.R.S. § 20-481.25(B).
- F. In addition to the information required by Form E, the Director may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1402 recodified from R4-14-1402 (Supp. 95-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1403. Annual Registration of Insurers – Statement Filing

- A. An insurer required to file an annual registration statement pursuant to A.R.S. § 20-481.09 shall furnish the required information on Form B, attached hereto as Appendix B, in accordance with the instructions contained in Appendix G.
- B. Amendments to Form B shall be filed in the Form B format with only those items which are being amended reported. Each such amendment shall include at the top of the cover page “Amendment No. (insert number) to Form B for (insert year)” and shall indicate the date of the amendment and not the date of the original filings.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1403 recodified from R4-14-1403 (Supp. 95-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1404. Summary of Registration – Statement Filing

An insurer required to file an annual registration statement pursuant to A.R.S. § 20-481.09 is also required to furnish information required on Form C, attached hereto as Appendix C.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1404 recodified from R4-14-1404 (Supp. 95-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1405. Alternative and Consolidated Registrations

- A. Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under A.R.S. § 20-481.09. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this state. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

1. The statement or report contains substantially similar information required to be furnished on Form B; and
2. The filing insurer is the principal insurance company in the insurance holding company system.

- B. The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer’s claim that it, in fact, is the principal insurer in the insurance holding company system.
- C. With the prior approval of the Director, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subsection (A) above.
- D. Any insurer may take advantage of the provisions of A.R.S. §§ 20-481.15 or 20-481.16 without obtaining the prior approval of the Director. The Director, however, reserves the right to require individual filings if he or she deems such filings necessary in the interest of clarity, ease of administration or the public good.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1405 recodified from R4-14-1405 (Supp. 95-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1406. Disclaimers and Termination of Registration

- A. A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person, hereinafter referred to in this rule as the “subject,” shall contain the following information:
 1. The number of authorized, issued and outstanding voting securities of the subject;
 2. With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject’s voting securities which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly;
 3. All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;
 4. A statement explaining why the person should not be considered to control the subject.
- B. A request for termination of registration shall be deemed to have been granted unless the director, within 30 days after receipt of the request, notifies the registrant otherwise.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1406 recodified from R4-14-1406 (Supp. 95-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1407. Transactions Subject to Prior Notice – Notice Filing

- A. An insurer required to give notice of a proposed transaction pursuant to A.R.S. § 20-481.12 shall furnish the required information on Form D, attached hereto as Appendix D, in accordance with the instructions in Appendix G.
- B. Agreements for cost sharing services and management services shall at a minimum and as applicable:
 1. Identify the person providing services and the nature of such services;
 2. Set forth the methods to allocate costs;

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3. Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;
 4. Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;
 5. State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
 6. Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;
 7. Specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer;
 8. State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;
 9. Include standards for termination of the agreement with and without cause;
 10. Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;
 11. Specify that, if the insurer is placed in receivership or seized by the Director under the Arizona Receivership Act:
 - a. All of the rights of the insurer under the agreement extend to the receiver or Director; and,
 - b. All books and records will immediately be made available to the receiver or the Director, and shall be turned over to the receiver or Director immediately upon the receiver or Director's request;
 12. Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to the Arizona Receivership Act; and
 13. Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the Director under the Arizona Receivership Act, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.
- its cost, and its fair market value together with an explanation of the basis for valuation;
4. A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:
 - a. The amounts, dates and form of payment of all dividends or distributions, including regular dividends but excluding distributions of the insurer's own securities, paid within the period of 12 consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;
 - b. Surplus as regards policyholders, total capital and surplus, as of the 31st day of December next preceding;
 - c. If the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;
 - d. If the insurer is not a life insurer, the net income, net realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-months periods; and
 - e. If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two calendar years.
 5. A balance sheet and statement of income for the period intervening from the last annual statement filed with the Director and the end of the month preceding the month in which the request for dividend approval is submitted; and
 6. A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.
- B.** Subject to A.R.S. § 20-481.19, each registered insurer shall report to the Director all dividends and other distributions to shareholders within 5 business days following the declaration thereof and at least 10 business days before payment of the dividend or distribution, including the same information required by subsection (A)(4)(a) through (e) of this rule.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1407 recodified from R4-14-1407 (Supp. 95-1).

Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1408. Enterprise Risk Report

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to A.R.S. § 481.10(D) shall furnish the required information on Form F, attached hereto as Appendix F.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1408 recodified from R4-14-1408 (Supp. 95-1). R20-6-1408 repealed; new Section R20-6-1408 made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

R20-6-1409. Extraordinary Dividends and Other Distributions

- A.** Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:
1. The amount of the proposed dividend;
 2. The date established for payment of the dividend;
 3. A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof,

Historical Note

New Section made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4). Amended by final rulemaking at 23 A.A.R. 3311, effective January 16, 2018 (Supp. 17-4).

R20-6-1410. Adequacy of Surplus

The factors set for in A.R.S. §§ 20-481.01(F) and 20-481.24 are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The Director instead will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Director will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Director will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

Historical Note

New Section made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

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Appendix A. Form A - Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer

STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

[Name of Domestic Insurer]

By

[Name of Acquiring Person (Applicant)]

Filed with the Arizona Department of Insurance

Dated: _____, 20____

Name, Title, address and telephone number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

Four horizontal lines for providing contact information.

ITEM 1. METHOD OF ACQUISITION

[State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired. State the federal identification number and the NAIC number of the domestic insurer.]

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

- (a) State the name and address of the applicant seeking to acquire control over the insurer.
(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.
(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant, including NAIC numbers for all insurers. No affiliate need be identified if its total assets are equal to less than 1/2 of 1% of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.]

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

[On the biographical affidavit, include a third party background check, and state the following with respect to (1) the applicant if (s)he is an individual, or (2) all persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual.

- (a) Name and business address;
(b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on;
(c) Material occupations, positions, officer or employment during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on: if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith;
(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last 10 years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case;

Such persons may also submit fingerprints and the fingerprint processing fee in accordance with A.R.S. § 20-481.03(B).]

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

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- [(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.]
- [(b) Explain the criteria used in determining the nature and amount of such consideration.]
- [(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.)

ITEM 5. FUTURE PLANS OF INSURER

[Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.]

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

[State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.]

ITEM 7. OWNERSHIP OF VOTING SECURITIES

[State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.]

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

[Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom the contracts, arrangements or understandings have been entered into.]

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

[Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in the description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefore. State whether any such shares so purchased are hypothecated.]

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

[Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.)

ITEM 11. AGREEMENTS WITH BROKER-DEALERS

[Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.]

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

- [(a) Financial statements, exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.]
- [(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. The statements may be prepared on either an individual basis, or, unless the Director otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of the person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of the state.]

- [(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or Appendix G.)

ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within fifteen (15) days after the end of the month in which the acquisition of control occurs.

ITEM 14. SIGNATURE AND CERTIFICATION

[Signature and certification required as follows:]

SIGNATURE

Pursuant to the requirements of A.R.S. § 20-481.02 _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20____.

(SEAL)

Name of Applicant

BY _____ (Name)

_____ (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 20____, for and on behalf of _____; that (s)he is the _____ (Name of Applicant) (Title of Officer)

of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Appendix B. Form B - Insurance Holding Company System Annual Registration Statement
INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the State of Arizona

By

[Name of Registrant]

On Behalf of Following Insurance Companies

Table with 2 columns: Name, Address. Includes three blank rows for data entry.

Date: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

Three horizontal lines for providing contact information.

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

[Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the federal identification number and the NAIC number of each, the home office address and principal executive offices of each; the date on which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.]

ITEM 2. ORGANIZATIONAL CHART

[Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in the chart or listing, indicate the type of organization (e.g., - corporation, trust, partnership) and the state or other jurisdiction of domicile.]

ITEM 3. THE ULTIMATE CONTROLLING PERSON

[As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name;
(b) Home office address;
(c) Principal executive office address;
(d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.;
(e) The principal business of the person;
(f) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned; and
(g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.]

ITEM 4. BIOGRAPHICAL INFORMATION

[If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes other than minor traffic violations. If the ultimate controlling person is an individual, furnish the individual's name and address, his

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes other than minor traffic violations.]

ITEM 5. TRANSACTIONS AND AGREEMENTS

[Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

- (a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- (b) Purchases, sales or exchanges of assets;
- (c) Transactions not in the ordinary course of business;
- (d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;
- (e) All management agreements, service contracts and all cost-sharing arrangements;
- (f) Reinsurance agreements;
- (g) Dividends and other distributions to shareholders;
- (h) Consolidated tax allocation agreements; and
- (i) Any pledge of the Registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of A.R.S. § 20-481.09.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving 1/2 of 1% or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

The description shall be in a manner as to permit the proper evaluation thereof by the Director and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to the transaction, and relationship of the affiliated parties to the Registrant.]

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

[A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which the litigation or proceeding is or was pending:

- (a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and
- (b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.]

ITEM 7.a. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

[The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.]

ITEM 7.b. STATEMENT REGARDING CORPORATE GOVERNANCE AND INTERNAL CONTROLS

[The insurer shall furnish a statement that the insurer's board of directors oversees corporate governance and internal controls of the insurer and that the insurer's officers or senior management have approved, implemented and maintain and monitor corporate governance and internal control procedures.]

ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS

- (a) Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.
- (b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis; or, unless the Director otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the Director. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the Director otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer's domiciliary State and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

- (c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Forms B and G.]

ITEM 9. FORM C REQUIRED

[A Form C, Summary of Registration Statement, must be prepared and filed with this Form B.]

ITEM 10. SIGNATURE AND CERTIFICATION

[Signature and certification required as follows:]

SIGNATURE

Pursuant to the requirements of A.R.S. § 20-481.09, Registrant _____ has caused this annual registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20_____.

(SEAL)

Name of Applicant

BY _____
(Name)

(Title)

Attest:

(Signature of Officer)

(Title)

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 20____, for and on behalf of _____; that (s)he is the _____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Name of Applicant)

(Title of Officer)

(Signature)

(Type or print name beneath)

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Appendix C. Form C - Summary of Registration Statement

SUMMARY OF CHANGES TO REGISTRATION STATEMENT

Filed with the Insurance Department of the State of Arizona

By

[Name of Registrant]

On Behalf of Following Insurance Companies

Name Address

Dated: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

[Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the Director, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of 10% or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.]

SIGNATURE AND CERTIFICATION

[Signature and certification required as follows:]

Pursuant to the requirements of A.R.S. § 20-481.09, Registrant _____ has caused this annual registration statement to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20____.

(SEAL)

Name of Applicant

BY _____
(Name)

(Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 20____, for and on behalf of _____; that (s)he is the _____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)

(Type or print name beneath)

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Appendix D. Form D - Prior Notice of a Transaction

PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the State of Arizona

By

[Name of Registrant]

On Behalf of Following Insurance Companies

Name Address

Dated: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

[Furnish the following information for each of the parties to the transaction:

- (a) Name;
- (b) Home office address;
- (c) Principal executive office address;
- (d) The organizational structure, i.e. corporation, partnership, individual, trust, etc.;
- (e) A description of the nature of the parties' business operations;
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties;
- (g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.]

ITEM 2. DESCRIPTION OF THE TRANSACTION

[Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under A.R.S. § 20-481.12(B);
- (b) A statement of the nature of the transaction;
- (c) If a notice for amendments or modifications, the reasons for the change and the financial impact on the domestic insurer;
- (d) A statement of how the transaction meets the "fair and reasonable" standard of A.R.S. § 20-481.12(A)(1); and
- (e) The proposed effective date of the transaction.]

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OR INVESTMENTS

[Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than (a) in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders, or (b) in the case of life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.]

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

[If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders or, with respect to life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.]

ITEM 5. REINSURANCE

[If the transaction is a reinsurance agreement or modification thereto, as described by A.R.S. § 20-481.12(B)(3)(b), or a reinsurance pooling agreement or modification thereto as described by A.R.S. § 20-481.12(B)(3)(a), furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 5% of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.]

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS AND COST-SHARING ARRANGEMENTS

[For management and service agreements, furnish:

- (a) A brief description of the managerial responsibilities, or services to be performed;
- (b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.]

[For cost-sharing arrangements, furnish:

- (a) A brief description of the purpose of the agreement;
- (b) A description of the period of time during which the agreement is to be in effect;
- (c) A brief description of each party's expenses or costs covered by the agreement;
- (d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;]
- (e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;
- (f) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and
- (g) A statement regarding compliance with the NAIC Accounting Practices and Procedure Manual regarding expense allocation.]

ITEM 7. SIGNATURE AND CERTIFICATION

[Signature and certification required as follows:]

SIGNATURE

Pursuant to the requirements of A.R.S. § 20-481.09, _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20_____.

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

(SEAL)

By _____
Name of Applicant

(Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 20____, for and on behalf of _____; that (s)he is the _____
(Name of Applicant) (Title of Officer)

of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Appendix E. Form E - Pre-acquisition Notification Form Regarding the Potential Competitive Impact of a Proposed Merger or Acquisition by a Non-domiciliary Insurer Doing Business in this State or by a Domestic Insurer

PRE-ACQUISITION NOTIFICATION FORM
REGARDING THE POTENTIAL COMPETITIVE IMPACT
OF A PROPOSED MERGER OR ACQUISITION BY A
NON-DOMICILIARY INSURER DOING BUSINESS IN THIS
STATE OR BY A DOMESTIC INSURER

Name of Applicant

Name of Other Person Involved in Merger or Acquisition

Filed with the Arizona Department of Insurance

Dated: _____, 20_____

Name, title, address and telephone number of person completing this statement:

Four horizontal lines for providing name, title, address, and telephone number.

ITEM 1. NAME AND ADDRESS

[State the name and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.]

ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES

[State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.]

ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION

[State the nature and purpose of the proposed merger or acquisition.]

ITEM 4. NATURE OF BUSINESS

[State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.]

ITEM 5. MARKET AND MARKET SHARE

[State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of the state as stated in A.R.S. § 20-481.25(D). If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the state.]

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Appendix E. Instructions on Forms, renumbered to Appendix G; new Appendix E. Form E made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Appendix F. Form F - Enterprise Risk Report

ENTERPRISE RISK REPORT

Filed with the Arizona Department of Insurance

Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies
Name Address

Dated: _____, 20 ____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should be Addressed:

ITEM 1. ENTERPRISE RISK

[The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in A.R.S. § 20-481(4), provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;

Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities with the insurance holding company system;

Any changes of shareholders of the insurance holding company system exceeding ten percent (10%) or more of voting securities;

Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system'

Business plan of the insurance holding company system and summarized strategies for next 12 months;

Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year;

Identification of insurance holding company system capital resources and material distribution patterns;

Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (include both the rating score and outlook);

Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and

Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

[The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.]

ITEM 2. OBLIGATION TO REPORT

[If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.]

Historical Note

Appendix F, Form F made by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

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Appendix G. Instructions on Forms A, B, C, D, E and F

INSTRUCTIONS ON FORMS A, B, C, D, E AND F**FORMS - GENERAL REQUIREMENTS**

Forms A, B, C, D, E and F are intended to be guides in the preparation of the statements required by A.R.S. §§ 20-481.02, 20-481.09, 20-481.12 and 20-481.25. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

One original paper statement excluding exhibits, and all other papers and documents shall be filed with the Director. The statement shall be signed in the manner prescribed on the form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement. All paper filings shall be by personal delivery or mail addressed to: Arizona Department of Insurance, Financial Affairs Division.

In addition to the filed paper statement, a copy of the statement, including exhibits, and all other papers and documents filed as a part thereof, shall be filed electronically.

All filed documents shall be easily readable and suitable for review and reproduction. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

If an applicant requests a hearing on a consolidated basis under A.R.S. § 20-481.07, in addition to filing the Form A with the Director, the applicant shall file a copy of Form A with the National Association of Insurance Commissioners (NAIC) in electronic form.

FORMS - INCORPORATION BY REFERENCE, SUMMARIES AND OMISSIONS

Information required by any item of Form A, Form B, Form D, Form E or Form F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, Form E or Form F provided the document is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Director which were filed within three years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to the statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Director which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of the documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which the documents differ from the documents, a copy of which is filed.

FORMS - INFORMATION UNKNOWN OR UNAVAILABLE AND EXTENSION OF TIME TO FURNISH

If it is impractical to furnish any required information, document or report at the time it is required to be filed, there may be filed with the Director as a separate document:

- (1) Identifying the information, document or report in question;
- (2) Stating why the filing thereof at the time required is impractical; and
- (3) Requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Director within 60 days after receipt thereof enters an order denying the request.

FORMS - ADDITIONAL INFORMATION AND EXHIBITS

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, Form E and Form F, the Director may request such further information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the forms. The exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, D, E or F shall include on the top of the cover page the phrase: "Change No. (insert number) to" and shall indicate the date of the change and not the date of the original filing.

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Historical Note

Appendix G. *Instructions on Forms*, renumbered from Appendix E. *Instructions on Forms*, with heading amended to include new Appendix F, by exempt rulemaking at 21 A.A.R. 54, effective February 14, 2015 (Supp. 14-4).

ARTICLE 15. RESERVED**ARTICLE 16. CREDIT FOR REINSURANCE****R20-6-1601. Renumbered****Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1601 recodified from R4-14-1601 (Supp. 95-1). Amended effective October 9, 1998 (Supp. 98-4). Amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1601 renumbered to R20-6-A1601 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1602. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1602 recodified from R4-14-1602 (Supp. 95-1). R20-6-1602 renumbered to R20-6-1607; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1602 renumbered to R20-6-A1602 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1603. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1603 recodified from R4-14-1603 (Supp. 95-1). R20-6-1603 renumbered to R20-6-1608; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1603 renumbered to R20-6-A1603 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1604. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1604 recodified from R4-14-1604 (Supp. 95-1). Amended effective October 9, 1998 (Supp. 98-4). R20-6-1604 renumbered to R20-6-1609; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1604 renumbered to R20-6-A1604 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1605. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1605 recodified from R4-14-1605 (Supp. 95-1). R20-6-1605 renumbered to R20-6-1610; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1605 renumbered to R20-6-A1605 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1606. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1606 recodified from R4-14-1606 (Supp. 95-1). R20-6-1606 renumbered to R20-6-1611; new Section made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1606 renumbered to R20-6-A1606 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1607. Renumbered**Historical Note**

Adopted effective February 3, 1993 (Supp. 93-1). R20-6-1607 recodified from R4-14-1607 (Supp. 95-1). Section R20-6-1607 renumbered to R20-6-1612; new Section R20-6-1607 renumbered from R20-6-1602 and amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1607 renumbered to R20-6-A1607 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1608. Renumbered**Historical Note**

New Section R20-6-1608 renumbered from R20-6-1603 and amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1608 renumbered to R20-6-A1608 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1609. Repealed**Historical Note**

New Section R20-6-1609 renumbered from R20-6-1604 and amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). Repealed by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1610. Renumbered**Historical Note**

New Section R20-6-1610 renumbered from R20-6-1605 by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1610 renumbered to R20-6-B1601 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1611. Renumbered**Historical Note**

New Section R20-6-1611 renumbered from R20-6-1606 and amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1611 renumbered to R20-6-B1602 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-1612. Renumbered**Historical Note**

New Section R20-6-1612 renumbered from R20-6-1607 and amended by final exempt rulemaking, under Laws

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2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). R20-6-1612 renumbered to R20-6-B1603 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

PART A. CREDIT FOR REINSURANCE

R20-6-A1601. Credit for Reinsurance – Reinsurer Licensed in Arizona

Pursuant to A.R.S. § 20-3602(C) the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that was licensed in Arizona as of any date on which statutory financial statement credit for reinsurance is claimed.

Historical Note

New Section R20-6-A1601 renumbered from R20-6-1601 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-A1602. Credit for Reinsurance – Accredited Reinsurers

- A. Pursuant to A.R.S. § 20-3602(D) the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in Arizona as of the date on which statutory financial statement credit for reinsurance is claimed.
- B. An accredited reinsurer must:
1. File a properly executed Form AR-1, attached as Exhibit A to this Part, as evidence of its submission to the Director's jurisdiction and to the Director's authority to examine its books and records;
 2. File with the Director a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
 3. File annually with the Director a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and
 4. Maintain a surplus as regards policyholders in an amount not less than \$20 million, or obtain the affirmative approval of the Director upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.
- C. If the Director determines that the assuming insurer has failed to meet or maintain any of these qualifications, the Director may upon written notice and opportunity for hearing, suspend or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer under this Section if the assuming insurer's accreditation has been revoked by the Director, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the Director.

Historical Note

New Section R20-6-A1602 renumbered from R20-6-1602 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; clerical error under subsection (B)(1) referencing Form AR-1 as an Appendix A corrected to Exhibit A (Supp. 22-1).

R20-6-A1603. Credit for Reinsurance – Reinsurer Domiciled in Another State

A. Pursuant to A.R.S. § 20-3602(E) the Director shall allow credit for reinsurance ceded by a domestic insurer to an assum-

ing insurer that as of any date on which statutory financial credit for reinsurance is claimed:

1. Is domiciled in (or, in the case of a U.S. branch of an alien assuming insurer, is entered through) a state that employs standards regarding credit for reinsurance substantially similar to those applicable under A.R.S. Title 20, Chapter 30 and this Part;
 2. Maintains a surplus as regards policyholders in an amount not less than \$20 million; and
 3. Files a properly executed Form AR-1 (Exhibit A) with the Director as evidence of the submission to the Director's authority to examine its books and records.
- B. The provisions of this Section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this Section, "substantially similar" standards means credit for reinsurance standards that the Director determines equal or exceed the standards of A.R.S. Title 20, Chapter 30 and this Part.

Historical Note

New Section R20-6-A1603 renumbered from R20-6-1603 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-A1604. Credit for Reinsurance – Reinsurers Maintaining Trust Funds

- A. Pursuant to A.R.S. § 20-3602(F) and (F)(1), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified U.S. financial institution as defined in A.R.S. § 20-3601 for the payment of the valid claims of its U.S. domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Director substantially the same information as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by licensed insurers, to enable the Director to determine the sufficiency of the trust fund.
- B. The following requirements apply to the following categories of assuming insurer:
1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by U.S. domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million, except as provided in subsection (B)(2).
 2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30% of the assuming

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- insurer's liabilities, attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.
3. The trust fund for a group including incorporated and individual unincorporated underwriters:
 - a. Shall consist of:
 - i. For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group;
 - ii. For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this Part, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and
 - iii. In addition to these trusts, the group shall maintain a trustee surplus of which \$100 million shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account.
 - b. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the Director:
 - i. An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or
 - ii. If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group.
 4. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10 billion (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the NAIC) and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall:
 - a. Consist of funds in trust in an amount no less than the assuming insurers' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group;
 - b. Maintain a joint trustee surplus of which \$100 million shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and
 - c. File a properly executed Form AR-1 (Exhibit A) as evidence of the submission to the Director's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.
 - d. Within 90 days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the Director an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.
- C. Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled.
1. The trust instrument shall provide that:
 - a. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States;
 - b. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's U.S. ceding insurers, their assigns and successors in interest;
 - c. The trust shall be subject to examination as determined by the commissioner;
 - d. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and
 - e. No later than February 28 of each year the trustee of the trust shall report to the commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year-end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the following December 31.
 2. Notwithstanding any other provisions in the trust instrument:
 - a. If the trust fund is inadequate because it contains an amount less than the amount required by this Section or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.
 - b. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.
 - c. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

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- d. The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.
- D.** For purposes of this Section, the term “liabilities” shall mean the assuming insurer’s gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, shall include:
1. For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:
 - a. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;
 - b. Reserves for losses reported and outstanding;
 - c. Reserves for losses incurred but not reported;
 - d. Reserves for allocated loss expenses; and
 - e. Unearned premiums.
 2. For business ceded by domestic insurers authorized to write life, health and annuity insurance:
 - a. Aggregate reserves for life policies and contracts net of policy loans and net due, and deferred premiums;
 - b. Aggregate reserves for accident and health policies;
 - c. Deposit funds and other liabilities without life or disability contingencies; and
 - d. Liabilities for policy and contract claims.
- E.** Assets deposited in trusts established pursuant to A.R.S. § 20-3602 and this Section shall be valued according to their current fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in A.R.S. § 20-3601, clean, irrevocable, unconditional, and “evergreen” letters of credit issued or confirmed by a qualified U.S. financial institution as defined in A.R.S. § 20-3601, and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed 5% of total investments. No more than 20% of the total of the investments in the trust may be foreign investments authorized under subsections (E)(1)(e), (E)(3), (E)(6)(b), or (E)(7), and no more than 10% of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of A.R.S. § 20-3602 shall be invested only as follows:
1. Government obligations that are not in default as to principal or interest that are valid and legally authorized and that are issued, assumed, or guaranteed by:
 - a. The United States or by any agency or instrumentality of the United States;
 - b. A state of the United States;
 - c. A territory, possession, or other governmental unit of the United States;
 - d. An agency or instrumentality of a governmental unit referred to in subsections (E)(1)(b) and (E)(1)(c) if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this subsection (E)(1)(d) if payable solely out of special assessments on properties benefited by local improvements; or
 - e. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;
2. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:
 - a. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;
 - b. Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in Arizona and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or
 - c. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;
 3. Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;
 4. An investment made pursuant to the provisions of subsections (E)(1), (E)(2), or (E)(3) shall be subject to the following additional limitations:
 - a. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed 5% of the assets of the trust;
 - b. An investment in any one mortgage-related security shall not exceed 5% of the assets of the trust;
 - c. The aggregate total investment in mortgage-related securities shall not exceed 25% of the assets of the trust; and
 - d. Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution’s obligations are eligible as investments under subsections (E)(2)(a) and (E)(2)(c), but shall not exceed 2% of the assets of the trust.
 5. As used in this Section:
 - a. “Mortgage-related security” means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:
 - i. Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation),

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- that: (1) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C.A. 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and (2) Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. 1709 and 1715-b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. 1703; or
- ii. Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of subsection (E)(5)(a)(i);
 - b. "Promissory note," when used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidenced by a retail installment sales contract or other instrument.
6. Equity interests.
 - a. Investments in common shares or partnership interests of a solvent U.S. institution are permissible if:
 - i. Its obligations and preferred shares, if any, are eligible as investments under this Section; and
 - ii. The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. 78a - 78kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this Section an amount exceeding 1% of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;
 - b. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:
 - i. All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and
 - ii. The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;
 - c. An investment in or loan upon any one institution's outstanding equity interests shall not exceed 1% of the assets of the trust. The cost of an investment in equity interests made pursuant to this subsection (E)(6), when added to the aggregate cost of other investments in equity interests then held pursuant to this subsection (E)(6), shall not exceed 10% of the assets in the trust;
7. Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.
 8. Investment companies.
 - a. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. 80a, are permissible investments if the investment company:
 - i. Invests at least 90% of its assets in the types of securities that qualify as an investment under subsection (E)(1), (E)(2), or (E)(3) or invests in securities that are determined by the Director to be substantively similar to the types of securities set forth in subsection (E)(1), (E)(2), or (E)(3); or
 - ii. Invests at least 90% of its assets in the types of equity interests that qualify as an investment under subsection (E)(6)(a);
 - b. Investments made by a trust in investment companies under this subsection (E)(8) shall not exceed the following limitations:
 - i. An investment in an investment company qualifying under subsection (E)(8)(a)(i) shall not exceed 10% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed 25% of the assets in the trust, and
 - ii. Investments in an investment company qualifying under subsection (E)(8)(a)(ii) shall not exceed 5% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to subsection (E)(6)(a).
 9. Letters of Credit.
 - a. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Director) to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.
 - b. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.
 - F. A specific security provided to a ceding insurer by an assuming insurer pursuant to Section R20-6-A1607 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior

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to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this Section.

Historical Note

New Section R20-6-A1604 renumbered from R20-6-1604 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase “of this Section” was removed when followed by a subsection reference (Supp. 22-1).

R20-6-A1605. Credit for Reinsurance – Certified Reinsurers

A. Pursuant to A.R.S. §§ 20-3602(G), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in Arizona at all times for which statutory financial statement credit for reinsurance is claimed under this Section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the Director. The security shall be in a form consistent with the provisions of A.R.S. §§ 20-3602(G), and 20-3603 and R20-6-A1608 or R20-6-A1609(A). The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

- | | | |
|----|-----------------|-------------------|
| 1. | Ratings | Security Required |
| | a. Secure-1 | 0% |
| | b. Secure-2 | 10% |
| | c. Secure-3 | 20% |
| | d. Secure-4 | 50% |
| | e. Secure-5 | 75% |
| | f. Vulnerable-6 | 100% |
2. Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.
 3. The Director shall require the certified reinsurer to post 100%, for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.
 4. In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the Director. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:
 - a. Line 1: Fire
 - b. Line 2: Allied Lines
 - c. Line 3: Farmowners multiple peril
 - d. Line 4: Homeowners multiple peril
 - e. Line 5: Commercial multiple peril
 - f. Line 9: Inland Marine
 - g. Line 12: Earthquake
 - h. Line 21: Auto physical damage
 5. Credit for reinsurance under this Section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract covering any risk for which collateral was provided previously, shall only be subject to this Section

with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

6. Nothing in this Section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this Section.
- B. Certification Procedure.**
1. The Director shall post notice on the insurance department’s website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The Director may not take final action on the application until at least 30 days after posting the notice required by this subsection (B)(1).
 2. The Director shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with subsection (A). The Director shall publish a list of all certified reinsurers and their ratings.
 3. In order to be eligible for certification, the assuming insurer shall meet the following requirements:
 - a. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the Director pursuant to subsection (C).
 - b. The assuming insurer must maintain capital and surplus, or its equivalent, of no less than \$250 million calculated in accordance with subsection (B)(4)(h). This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250 million and a central fund containing a balance of at least \$250 million.
 - c. The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the Director. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the Director in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:
 - i. Standard & Poor’s;
 - ii. Moody’s Investors Service;
 - iii. Fitch Ratings;
 - iv. A.M. Best Company; or
 - v. Any other Nationally Recognized Statistical Rating Organization.
 - d. The certified reinsurer must comply with any other requirements reasonably imposed by the Director.
 4. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:
 - a. The certified reinsurer’s financial strength rating from an acceptable rating agency. The maximum

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- rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the Table 1. The Director shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification as outlined in Table 1.
- b. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;
 - c. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);
 - d. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (instructions attached as Exhibit C) for property/casualty reinsurers or Form CR-S (instructions attached as Exhibit D) for life and health reinsurers;
 - e. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;
 - f. Regulatory actions against the certified reinsurer;
 - g. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subsection (B)(4)(h);
 - h. For certified reinsurers not domiciled in the U.S., audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the Director will consider audited financial statements for the last two years filed with its non-U.S. jurisdiction supervisor;
 - i. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;
 - j. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The Director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and
 - k. Any other information deemed relevant by the Director.
5. Based on the analysis conducted under subsection (B)(4)(e) of a certified reinsurer's reputation for prompt payment of claims, the Director may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the Director shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under subsection (B)(4)(a) if the Director finds that:
 - a. More than 15% of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more which are not in dispute and which exceed \$100 thousand for each cedent; or
 - b. The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by 90 days or more exceeds \$50 million.
 6. The assuming insurer must submit a properly executed Form CR-1 (attached as Exhibit B) as evidence of its submission to the jurisdiction of Arizona, appointment of the Director as an agent for service of process in Arizona, and agreement to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The Director shall not certify any assuming insurer that is domiciled in a jurisdiction that the Director has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.
 7. The certified reinsurer must agree to meet applicable information filing requirements as determined by the Director, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under A.R.S. § 20-158 and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:
 - a. Notification within ten days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;
 - b. Annually, Form CR-F or CR-S, as applicable;
 - c. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subsection (B)(7)(d);
 - d. Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last two years filed with the certified reinsurer's supervisor;
 - e. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;
 - f. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and
 - g. Any other information that the Director may reasonably require.
 8. Change in Rating or Revocation of Certification.
 - a. In the case of a downgrade by a rating agency or other disqualifying circumstance, the Director shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subsection (B)(4)(a).
 - b. The Director shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this Section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the Director to reconsider the certified rein-

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- surer's ability or willingness to meet its contractual obligations.
- c. If the rating of a certified reinsurer is upgraded by the Director, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Director shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the Director, the Director shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.
 - d. Upon revocation of the certification of a certified reinsurer by the Director, the assuming insurer shall be required to post security in accordance with R20-6-A1607 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with R20-6-A1604, the Director may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the Director to be at high risk of uncollectibility.
- C. Qualified Jurisdictions.**
1. If, upon conducting an evaluation under this Section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the Director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Director shall publish notice and evidence of such recognition in an appropriate manner. The Director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.
 2. In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Director shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The Director shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the Director as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the Director with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the Director, include but are not limited to the following:
 - a. The framework under which the assuming insurer is regulated.
 - b. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.
 - c. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.
 - d. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.
 - e. The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the Director in particular.
 - f. The history of performance by assuming insurers in the domiciliary jurisdiction.
 - g. Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the Director has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.
 - h. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.
 - i. Any other matters deemed relevant by the Director.
 3. A list of qualified jurisdictions shall be published through the NAIC Committee Process. The Director shall consider this list in determining qualified jurisdictions. If the Director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Director shall provide thoroughly documented justification with respect to the criteria provided under subsections (C)(2)(a) through (C)(2)(i).
 4. U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.
- D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction.**
1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Director has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 (Exhibit B) and such additional information as the Director requires. The assuming insurer shall be considered to be a certified reinsurer in Arizona.
 2. Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in Arizona as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the Director of any change in its status or rating within ten days after receiving notice of the change.
 3. The Director may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with subsection (B)(8).
 4. The Director may withdraw recognition of the other jurisdiction's certification at any time with written notice to the certified reinsurer. Unless the Director suspends or revokes the certified reinsurer's certification in accordance with subsection (B)(8), the certified reinsurer's certification shall remain in good standing in this State for a period of three months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in Arizona.
- E. Mandatory Funding Clause.** In addition to the clauses required under R20-6-A1609(B), reinsurance contracts entered into or renewed under this Section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposi-

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tion of any financial statement penalty on the ceding insurer under this Section for reinsurance ceded to the certified reinsurer.

- F. The Director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Historical Note

New Section R20-6-A1605 renumbered from R20-6-1605 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase “of this Section” and word “below” were removed when by followed a subsection reference (Supp. 22-1).

Table 1. Financial Strength Ratings

Ratings	Best	S&P	Moody’s	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B-C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

Historical Note

Table 1 renumbered from R20-6-1605 by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

R20-6-A1606. Credit for Reinsurance - Reciprocal Jurisdictions; Credit for Reinsurance Required by Law

- A. Credit for reinsurance to a reciprocal jurisdiction assuming insurer. Pursuant to A.R.S. § 20-3602(H), (I), (J), (K), (L), and (R), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction, and which meets the other requirements of this Part.
- B. A “reciprocal jurisdiction” is a jurisdiction, as designated by the Director pursuant to subsection (D) that meets one of the following:
 1. A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection, a “covered agreement” is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;
 2. A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or
 3. A qualified jurisdiction, as determined by the Director pursuant to A.R.S. § 20-3602(G)(3) and Section R20-6-A1605(C), which is not otherwise described in subsections (B)(1) or (B)(2) and which the Director determines meets all of the following additional requirements:
 - a. Provides that an insurer who has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;
 - b. Does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-U.S. jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

- c. Recognizes the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups who are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the Director or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and
- d. Provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the Director in accordance with a memorandum of understanding or similar document between the Director and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.
- C. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to a reciprocal jurisdiction assuming insurer meeting each of these conditions:
 1. The assuming insurer must be licensed to transact insurance by, and have its head office or be domiciled in, a reciprocal jurisdiction;
 2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth in subsection (C)(7) according to the methodology of its domiciliary jurisdiction, in the following amounts:
 - a. No less than \$250 million; or
 - b. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

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- i. Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250 million; and
 - ii. A central fund containing a balance of the equivalent of at least \$250 million.
3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:
 - a. If the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in subsection (B)(1), the ratio specified in the applicable covered agreement;
 - b. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subsection (B)(2), a risk-based capital (RBC) ratio of 300% of the authorized control level, calculated in accordance with the formula developed by the NAIC; or
 - c. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subsection (B), after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the Director determines to be an effective measure of solvency.
4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (Exhibit E), of its agreement to the following:
 - a. The assuming insurer must agree to provide prompt written notice and explanation to the Director if it falls below the minimum requirements set forth in subsections (C)(2) or (C)(3), or if any regulatory action is taken against it for serious noncompliance with applicable law;
 - b. The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the Director as agent for service of process.
 - i. The Director may also require that such consent be provided and included in each reinsurance agreement under the Director's jurisdiction.
 - ii. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;
 - c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained;
 - d. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable;
 - e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involved this state's ceding insurers, and agrees to notify the ceding insurer and the Director and to provide 100% security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of A.R.S. §§ 20-3602(G) and 20-3603, R20-6-A1608, or R20-6-A1609(A). For purposes of this Section, the term "solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed class members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction; and
 - f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in subsection (C)(5).
5. The assuming insurer or its legal successor must provide, if requested by the Director, on behalf of itself and any legal predecessors, the following documentation to the Director:
 - a. For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;
 - b. For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;
 - c. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and
 - d. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in subsection (C)(6).
6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:
 - a. More than 15% of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported by the Director;
 - b. More than 15% of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100 thousand, or as otherwise specified in a covered agreement; or
 - c. The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue

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- by 90 days or more, exceeds \$50 million, or as otherwise specified in a covered agreement.
7. The assuming insurer's supervisory authority must confirm to the Director on an annual basis that the assuming insurer complies with the requirements set forth in subsections (C)(2) and (C)(3).
 8. Nothing in this provision precludes an assuming insurer from providing the Director with information on a voluntary basis.
- D.** The Director shall timely create and publish a list of reciprocal jurisdictions.
1. A list of reciprocal jurisdictions is published through the NAIC committee process. The Director's list shall include any reciprocal jurisdiction as defined under subsections (B)(1) and (B)(2), and shall consider any other reciprocal jurisdiction included on the NAIC list. The Director may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC committee process.
 2. The Director may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC committee process, except that the Director shall not remove from the list a reciprocal jurisdiction as defined under subsections (B)(1) and (B)(2). Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to A.R.S. Title 20, Chapter 30 and this Part.
- E.** The Director shall timely create and publish a list of reciprocal jurisdiction assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this subsection.
1. If an NAIC accredited jurisdiction has determined that the conditions set forth in subsection (C) have been met, the Director has the discretion to defer to that jurisdiction's determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The Director may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirement of subsection (C).
 2. When requesting that the Director defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 (Appendix E) and additional information as the Director may require. A state that has received such a request will notify other states through the NAIC committee process and provide relevant information with respect to the determination of eligibility.
- F.** If the Director determines that a reciprocal jurisdiction assuming insurer no longer meets one or more of the requirements under this Section, the Director may revoke or suspend the eligibility of the reciprocal jurisdiction assuming insurer for recognition under this Section.
1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with R20-6-A1607.
 2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the Director and consistent with the provisions of R20-6-A1607.
- G.** Before denying statement credit or imposing a requirement to post security with respect to subsection (F) or adopting any similar requirement that will have substantially the same regulatory impact as security, the Director shall:
1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in subsection (C);
 2. Provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;
 3. After the expiration of 90 days or less, as set out in subsection (G)(2), if the Director determines that no or insufficient action was taken by the assuming insurer, the Director may impose any of the requirements as set out in this subsection (G); and
 4. Provide a written explanation to the assuming insurer of any of the requirements set out in this subsection (G).
- H.** If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring the reciprocal jurisdiction assuming insurer to post security for all outstanding liabilities.
- I.** Credit for reinsurance required by law. Pursuant to A.R.S. § 20-3602(M), the Director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of A.R.S. §§ 20-3602(C) through (G) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this Section, "jurisdiction" means state, district, or territory of the United States and any lawful national government.

Historical Note

New Section R20-6-A1606 renumbered from R20-6-1606 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase "of this Section" and word "above" were removed when followed by a subsection reference (Supp. 22-1).

R20-6-A1607. Asset or Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer not Meeting the Requirements of R20-6-A1601 through R20-6-A1606

- A.** Pursuant to A.R.S. § 20-3603, the Director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of A.R.S. § 20-3602 in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive

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control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in A.R.S. § 20-3601. This security may be in the form of any of the following:

1. Cash;
2. Securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;
3. Clean, irrevocable, unconditional, and “evergreen” letters of credit issued or confirmed by a qualified United States institution, as defined in A.R.S. § 20-3601, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution’s subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or
4. Any other form of security acceptable to the Director.

- B.** An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this Section shall be allowed only when the requirements of R20-6-A1609(B) and the applicable portions of R20-6-A1608 or R20-6-A1609(A) have been satisfied.

Historical Note

New Section R20-6-A1606 renumbered from R20-6-1606 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant word “Section” was removed before a Chapter Section number (Supp. 22-1).

R20-6-A1608. Trust Agreements Qualified under R20-6-A1607; Letters of Credit Qualified under R20-6-A1607

- A.** Trust agreements - definitions. As used in subsections (B) through (G):
1. “Beneficiary” includes any successor by operation of law of the named beneficiary, including without limitation any liquidator, rehabilitator, receiver, or conservator.
 2. “Grantor” means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.
 3. “Obligations,” as used in subsection (B)(11), means:
 - a. Reinsured losses and allocated loss expenses paid by the ceding company but not recovered from the assuming insurer;
 - b. Reserves for reinsured losses reported and outstanding;
 - c. Reserves for reinsured losses incurred but not reported; and
 - d. Reserves for allocated reinsured loss expenses and unearned premiums.
- B.** Trust agreements - required conditions.
1. The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee which shall be a qualified United States financial institution as defined in A.R.S. § 20-3601.
 2. The trust agreement shall create a trust account into which assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee’s office in the United States.
4. The trust agreement shall provide that:
 - a. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
 - b. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
 - c. It is not subject to any conditions or qualifications outside of the trust agreement; and
 - d. It shall not contain references to any other agreements or documents except as provided for in subsections (B)(11) and (B)(12).
5. The trust agreement shall be established for the sole benefit of the beneficiary.
6. The trust agreement shall require the trustee to:
 - a. Receive assets and hold all assets in a safe place;
 - b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;
 - c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;
 - d. Notify the grantor and the beneficiary within ten days, of any deposits to or withdrawals from the trust account;
 - e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title, and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and
 - f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.
7. The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.
8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.
9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying commission to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Director), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.
10. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would

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be required shall be deemed to be negligence and/or willful misconduct.

11. Notwithstanding other provisions of subsections (A) through (G), when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:
 - a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;
 - b. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102% of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or
 - c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in A.R.S. § 20-3601 apart from its general assets, in trust for such uses and purposes specified in subsections (11)(a) and (11)(b) as may remain executory after such withdrawal and for any period after the termination date.
 12. Notwithstanding other provisions of subsections (A) through (G), when a trust agreement is established to meet the requirements of R20-6-A1607 in conjunction with a reinsurance agreement covering life, annuities, or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:
 - a. To pay or reimburse the ceding insurer for:
 - i. The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and
 - ii. The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provision of the policies reinsured under the reinsurance agreement.
 - b. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer, or
 - c. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in subsections (12)(a) and (12)(b) as may remain executory after withdrawal and for any period after the termination date.
 13. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Insurance Code, or any combination of the above, provided investments in or issued by an entity controlling, controlled by, or under common control with either the grantor or the beneficiary of the trust shall not exceed 5% of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities, or accident and health risks, then the provisions required by this subsection must be included in the reinsurance agreement.
- C. Trust agreements - permitted conditions.
1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.
 2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.
 3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in subsection (D)(1)(b).
 4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Transfer may be condi-

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tioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.
- D. Trust agreements - additional conditions applicable to reinsurance agreements:**
1. A reinsurance agreement may contain provisions that:
 - a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;
 - b. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;
 - c. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and
 - d. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:
 - i. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies; and
 - ii. To pay or reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and
 - iii. To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding reinsurer; or
 - iv. To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.
 2. The reinsurance agreement also may contain provisions that:
 - a. Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:
 - i. The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or
 - ii. After withdrawal and transfer, the current fair market value of the trust account is no less than 102% of the required amount.
 - b. Provide for the return of any amount withdrawn in excess of the actual amounts required for subsection (D)(1)(d), and for interest payments at a rate not in excess of the prime rate of interest on such amounts;
 - c. Permit the award by any arbitration panel or court of competent jurisdiction of:
 - i. Interest at a rate different from that provided in subsection (D)(2)(b);
 - ii. Court or arbitration costs;
 - iii. Attorney's fees; and
 - iv. Any other reasonable expenses.
- E. Trust agreements - financial reporting.** A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the Director in compliance with the provisions of this Part when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.
- F. Trust agreements - existing agreements.** Notwithstanding the effective date of this Part, any trust agreement or underlying reinsurance agreement in existence and approved by the Director prior to the effective date of this Part will continue to be acceptable until December 31, 2016, at which time the agreements will have to fully comply with subsections (A) through (G) for the trust agreement to be acceptable.
- G. Trust agreements - failure to identify beneficiary.** The failure of any trust agreement to specifically identify the beneficiary as defined in subsection (A)(1) shall not be construed to affect any actions or rights that the Director may take or possess pursuant to the provisions of the laws of Arizona.
- H. Letters of credit.** The letter of credit must be clean, irrevocable, unconditional, and issued or confirmed by a qualified United States financial institution as defined A.R.S. § 20-3601. The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in subsection (N)(1). As used in this Section, "beneficiary" includes any successor by operation of law of the named beneficiary, including without limitation any liquidator, rehabilitator, receiver, or conservator. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

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- I.** Letters of credit - heading. The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.
- J.** Letters of credit - required statements and clauses.
1. A letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.
 2. The letter of credit shall state whether it is subject to and governed by the laws of Arizona or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98). All drafts of letters of credit drawn according to UCP 600 or ISP98 shall be presentable at an office in the United States of a qualified United States financial institution.
 3. The letter of credit shall contain an "evergreen clause" in compliance with subsection (K).
- K.** Letters of credit - term of the letter of credit. The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" that prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for no less than 30 days' notice prior to expiration date or nonrenewal.
- L.** Letters of credit made subject to UCP 600 or ISP98. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of UCP 600 occur.
- M.** Letters of credit - additional requirements. If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in subsection (H), then the following additional requirements shall be met:
1. The issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and
 2. The "evergreen clause" shall provide for 30 days' notice prior to expiration date or nonrenewal.
- N.** Letters of credit - reinsurance agreement provisions.
1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:
 - a. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;
 - b. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:
 - i. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;
 - ii. To pay or reimburse the ceding insurer for the assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and
 - iii. To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;
 - iv. Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged ten days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in subsections (N)(1)(b)(i), (N)(1)(b)(ii), and (N)(1)(b)(iii) as may remain after withdrawal and for any period after the termination date.
 2. Nothing contained in subsection (N)(1) shall preclude the ceding insurer and assuming insurer from providing for:
 - a. All of the provisions of subsections (N)(1)(a) and (N)(1)(b) shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.
 - b. An interest payment, at a rate not in excess of the prime rate of interest on the amounts held pursuant to subsection (N)(1)(b); or
 - c. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

Historical Note

New Section R20-6-A1608 renumbered from R20-6-1608 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase "of this Section" was removed when followed by a subsection reference, and the word "Section" was removed before a Chapter Section number (Supp. 22-1).

R20-6-A1609. Other Security; Reinsurance Contract; Contracts Affected

- A.** Other Security. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.
- B.** Reinsurance Contract. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of R20-6-A1601 through R20-6-A1605 or R20-6-A1607 of this Article or otherwise in compliance with

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A.R.S. § 20-3602 after the adoption of this Part unless the reinsurance agreement:

1. Includes a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to A.R.S. § 20-261(C);
 2. Includes a provision pursuant to A.R.S. § 20-3602 whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute-resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and
 3. Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.
- C. Contracts affected. All new and renewal reinsurance transactions entered into after the effective date of this Part shall conform to the requirements of A.R.S. Title 20, Chapter 30 and this Part if credit is to be given to the ceding insurer for such reinsurance.

Historical Note

New Section R20-6-A1609 renumbered from R20-6-1609 and amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant word "Section" was removed before a Chapter Section number (Supp. 22-1).

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Exhibit A. Form AR-1, Certificate of Assuming Insurer

FORM AR-1, CERTIFICATE OF ASSUMING INSURER

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer
(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in

_____, hereby certify that
(name of state)

_____, (“Assuming Insurer”):
(name of assuming insurer)

- 1. Submits to the jurisdiction of any court of competent jurisdiction in

(ceding insurer’s state of domicile)

for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer’s rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

- 2. Designates the Director of the Arizona Department of Insurance and Financial Institutions (“Director”) as its lawful attorney upon whom may be served any lawful process in any action, suit or legal proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

- 3. Submits to the authority of the Director to examine its books and records and agrees to bear the expense of any such examination.

- 4. Submits with this form a current list of insurers domiciled in _____ reinsured by Assuming Insurer and
(ceding insurer’s state of domicile)

undertakes to submit additions to or deletions from the list to the Director at least once per calendar quarter.

Dated: _____
(name of assuming insurer)

BY: _____
(name of officer)

(title of officer)

Historical Note

Adopted effective February 3, 1993 (Supp. 93-1). Exhibit A amended by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4). Exhibit A amended by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

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Exhibit B. Form CR-1, Certificate of Certified Reinsurer

FORM CR-1, CERTIFICATE OF CERTIFIED REINSURER

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer under
(name of assuming insurer)

a reinsurance agreement with one or more insurers domiciled in _____
(name of state)

in order to be considered for approval in this state, hereby certify that

_____ (“Assuming Insurer”):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in _____ for the adjudication of any issue arising out of the (ceding insurer’s state of domicile) reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer’s rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.
2. Designates the Insurance Commissioner of _____ (ceding insurer’s state of domicile) as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.
3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.
4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefor.
5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with this Article.
6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.
7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with this Article.
8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.
9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____
(name of assuming insurer)

BY: _____
(name of officer)

(title of officer)

Historical Note

Adopted effective February 3, 1993 (Supp. 93-1). Exhibit B repealed; new Exhibit B made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4).

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Exhibit C. Form CR-F Instructions

Form CR-F Instructions

Part 1 - Assumed Reinsurance as of December 31, Current Year (000 Omitted)

Create a spreadsheet with the following columns (total each column 5 through 15):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Name of Reinsured
4. Domiciliary Jurisdiction
5. Assumed Premium
6. Reinsurance on Paid Losses and Loss Adjustment Expenses
7. Reinsurance on Known Case Losses and LAE
8. Cols. 6 + 7
9. Contingent Commissions Payable
10. Assumed Premium Receivable
11. Unearned Premium
12. Funds Held By or Deposited With Reinsured Companies
13. Letters of Credit Posted
14. Amount of Assets Pledged or Compensating Balances to Secure Letters of Credit
15. Amount of Assets Pledged or Collateral Held in Trust

Each row shall list each insurer for which reinsurance is assumed for the calendar year.

Part 2 - Ceded Reinsurance as of December 31, Current Year (000 Omitted)

Create a spreadsheet with the following columns (total each column 6 through 19):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Name of Reinsurer
4. Domiciliary Jurisdiction
5. Reinsurance Contracts Ceding 75% or More of Direct Premiums Written
6. Reinsurance Premiums Ceded
7. Reinsurance Recoverable on Paid Losses
8. Reinsurance Recoverable on Paid LAE
9. Reinsurance Recoverable on Known Case Loss Reserves
10. Reinsurance Recoverable on Known Case LAE Reserves
11. Reinsurance Recoverable on IBNR Loss Reserves
12. Reinsurance Recoverable on IBNR LAE Reserves
13. Reinsurance Recoverable on Unearned Premiums
14. Reinsurance Recoverable on Contingent Commissions
15. Cols. 7 through 14 Totals
16. Reinsurance Payable Ceded Balances Payable
17. Reinsurance Payable Other Amounts Due to Reinsurers
18. Net Amount Recoverable From Reinsurers, Cols. 15 – [16 + 17]
19. Funds Held by Company Under Reinsurance Treaties

Each row shall list each insurer to whom reinsurance was ceded for the calendar year.

Historical Note

Exhibit C made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4).

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Exhibit D. Form CR-S Instructions**Form CR-S Instructions**

Part 1 – Section 1. Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

Create a spreadsheet with the following columns (total each column 7 through 12):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Reinsured
5. Location
6. Type of Reinsurance Assumed
7. Amount of In Force at End of Year
8. Reserve
9. Premiums
10. Reinsurance Payable on Paid and Unpaid Losses
11. Modified Coinsurance Reserve
12. Funds Withheld Under Coinsurance

Each row shall list each insurer for which reinsurance was assumed (life insurance, annuities, deposit funds and other liabilities without life or disability contingencies, and related benefits) for the calendar year.

Part 1 – Section 2. Reinsurance Assumed Accident and Health Insurance Listed by Reinsured Company as of December 31, Current Year

Please create a spreadsheet with the following columns (total columns 7 through 12):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Reinsured
5. Domiciliary Jurisdiction
6. Type of Reinsurance Assumed
7. Premiums
8. Unearned Premiums
9. Reserve Liability Other Than For Unearned Premiums
10. Reinsurance Payable on Paid and Unpaid Losses
11. Modified Coinsurance Reserve
12. Funds Withheld Under Coinsurance

Each row shall list each insurer for which reinsurance was assumed (accident and health insurance) for the calendar year.

Part 2. Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

Create a spreadsheet with the following columns (total each column 6 and 7):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Company
5. Location
6. Paid Losses
7. Unpaid Losses

Each row shall list each insurer for which reinsurance on paid and unpaid losses is recoverable.

Part 3 – Section 1. Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year

Create a spreadsheet with the following columns (total each column 7 through 14):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Company
5. Location
6. Type of Reinsurance Ceded
7. Amount in Force at End of Year

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8. Reserve Credit Taken Current Year
9. Reserve Credit Taken Prior Year
10. Premiums
11. Outstanding Surplus Relief Current Year
12. Outstanding Surplus Relief Prior Year
13. Modified Coinsurance Reserve
14. Funds Withheld Under Coinsurance

Each row shall list each insurer for which reinsurance was ceded (life insurance, annuities, deposit funds and other liabilities without life or disability contingencies and related benefits).

Part 3 – Section 2. Reinsurance Ceded Accident and Health Insurance Listed by Reinsuring Company as of December 31, Current Year
Create a spreadsheet with the following columns (total each column 7 through 13):

1. ID Number/Company Code
2. This column is intentionally left blank
3. Effective Date
4. Name of Company
5. Location
6. Type
7. Premiums
8. Unearned Premiums (Estimated)
9. Reserve Credit Taken other than for Unearned Premiums
10. Outstanding Surplus Relief Current Year
11. Outstanding Surplus Relief Prior Year
12. Modified Coinsurance Reserve
13. Funds Withheld Under Coinsurance

Each row shall list each insurer for which reinsurance was ceded (accident and health insurance).

Historical Note

Exhibit D made by final exempt rulemaking, under Laws 2015, Ch. 119, § 3, effective November 30, 2015 (Supp. 15-4).

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Exhibit E. Form RJ-1, Certificate of Reinsurer Domiciled in Reciprocal Jurisdiction

FORM RJ-1, CERTIFICATE OF REINSURER DOMICILED IN RECIPROCAL JURISDICTION

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer
(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in _____,
(name of state)

in order to be considered for approval in this state, hereby certify that

_____ (“Assuming Insurer”):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in Arizona for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. The assuming insurer agrees that it will include such consent in each reinsurance agreement, if requested by the Director of the Arizona Department of Insurance and Financial Institutions (“Director”). Nothing in this paragraph constitutes or should be understood to constitute a waiver of assuming insurer’s rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.
2. Designates the Director as its lawful attorney in and for the State of Arizona upon whom may be served any lawful process in any action, suit, or proceeding in this state arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.
3. Agrees to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.
4. Agrees to provide prompt written notice and explanation if it falls below the minimum capital and surplus or capital or surplus ratio, or if any regulatory action is taken against it for serious noncompliance with applicable law.
5. Confirms that is it not presently participating in any solvent scheme of arrangement, which involves insurers domiciled in Arizona. If the assuming insurer enters into such an arrangement, the assuming insurer agrees to notify the ceding insurer and the Director, and to provide 100% security to the ceding insurer consistent with the terms of the scheme.
6. Agrees that in each reinsurance agreement it will provide security in an amount equal to 100% of the assuming insurer’s liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final U.S. judgment, that is enforceable under the law of the territory in which it was obtained, or a properly enforceable arbitration award whether obtained by the ceding insurer or by its resolution estate, if applicable.
7. Agrees to provide the documentation in accordance with R20-6-A1606(C)(5), if requested by the Director.

Dated: _____

_____ (name of assuming insurer)

BY: _____ (name of officer)

_____ (title of officer)

Historical Note

Exhibit E made by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022 (Supp. 22-1).

PART B. TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING

R20-6-B1601. Applicability; Exemptions; Definitions; Severability; Prohibition Against Avoidance

A. Applicability. Part B of this Article shall apply to reinsurance treaties that cede liabilities pertaining to Covered Policies, as that term is defined in subsection (C), issued by any life insurance insurer domiciled in this state. Parts A and B of this Article shall both apply to such reinsurance treaties provided, that

in the event of a direct conflict between the provisions of Part B and Part A, the provisions of Part B shall apply but only to the extent of the conflict.

B. Exemptions. Part B of this Article does not apply to the following situations:

1. Reinsurance of:
 - a. Policies that satisfy the criteria for exemption set forth in A.R.S. § 20-510 and which are issued before the later of:

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- i. The effective date of this Part B; and
 - ii. The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but in no event later than January 1, 2020;
 - b. Portions of policies that satisfy the criteria for exemption set forth in A.R.S. § 20-510 and which are issued before the later of:
 - i. The effective date of this Part B; and
 - ii. The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but in no event later than January 1, 2020;
 - c. Any universal life policy that meets all of the following requirements:
 - i. Secondary guarantee period, if any, if five years or less;
 - ii. Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the Director's Standard Ordinary (CSO) valuation tables and valuation interest rate applicable to the issue year of the policy; and
 - iii. The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period;
 - d. Credit life insurance;
 - i. Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts; or
 - ii. Any group life insurance certificate unless the certificate provides for a stated and implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.
 - 2. Reinsurance ceded to an assuming insurer that meets the applicable requirements of A.R.S. § 20-3602(F); or
 - 3. Reinsurance ceded to an assuming insurer that meets the applicable requirements of A.R.S. §§ 20-3602(C), (D), or (E), and that, in addition:
 - a. Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual, without any departures from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer's reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to the Statement of Statutory Accounting Principles No. 1 ("SSAP 1"); and
 - b. Is not a Company Action Level Event, Regulatory Action Level Event, Authorized Control Level Event, or Mandatory Control Level Event as those terms are defined in A.R.S. § 20-488 when its Risk-Based Capital ("RBC") is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation; or
 - 4. Reinsurance ceded to an assuming insurer that meets the applicable requirements of A.R.S. §§ 20-3602(C), (D), or (E), and that, in addition:
 - a. Is not an affiliate, as that term is defined in A.R.S. § 20-481, of:
 - i. The insurer ceding the business to the assuming insurer; or
 - ii. Any insurer that directly or indirectly ceded the business to that ceding insurer;
 - b. Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual;
 - c. Is both:
 - i. Licensed or accredited in at least ten states including its state of domicile; and
 - ii. Not licensed in any state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or any other similar licensing regime; and
 - d. Is not, or would not be, below 500% of the Authorized Control Level RBC as that term is defined in A.R.S. § 20-488 when its RBC is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation, and without recognition of any departures from NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer's reported surplus; or
 - 5. Reinsurance ceded to an assuming insurer that meets the requirements of A.R.S. § 20-3604(D)(2); or
 - 6. Reinsurance not otherwise exempt under subsections (B)(1) through (B)(5) if the Director, after consulting with the NAIC Financial Analysis Working Group (FAWG) or other group of regulators designated by the NAIC, as applicable, determines under all the facts and circumstances that all of the following apply:
 - a. The risks are clearly outside of the intent and purpose of this Part B;
 - b. The risks are included within the scope of this regulation only as a technicality; and
 - c. The application of this Part B to those risks is not necessary to provide appropriate protection to policyholders. The Director shall publicly disclose any decision made pursuant to this subsection (B)(6) to exempt a reinsurance treaty from this Part B, as well as the general basis for the decision including a summary of the treaty.
- C. Part B Definitions:
- 1. "Actuarial Method" means the methodology used to determine the Required Level of Primary Security, as described in R20-6-B1602.
 - 2. "Covered Policies" means policies, other than Grandfathered Policies and policies that are not exempt under subsection (B), of the following policy types:
 - a. Life insurance policies with guaranteed nonlevel gross premiums and/or guaranteed nonlevel benefits, except for flexible premium universal life insurance policies; or
 - b. Flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.
 - 3. "Grandfathered Policies" means Covered Policies that were:
 - a. Issued prior to January 1, 2015; and
 - b. Ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set forth in subsection (B).

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4. "Non-Covered Policies" means any policy that does not meet the definition of Covered Policies, including Grandfathered Policies.
 5. "Other Security" means any security acceptable to the Director other than security meeting the definition of Primary Security.
 6. "Primary Security" means the following forms of security:
 - a. Cash meeting the requirements of A.R.S. § 20-3603(B)(1);
 - b. Securities listed by the Securities Valuation Office meeting the requirements of A.R.S. § 20-3603(B)(2), but excluding any synthetic letter of credit, contingent note, credit-linked note, or other similar security that operates in a manner similar to a letter of credit excluding any securities issued by the ceding insurer or any of its affiliates; and
 - c. For security held in connection with funds-withheld and modified coinsurance reinsurance treaties:
 - i. Commercial loans in good standing of CM3 quality and higher;
 - ii. Policy loans; and
 - iii. Derivatives acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.
 7. "Required Level of Primary Security" means the dollar amount determined by applying the Actuarial Method to the risks ceded with respect to Covered Policies, but not more than the total reserve ceded.
 8. "Valuation Manual" means the Valuation Manual adopted by the NAIC as described in A.R.S. § 20-510, with all amendments adopted by the NAIC that are effective for the financial statement date on which credit for reinsurance is claimed.
 9. "VM-20" means "Requirements for Principle-Based Reserves for Life Products" including all relevant definitions from the Valuation Manual.
- D. Severability.** If any provision of this Part B is held invalid, the remainder shall not be affected.
- E. Prohibition against avoidance.** No insurer that has Covered Policies to which this Part B applies, as set forth in subsection (A), shall take any action or series of actions or enter into any transaction or arrangement or series of transactions or arrangements if the purpose of the action, transaction, or arrangement or series is to avoid the requirements of this Part B or to circumvent its purpose and intent.
- Historical Note**
- New Section R20-6-B1601 renumbered from R20-6-1610 and repealed; new Section R20-6-B1601 made by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase "of this Section" was removed when followed by a subsection reference, and the word "Section" was removed before a Chapter Section number (Supp. 22-1).
- R20-6-B1602. The Actuarial Method**
- A. Actuarial Method. The Actuarial Method to establish the Required Level of Primary Security for each reinsurance treaty subject to this Part B shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the Valuation Manual then in effect, applied as follows:
 1. For Covered Policies described in R20-6-B1601(C)(2)(a), the Actuarial Method is the greater of the Deterministic Reserve or the Net Premium Reserve (NPR) regardless of whether the criteria for exemption testing can be met. However, if the Covered Policies do not meet the requirements of the Stochastic Reserve exclusion test in the Valuation Manual, then the Actuarial Method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR. In addition, if such Covered Policies are reinsured in a reinsurance treaty that also contains Covered Policies described in R20-6-B1601(C)(2)(b), the ceding insurer may elect to instead use subsection (A)(2) as the Actuarial Method for the entire reinsurance agreement. Whether subsection (A)(1) or (A)(2) is used, the Actuarial Method must comply with any requirements or restrictions that the Valuation Manual imposes when aggregating these policy types for purposes of principle-based reserve calculations.
 2. For Covered Policies described in R20-6-B1601(C)(2)(b), the Actuarial Method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR regardless of whether the criteria for exemption testing can be met.
 3. Except as provided in subsection (A)(4), the Actuarial Method is to be applied on a gross basis to all risks with respect to the Covered Policies as originally issued or assumed by the ceding insurer.
 4. If the reinsurance treaty cedes less than 100% of the risk with respect to the Covered Policies, then the Required Level of Primary Security may be reduced as follows:
 - a. If a reinsurance treaty cedes only a quota share of some of all of the risks pertaining to the Covered Policies, the Required Level of Primary Security, as well as any adjustment under subsection (A)(4)(c), may be reduced to a pro rata portion in accordance with the percentage of the risk ceded;
 - b. If the reinsurance treaty in a non-exempt arrangement cedes only the risks pertaining to a secondary guarantee, the Required Level of Primary Security may be reduced by an amount determined by applying the Actuarial Method on a gross basis to all risks, other than risks related to the secondary guarantee, pertaining to the Covered Policies, except that for Covered Policies for which the ceding insurer did not elect to apply the provisions of VM-20 to establish statutory reserves, the Required Level of Primary Security may be reduced by the statutory reserve retained by the ceding insurer on those Covered Policies, where the retained reserve of those Covered Policies should be reflective of any reduction pursuant to the cessation of mortality risk on a yearly renewable term basis in an exempt arrangement;
 - c. If a portion of the covered policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the Required Level of Primary Security may be reduced by the amount resulting by applying the Actuarial Method including the reinsurance section of VM-20 to the portion of the covered policy risks ceded in the exempt arrangement, except that for Covered Policies issued prior to January 1, 2017, this adjustment is not to exceed $[cx / (2 * \text{number of reinsurance premiums per year})]$ where cx is calculated using the same mortality table used in calculating the Net Premium Reserve; and
 - d. For any other treaty ceding a portion of risk to a different reinsurer, including but not limited to stop loss, excess of loss, and other non-proportional reinsurance treaties, there will be no reduction in the Required Level of Primary Security. It is possible

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for any combination of subsections (A)(4)(a), (A)(4)(b), (A)(4)(c), and (A)(4)(d) to apply. Such adjustments to the Required Level of Primary Security will be done in the sequence that accurately reflects the portion of the risk ceded via the treaty. The ceding insurer should document the rationale and steps taken to accomplish the adjustments to the Required Level of Primary Security due to the cession of less than 100% of the risk. The adjustments for other reinsurance will be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer will make no adjustment as a result of a retrocession treaty entered into by the assuming insurers.

5. In no event will the Required Level of Primary Security resulting from application of the Actuarial Method exceed the amount of statutory reserves ceded.
 6. If the ceding insurer cedes risk with respect to Covered Policies, including any riders, in more than one reinsurance treaty subject to this Part B, in no event will the aggregate Required Level of Primary Security for those reinsurance treaties be less than the Required Level of Primary Security calculated using the Actuarial Method as if all risks ceded in those treaties were ceded in a single treaty subject to this Part B.
 7. If a reinsurance treaty subject to this Part B cedes risk on both Covered and Non-Covered Policies, credit for the ceded reserves shall be determined as follows:
 - a. The Actuarial Method shall be used to determine the Required Level of Primary Security for the Covered Policies, and R20-6-B1603 shall be used to determine the reinsurance credit for the covered policy reserves; and
 - b. Credit for the non-covered policy reserves shall be granted only to the extent that security, in addition to the security held to satisfy the requirements of subsection (A)(7)(a), is held by or on behalf of the ceding insurer in accordance with A.R.S. §§ 20-3602 and 20-3603. Any Primary Security used to meet the requirements of this subsection (A)(7)(b) may not be used to satisfy the Required Level of Primary Security for the Covered Policies.
- B. Valuation used for Purposes of Calculations.** For the purposes of both calculating the Required Level of Primary Security pursuant to the Actuarial Method and determining the amount of Primary Security and Other Security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:
1. For assets, including any such assets held in trust, that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the ceding insurer, the valuations are to be determined according to statutory accounting procedures as if such assets were held in the ceding insurer's general account and without taking into consideration the effect of any prescribed or permitted practices; and
 2. For all other assets, the valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the asset spread tables and asset default cost tables required by VM-20 shall be included in the Actuarial Method if adopted by the NAIC's Life Actuarial (A) Task Force no later than the December 31st on or immediately preceding the valuation date for which the Required Level of Primary Security is being calculated. The tables of asset spreads and asset default costs shall be incorporated into the Actuarial Method in the manner specified in VM-20.

Historical Note

New Section R20-6-B1602 renumbered from R20-6-1611 and repealed; new Section R20-6-B1602 made by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase "of this Section" and word "below" were removed when followed by a subsection reference, and the word "Section" was removed before a Chapter Section number (Supp. 22-1).

R20-6-B1603. Requirements Applicable to Covered Policies to Obtain Credit for Reinsurance; Opportunity for Remediation

- A. Requirements.** Subject to the exemptions described in R20-6-B1601(B) and the provisions of subsection (B), credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to Covered Policies pursuant to A.R.S. §§ 20-3602 or 20-3603 if, and only if, in addition to all other requirements imposed by law or regulation, the following requirements are met on a treaty-by-treaty basis:
1. The ceding insurer's statutory policy reserves with respect to the Covered Policies are established in full and in accordance with the applicable requirements of A.R.S. § 20-510 and related regulations and actuarial guidelines, and credit claimed for any reinsurance treaty subject to this regulation does not exceed the proportionate share of those reserves ceded under the contract; and
 2. The ceding insurer determines the Required Level of Primary Security with respect to each reinsurance treaty subject to this Part B and provides support for its calculation as determined to be acceptable to the Director; and
 3. Funds consisting of Primary Security, in an amount at least equal to the Required Level of Primary Security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of A.R.S. § 20-3603, on a funds withheld, trust, or modified coinsurance basis; and
 4. Funds consisting of Other Security, in an amount at least equal to any portion of the statutory reserves as to which Primary Security is not held pursuant to subsection (A)(3), are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of A.R.S. § 20-3603; and
 5. Any trust used to satisfy the requirements of this Section shall comply with all of the conditions and qualifications of R20-6-A1608(A) through (G), except that:
 - a. Funds consisting of Primary Security or Other Security held in trust, shall for the purposes identified in R20-6-B1602(B), be valued according to the valuation rules set forth in R20-6-B1602(B), as applicable; and
 - b. There are no affiliate investment limitations with respect to any security held in the trust if such security is not needed to satisfy the requirements of subsection (A)(3); and
 - c. The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the Primary Security within the trust (when aggregated with Primary Security outside the trust that is held by or on behalf of the ceding insurer in the manner required by subsection (A)(3) 102% of the level required by subsection (A)(3) at the time of the withdrawal or substitution; and
 - d. The determination of reserve credit under R20-6-A1608(E) shall be determined according to the valuation rules set forth in R20-6-B1602(B), as applicable; and
 6. The reinsurance treaty has been approved by the Director.

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B. Requirements at inception date and on an on-going basis; remediation:

1. The requirements of subsection (A) must be satisfied as of the date that risks under Covered Policies are ceded (if such date is on or after the effective date of this Part B) and on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency under subsections (A)(3) or (A)(4) with respect to any reinsurance treaty under which Covered Policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.
2. Prior to the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of subsection R20-6-B1601(A) shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which Covered Policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of subsections (A)(3) and (A)(4) were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of Primary Security actually held pursuant to subsection (A)(3), unless either:
 - a. The requirements of subsections (A)(3) and (A)(4) were fully satisfied as of the valuation date as to the reinsurance treaty; or
 - b. Any deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of Primary Security and/or Other Security, as the case may be, in such amount and in such form as would have caused the requirements of subsections (A)(3) and (A)(4) to be fully satisfied as of the valuation date.
3. Nothing in subsection (B)(2) shall be construed to allow a ceding company to maintain any deficiency under subsection (A)(3) or (A)(4) for any period of time longer than is reasonably necessary to eliminate it.

Historical Note

New Section R20-6-B1603 renumbered from R20-6-1612 and repealed; new Section R20-6-B1603 made by final rulemaking at 28 A.A.R. 493 (March 4, 2022), effective April 9, 2022; the redundant phrase “of this Section” and word “below” were removed when followed by a subsection reference, and the word “Section” was removed before a Chapter Section number (Supp. 22-1).

ARTICLE 17. EXAMINATIONS**R20-6-1701. Definitions**

- A. “Company” means any person engaging in or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory or taxing authority of the Director.
- B. “Examination” shall be defined for purposes of this Article to mean any examination relating to the financial condition of a company.
- C. “Examiner” means any individual or firm having been authorized by the Director to conduct an examination under this Article.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1701 recodified from R4-14-1701 (Supp. 95-1).

R20-6-1702. Authority, Scope, and Scheduling of Examinations

- A. The Director shall examine an insurer under A.R.S. § 20-156(A) at least once every five years.
- B. Instead of the examination under subsection (A), the Director may accept the most recent examination report prepared by the National Association of Insurance Commissioners insurance regulatory authority of another state on any foreign or alien insurer if:
 1. The insurance regulatory authority was accredited under the National Association of Insurance Commissioners’ Financial Regulation Standards and Accreditation Program at the time of the examination,
 2. A National Association of Insurance Commissioners accredited insurance regulatory authority supervised the examination, or
 3. At least one examiner employed or contracted by a National Association of Insurance Commissioners accredited insurance regulatory authority:
 - a. Participated in and reviewed the examination work papers and report, and
 - b. Signed an affidavit stating that the examination was performed in a manner consistent with the standards and procedures required by the National Association of Insurance Commissioners accredited insurance regulatory authority.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). Amended effective October 27, 1993 (Supp. 93-4). R20-6-1702 recodified from R4-14-1702 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 2975, effective September 10, 2005 (Supp. 05-3).

R20-6-1703. Conduct of Examinations

- A. Upon determining that an examination should be conducted, the Director or the Director’s designee shall issue an examination warrant appointing one or more examiners to perform the examination and instructing them as to the scope of the examination.
- B. Nothing contained in this Article shall be construed to limit the Director’s authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state or to pursue such action concurrent with the examination.
- C. The Director may disclose the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of any other state or country or to law enforcement officials of this or any other state or agency of the federal government at any time. Prior to making such disclosure, the Director may require such other department or office to agree in writing to hold as confidential the examination report, preliminary examination report or results or any matter relating thereto until such time as the examination report, preliminary examination report or results or matter relating thereto are made public by the Director.

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1703 recodified from R4-14-1703 (Supp. 95-1).

R20-6-1704. Examination Reports

- A. All examination reports shall be comprised of only facts appearing upon the books, records, or other documents of the

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company, its agents or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find warranted from the facts.

- B.** No later than 60 days following completion of the examination, the examiner in charge shall submit to the Department a verified written report of examination under oath. Upon receipt of the verified report, the Department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not less than 10 days nor more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.
- C.** Within 30 days after the end of the period allowed for the receipt of written submissions or rebuttals, the Director shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and shall:
1. File the examination report as submitted or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the Director, the Director may order the company to take any action necessary and appropriate to cure such violation; or
 2. Reject the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and resubmission pursuant to subsection (B).

Historical Note

Adopted effective February 22, 1993 (Supp. 93-1). R20-6-1704 recodified from R4-14-1704 (Supp. 95-1).

ARTICLE 18. PREPAID DENTAL PLAN ORGANIZATIONS**R20-6-1801. Definitions**

In this Article the following definitions apply:

"Appointment" means a first-available, initial, non-emergent, diagnostic visit to a dentist.

"Board certified" means a dentist who is recognized by the appropriate specialty board of the Commission on Accreditation of Dental Education of the American Dental Association.

"Board eligible" means a dentist who successfully completes an approved training program in a specialty field recognized by the American Dental Association.

"BODEX" means the Arizona State Board of Dental Examiners.

"Chief executive officer" means the person who has the authority and responsibility for the operation of an organization according to applicable legal requirements and policies approved by the governing authority.

"Dental hygienist" means a person who is licensed to practice dental hygiene under A.R.S. § 32-1281 et seq.

"Dentist" means a person who is licensed to practice dentistry under A.R.S. § 32-1201 et seq.

"Department" means the Arizona Department of Insurance and Financial Institutions.

"Diagnostic service" means a dental service intended to identify a dental abnormality, and includes a radiograph and a clinical exam.

"Director" has the meaning prescribed at A.R.S. § 20-102.

"Emergency dental service" means a dental service intended to evaluate and stabilize a dental condition of recent onset, control bleeding, and relieve pain, and includes the provision of local anesthesia, and elimination of acute infection, but does not mean a medication that is prescribed by the dentist.

"General dentist" means a dentist whose practice is not limited to a specific area and who is not board certified.

"Governing authority" means the persons, including a board of trustees or board of directors, who have the ultimate authority and responsibility for the direction of a prepaid dental plan Organization.

"Organization" means a prepaid dental plan organization as defined in A.R.S. § 20-1001.

"Patient" means a person who is being attended by a dentist or dental hygienist to receive an examination, diagnosis, or dental treatment, or a combination of an examination, diagnosis, and dental treatment.

"Preventive service" means dental care intended to maintain dental health and prevent dental disease, including any combination of oral hygiene education, routine prophylaxis, and application of fluorides.

"Prophylaxis" means cleaning the teeth of a patient with healthy tissue using mild abrasives and dental instruments to remove plaque, calculus, and stains above the gum line.

"Provider directory" means an Organization's published listing of all contracted network dentists.

"Radiograph" means a picture produced on a sensitive surface by a form of radiation other than light, including x-ray.

"Restorative service" means the use of a metal or composite filling or crown.

"Specialist" means a dentist whose practice is limited to one of the nine specialty categories recognized by the American Dental Association: endodontics, oral and maxillofacial surgery, oral and maxillofacial radiology, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral pathology, or dental public health.

"Treatment plan" means a statement of the services to be performed to eliminate or alleviate a patient's symptoms or disease, based on a dentist's assessment of the patient's dental history, the clinical examination, and the dentist's diagnosis.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1802. Application for Certificate of Authority

- A.** A person who wishes to operate as prepaid dental plan organization in Arizona shall file an application for certificate of authority under A.R.S. § 20-1003 for the Director's review and approval under A.R.S. § 20-1004. The application shall contain all the information required in A.R.S. § 20-1003 and this Section.
- B.** An authorized insurer shall issue the fidelity bond required under A.R.S. § 20-1004(A)(4).
- C.** An Organization shall not commence operation of, or service under, a prepaid dental plan without approval of the Director under A.R.S. § 20-1004.
- D.** An application is deemed filed with the Director when the Director receives it.

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- E. An applicant not domiciled in this state shall file a power of attorney as required by A.R.S. § 20-1003(A)(11) on a Department-prescribed form, with the application.
- F. At the time it submits its application for certificate of authority, an Organization shall submit a written program of compliance with supporting documents that specify how the Organization will comply with the provisions of this Article. The written program of compliance shall contain the following:
1. The responsibilities of and qualifications for the following positions:
 - a. The Organization's chief executive officer, and
 - b. The Organization's dental director;
 2. A plan for provision of basic dental services required under subsection R20-6-1806(A) and a copy of the schedule of benefits required under subsection R28-6-1806(B);
 3. A description of the system for delivery of services under Section R20-6-1807;
 4. A description of the geographic area designated under Section R20-6-1808;
 5. A plan for compliance with contract requirements under Section R20-6-1809 and a copy of a contract with a general dentist and a specialist;
 6. A plan for compliance with records requirements under Section R20-6-1810; and
 7. The Organization's quality improvement plan under Section R20-6-1811.
- G. An application shall include the following information:
1. The proposed number of members, and
 2. A copy of a letter from each network dentist that documents the dentist's intent to contract with the Organization to provide services to patients under the Organization's prepaid dental plan.
- H. The Director may require that an applicant for a certificate of authority under A.R.S. § 20-1003(A)(14) submit information that discloses biographical, employment and business financial history, criminal activity, fingerprints, or any information that relates to the ability to operate a prepaid dental plan for principals, principal officers, controlling persons, and insurance producers of the applicant, if necessary for the protection of residents of this State.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1803. Chief Executive Officer

- A. The governing authority shall appoint a chief executive officer (CEO). The CEO shall have:
1. The education and experience to manage the Organization, and
 2. Responsibility for the geographic area in Arizona that the Organization serves, including:
 - a. Implementing the policies of the governing authority, and
 - b. Maintaining adequate personnel to ensure compliance with applicable Arizona statutes and rules.
- B. The governing authority shall notify the Department within ten days after the effective date of a change in the appointment of the CEO.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1804. Dental Director

- A. The governing authority or CEO shall appoint as the Organization's dental director a dentist licensed to practice dentistry in any state or territory of the United States or the District of Columbia.
- B. The dental director shall perform at least the following functions for the Organization's geographic area in Arizona:
1. Participate on the Organization's quality improvement committee required under Section R20-6-1811;
 2. Oversee the Organization's program and processes for:
 - a. Maintaining and improving clinical quality of care, including continuity of care;
 - b. Provider relations;
 - c. Facility and dental record reviews; and
 - d. Provider credentialing and recredentialing;
 3. Be knowledgeable about and participate in decisions regarding the Organization's operations;
 4. Comply with A.R.S. § 20-2510(B) and (C) when directly denying, on the basis of medical necessity, a health care provider's request for prior authorization; and
 5. Timely respond to matters within the Organization's Arizona geographic area that require personal onsite attention or ensure that a designee who meets the requirements specified in subsection (D) timely responds to those matters.
- C. Matters that require personal onsite attention include:
1. Urgent patient care issues that require examination of dental records or X-rays;
 2. Prompt personal discussion with a provider of urgent concerns relating to credentialing, disciplinary problems, access to care, or quality of care.
- D. Any designee acting under subsection (B)(5) shall:
1. Be a dentist licensed to practice dentistry in any state or territory of the United States or the District of Columbia;
 2. Have expedient access to the dental director, the CEO, and other organization management personnel as necessary to resolve any matter requiring personal onsite attention; and
 3. Have the education, experience, and Organizational knowledge required to address the matter requiring personal onsite attention.
- E. The Organization shall notify the Department in writing within ten days after the effective date of a change in the appointment of the dental director or any designee.
- F. The requirements for a designee under subsections (B)(5), (D), and (E) shall not apply to an Organization with fewer than 2,000 members in Arizona.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1805. Required Reporting

- A. On or before March 1 of each year, an Organization shall submit the following information to the Department for the previous calendar year:
1. Member satisfaction survey results and supporting data;
 2. A spreadsheet that lists the name, address, and telephone number of each provider and whether the provider: is accepting new members, is a general dentist or specialist, and has graduated from a specialty graduate program accredited by the American Dental Association;
 3. A list of all contracted network general dentists and specialists that have been added or deleted since the previous annual report;

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4. The total number of members and the number of members assigned to each general dentist's office;
 5. The average member wait time measured in weeks for an appointment for each network dentistry office; and
 6. A website link to its current provider directory.
- B.** If a network dental office that is open to new members has an appointment wait time of longer than nine weeks for three consecutive calendar quarters, the Organization shall report to the Director who may require the Organization to close the office to new members until the wait time is less than nine weeks.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1806. Basic Dental Services

- A.** A prepaid dental plan shall provide the basic dental services listed below:
1. Emergency dental services on a 24-hour-per-day basis,
 2. Diagnostic services,
 3. Preventive services, and
 4. Restorative services.
- B.** An Organization shall publish and make available to its members and purchasers a schedule of benefits that includes the dental plan's basic dental services and other available dental services and any associated copays.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1807. System for Delivery of Services

- A.** An Organization shall have a system for delivery of services that includes:
1. An adequate network of general dentists. To determine network adequacy, the Department shall consider the following:
 - a. Geographic distribution of network general dentists' offices,
 - b. The number of dental offices accepting new members,
 - c. The percentage of all network members who are able to schedule an appointment within nine weeks,
 - d. The availability of trained clinical support staff in the Arizona geographic area,
 - e. The ratio of population growth to the increase or decrease in the number of dentists in the Arizona geographic area, and
 - f. Current availability for appointments in all general dentist practices in Arizona; and
 2. Provision for using specialists for dental services that cannot be provided by the Organization's network of contracted specialists, if the services are covered benefits.
- B.** If more than 15% of the network offices that are open to new members have an appointment wait time of longer than nine weeks, the Organization shall submit a plan to the Department under which the Organization will, within 90 days, reduce the wait time to less than nine weeks. If the Organization does not reduce the wait time to less than nine weeks within the 90 day period the Organization shall refer the members who are waiting for an appointment to another network general dentist or a non-network general dentist who can schedule the member for an appointment in less than nine weeks. The member may choose to continue dental care under the prepaid dental plan with the referred dentist for the remainder of the member's enrollment period. The Organization shall provide the non-net-

work services to the referred member at a cost that is no greater than if the services are provided by the member's assigned network dentist.

- C.** An Organization shall pay for emergency dental services provided to a member by a dentist licensed in the jurisdiction where the services are provided, subject to plan limitations disclosed in the dental care plan, including emergency dental services that occur:
1. Within the geographic area served by the member's designated provider but the provider is unavailable, or
 2. Occurs outside of the member's designated geographic service area.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1808. Geographic Areas

- A.** An Organization shall designate the geographic areas in Arizona in which the Organization intends to provide dental services that are reasonably convenient to the prospective members. The Organization shall provide a description of the geographic areas and locations of all facilities in which dental care will be provided under the prepaid dental plan. This information shall accompany or be included in any advertisements or sales materials provided to prospective employer groups and prospective members.
- B.** An Organization shall define its geographic areas by local government jurisdictions, such as cities or counties.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1809. Contract Requirements

- A.** An Organization shall have a written contract with each provider that documents the requirements for providing services under the prepaid dental plan and the terms of the agreements between the parties. The Organization shall ensure that the provider complies with all contract requirements.
- B.** In addition to the requirements in subsection (A), an Organization shall ensure that its contract with a provider includes the following provisions:
1. That the Organization has authority to review the provider's records,
 2. That the provider is responsible to implement and maintain a process to inform assigned members of the need to schedule periodic preventive dental services based on the member's oral health status, and
 3. That the provider is responsible to complete any procedure undertaken upon a member if the contract is terminated or expires.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1810. Records

- A.** Dental records are the property of the provider and shall not be removed from the provider's possession, except:
1. With the patient's permission, including for routing records to a dental or medical practitioner for consultation or evaluation; or
 2. When subpoenaed by a court or BODEX.

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- B.** An Organization shall maintain at its principal office a copy of each issued or delivered advertising matter or sales material, letter of solicitation, evidence of coverage, provider directory, certificate, agreement, or contract. The Organization shall note the date each advertising matter or sales material is filed with the Department and the date of distribution to any person. The advertising matter or sales material shall be maintained for at least three years.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1811. Quality Improvement

- A.** An Organization shall have a governing authority.
- B.** The governing authority shall appoint a quality improvement committee that consists of the chief executive officer or designee, the dental director, the person who manages the Organization's quality improvement process, and at least one dental health professional. The committee may also include network allied health professionals and members of the plan.
- C.** The quality improvement committee shall:
1. Meet at least quarterly,
 2. Review and evaluate dental services delivered under the Organization's plan, and
 3. Establish procedures for recordkeeping and distribution of committee reports.
- D.** An Organization shall maintain a written quality improvement plan that contains procedures for each of the following:
1. Ensuring that a dentist licensed in any state or territory of the United States or District of Columbia reviews and evaluates dental care and services provided by each contracted general dentist at least once every three years;
 2. Allocation of the Organization's resources to analyze a problem or any identified deficiency;
 3. Implementing a corrective action plan and methods for monitoring improvement;
 4. Notifying a member in writing of the member's responsibility to cooperate with those providing dental care services and of the member's rights to:
 - a. Voice concerns about the Organization or care provided;
 - b. Be provided with information about the Organization, its services, providers, and member rights and responsibilities;
 - c. Participate in decisions about the member's dental care; and
 - d. Be treated with respect and have the right to privacy recognized;
 5. Monitoring and improving membership satisfaction;
 6. Maintaining an accurate provider directory that meets at least the following requirements:
 - a. Lists only credentialed providers who are currently scheduling members for diagnosis and treatment; and
 - b. Clearly designates providers who are not accepting new members;
 7. Review by the dental director of the following for initial credentialing of network providers:
 - a. Query to the National Practitioner Data Bank;
 - b. Query to BODEX;
 - c. Valid United States Drug Enforcement Administration certificate, if applicable;
 - d. Evidence of current malpractice insurance; and
 - e. Documentation that each specialist has graduated from an accredited specialty graduate program as

- required by the Council on Dental Education and Licensure, American Dental Association; and
8. Recredentialing, at least every three years, that updates information obtained in subsections (D)(7)(b) through (d), for the dental director's review.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

R20-6-1812. Confidentiality of Records

An Organization shall not disclose information obtained pertaining to the diagnosis, treatment, or health of a member to any person except:

1. To the extent necessary to carry out this Article;
2. Upon the express written consent of the member, applicant, provider, or Organization, as appropriate; or
3. Under statute or court order for the production or discovery of evidence or as part of a civil or criminal investigation.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1).

R20-6-1813. Assignment of Members

- A.** Within 30 days of enrollment, an Organization shall assign a member to the provider the member chooses. The Organization, however, shall choose and assign a provider to a member within 30 days of any of the following:
1. Receipt of a member enrollment form that does not designate a provider, or receipt of a member enrollment form that designates a provider who is unavailable;
 2. The date of the notice that the member's assigned provider intends to cease providing services; or
 3. The date the member's assigned provider becomes unavailable, for any reason.
- B.** An Organization shall give each member the option of selecting a network provider other than the provider assigned by the Organization under subsection (A).
- C.** An Organization shall maintain a continuous assignment process in compliance with subsections (A) and (B), allowing no more than 4% of members to be unassigned at any time.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 463, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 28 A.A.R. 654 (March 25, 2022), effective May 7, 2022 (Supp. 22-1).

ARTICLE 19. HEALTH CARE SERVICES ORGANIZATIONS OVERSIGHT**R20-6-1901. Applicability**

- A.** This Article applies to:
1. All proposed and existing health care services organizations (HCSOs), and
 2. Each product offered by an HCSO under the HCSO's certificate of authority.
- B.** The Department shall not issue a certificate of authority to an HCSO unless the HCSO meets the requirements of this Article.
- C.** The Department shall not require an existing HCSO to re-file information already on file with the Department, but the HCSO shall modify its operations and procedures as may be necessary to comply with this Article and file with the Department all additional information necessary to make statements complete and current.

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- D. This Article applies to inpatient emergency care, but does not apply to emergency services.
- E. This Article applies only to covered services.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1902. Definitions

In this Article, the following definitions apply:

“Access” or “accessibility” means the extent to which an enrollee can obtain timely covered services from a contracted provider at the appropriate level of care, and appropriate location.

“Adult” means an enrollee in the age group the HCSO has designated for an adult.

“Adult PCP” means a primary care provider practicing in any specialty the HCSO designates as adult primary care.

“Ancillary provider” means a provider of laboratory, radiology, pharmacy or rehabilitative services, physical therapy, occupational therapy, or speech therapy, home health services, dialysis, and durable medical equipment or medical supplies dispensed by order or prescription of a provider with the appropriate prescribing authority.

“Available” or “availability” means the extent to which the plan has contracted providers of the appropriate type and numbers at geographic locations to afford members access to timely covered services.

“Chief executive officer” or “CEO” means the person who has the authority and responsibility for the operation of the health care services organization according to applicable legal requirements and policies approved by the governing authority.

“Child” means an enrollee in the age group the HCSO has designated for children.

“Contracted” means a provider has a current written agreement or an employment arrangement with an HCSO to provide covered services to an enrollee, or a current written agreement or an employment arrangement with a contracted provider to provide covered services to an enrollee.

“Covered” or “covered services” means the health care services described as covered benefits in the HCSO’s evidence of coverage.

“Day” means calendar day unless specified otherwise.

“Department” means the Department of Insurance.

“Effective process” means written policies and procedures that:

Outline the steps that the HCSO implements and consistently follows internally,

The HCSO subjects to internal quality improvement, and

The HCSO communicates to providers when established or changed.

“Emergency services” has the meaning in A.R.S. § 20-2801(3).

“Enrollee” means an individual who is enrolled in a health plan operated by an HCSO.

“Facility” means an institution that is licensed or authorized to furnish health care services in this state, including general hospitals, special hospitals, residential treatment centers, residential rehabilitation centers, skilled nursing facilities, urgent care centers, and ambulatory surgical treatment centers.

“Governing authority” means a person or body such as a board of trustees or board of directors in whom the ultimate authority and responsibility for the direction of the HCSO is vested.

“HCSO” means a health care services organization.

“Health care services” has the meaning in A.R.S. § 20-1051(6).

“High profile” means one of no fewer than four specialties designated by the HCSO, and does not include obstetrics-gynecology. An HCSO may designate a specialty as high profile on the basis of high volume or other basis the HCSO reasonably determines is directly related to providing covered services to a member.

“Hospital” means a facility that provides inpatient care, medical services, and continuous nursing services for the diagnosis and treatment of patients.

“Inpatient care” means the covered services that an enrollee who is admitted to a hospital receives for at least 24 consecutive hours.

“Inpatient emergency care” means covered services that would be emergency services if provided in a licensed hospital emergency facility.

“License” means documented authorization issued by the appropriate state of Arizona agency to operate a facility in Arizona, or to practice a health care profession in Arizona.

“Medically necessary” has the meaning set forth in the HCSO’s evidence of coverage.

“Network” means the group of providers contracted with an HCSO to provide covered services to an enrollee covered under the HCSO’s health benefit plan.

“Network exception” means an enrollee receives covered services from a non-contracted provider either:

Because there is no contracted provider accessible or available that can provide the enrollee timely covered services, or

For any reason the HCSO determines it is in the enrollee’s best interests to receive care from a non-contracted provider.

“Non-contracted” means a provider that does not have a contract with an HCSO to provide services to an enrollee.

“Normal business hours” means 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding state or national holidays.

“Outpatient care” means covered services that an enrollee who is not an inpatient receives.

“Pediatric primary care provider” means a physician or practitioner practicing in any specialty the HCSO designates as pediatric primary care.

“Physician” means a licensed doctor of allopathic, chiropractic, optometric, osteopathic, or podiatric medicine.

“Practitioner” means any individual other than a physician who is licensed to furnish health care services, including behavioral health care services, in this state.

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“Preventive care” means health maintenance care the HCSO provides or arranges to prevent illness and to improve the general health of an enrollee, including:

- Immunizations,
- Health education,
- Health evaluation and follow-up,
- Early disease detection,
- Screening tests appropriate for a person’s age and gender, and
- Periodic health care examinations.

“Primary care” means any specialty the HCSO designates as primary care.

“Primary care physician” or “PCP” means a physician or practitioner practicing in a specialty the HCSO designates as primary care.

“Provider” means any physician, practitioner, ancillary provider, or facility.

“Quality improvement” means an HCSO’s system for assessing and improving the level of performance of key process and outcomes.

“Routine care” means covered primary care for an enrollee’s non-urgent, symptomatic condition.

“Rural” means a zip code area with fewer than 1,000 persons per square mile as calculated annually by a population data gathering service designated by the Director.

“Service area” means any geographic area designated by any HCSO and approved by the Director under A.R.S. § 20-1053(A)(11).

“Specialty care provider” or “SCP” means a physician or practitioner who has education, training, or qualifications in a specialty, other than primary care, beyond the education or qualifications required for the license.

“Specialty” or “specialty care” means a specific area of medicine practiced by a physician or practitioner who has education, training, or qualifications in that specific area of medicine in addition to the education or qualifications required for the physician’s or practitioner’s license.

“Special hospital” means a hospital that is licensed to provide hospital services within a specific area of medicine, or limits patient admission according to age, gender, type of disease, or medical condition.

“Suburban area” means any zip code area with 1,000-3,000 persons per square mile, as calculated annually by a population data gathering service designated by the Director.

“Telemedicine” means diagnostic, consultation, and treatment services that occur in the physical presence of an enrollee on a real-time basis through interactive audio, video, or data communication.

“Timely” means services are provided at the time when medically necessary.

“Travel expenses” has the meaning set forth in writing by an HCSO.

“Urban area” means a zip code with more than 3,000 persons per square mile as calculated annually by a population data gathering service designated by the Director.

“Urgent care” means unscheduled services for an enrollee’s condition that requires medical attention not amenable to scheduling in order to avoid a serious risk of harm.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1903. Documentation

The CEO shall ensure that the HCSO’s policies, procedures, plans, class specifications, orders, reports, minutes of meetings, contracts, agreements, records, and duty schedules are in writing, compiled and indexed in one or more manuals, and readily available for inspection by the Director.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1904. Health Care Plan

- A. An HCSO shall submit a statement to the Department that describes the proposed health care plan.
- B. The HCSO shall have an organized system for the delivery of health care services contained in subsection (D) that includes the following:
 1. Contracted providers that provide services under the plan;
 2. An effective process to promote a continuing relationship between an enrollee and the same PCP; and
 3. An effective process for referrals that ensures continuity of care to an enrollee.
- C. The HCSO shall list:
 1. The proposed or actual enrollment;
 2. The number and names of contracted, employed, or HCSO-owned providers that will serve the enrollees and the board eligibility or certification of each physician, if applicable; and
 3. The plan for providing covered services to enrollees as required under this Article.
- D. The HCSO’s health care plan shall provide within the geographic area served the following basic health care services covered by the monthly charges in the evidence of coverage:
 1. Emergency care that includes emergency services and inpatient emergency care;
 2. Inpatient care;
 3. Specialty care, primary care, or ancillary care that includes diagnostic and therapeutic services;
 4. Outpatient care;
 5. Preventive care; and
 6. Emergency ambulance services under A.R.S. § 20-2801(2), and other ambulance services when approved by a plan physician.
- E. The HCSO shall provide appropriate coverage for out-of-area emergency care to an enrollee traveling outside the area served by the HCSO.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). R20-6-1904 repealed; new Section R20-6-1904 renumbered and amended from R20-6-1906 by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1905. Geographic Area

- A. An applicant shall describe the proposed geographic area in at least one of the following ways:

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1. Legal description,
 2. Local governmental jurisdiction such as city or county,
 3. Census tracts,
 4. Street boundaries, or
 5. Area within a specified radius of a specified intersection or a specified primary care center.
- B.** An applicant shall submit a map that shows the boundaries for the proposed geographic area.
- C.** An applicant shall submit a description of the proposed network including the data required under R20-6-1913(A)(2) and (A)(3).
- D.** All advertising matter and sales material provided a prospective enrollee shall include a description of the geographic area in terms readily understandable by the general public.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). R20-6-1905 repealed; new Section R20-6-1905 renumbered and amended from R20-6-1907 by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1906. Chief Executive Officer

- A.** The governing authority shall appoint a CEO who has appropriate education and experience to manage the HCSO. The governing authority shall define the authority and duties of the CEO in writing. The CEO is the appointed representative of the governing authority and is the executive officer of the HCSO.
- B.** The CEO shall have at least the following duties and responsibilities:
1. Manage the HCSO;
 2. Establish and implement policies, procedures, and effective processes of the HCSO;
 3. Act as liaison between the governing authority and the providers of healthcare and other services to the HCSO; and
 4. Establish a written plan of authority that will be in place in the CEO's absence.
- C.** When there is a change of CEO, the governing authority shall notify Department within 10 days after the effective date of change.
- D.** The HCSO shall ensure that all HCSO employees and contracted providers are knowledgeable about and qualified to perform the duties assigned to them through employment or by contract.
- E.** The HCSO shall designate a central place of business within the major geographic area served at which the CEO shall be based and from which the HCSO shall direct administrative activities.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Section R20-6-1906 renumbered to R20-6-1904; new Section R20-6-1906 renumbered and amended from R20-6-1908 by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1907. Medical Director

- A.** The HCSO shall designate a physician as medical director.
- B.** The medical director shall be responsible for planning and implementing the method for the continuing review and evaluation of health care provided by the HCSO and the continuing education of its providers of health care services. The medical director may also serve as the CEO if the medical director has appropriate education and experience to manage the HCSO.
- C.** The medical director responsibilities include:

1. Supervising medical staff;
2. Performance planning and evaluating medical staff;
3. Coordinating medical staff activities; and
4. Developing medical care policies.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Section R20-6-1907 renumbered to R20-6-1905; new Section R20-6-1907 renumbered and amended from R20-6-1909 by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1908. Quality Assurance

- A.** The HCSO shall provide an effective process for a continuing review and evaluation of the covered services it provides to enrollees to ensure that:
1. Treatment and level of covered services are appropriate and adequate and
 2. The quality of covered services is acceptable to the HCSO.
- B.** The HCSO shall have a quality assurance committee that includes at least the CEO or designee, the medical director, and representative network providers. The quality assurance committee shall:
1. Arrange for physicians or practitioners to review and evaluate covered services provided by others physicians or practitioners within the respective disciplines.
 2. Adopt administrative procedures covering frequency of meetings, recordkeeping, committee reports, and disseminating the reports.
- C.** The HCSO's effective process in subsection (A) shall include the following:
1. Standards for health care;
 2. Monitoring of care;
 3. Analysis of any deficiency;
 4. Correcting a deficiency including submitting a schedule for correcting the deficiency, requiring continuing education for the provider, if appropriate, and follow-up and periodic reassessment of the deficiency.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Section R20-6-1908 renumbered to R20-6-1906; new Section R20-6-1908 renumbered and amended from R20-6-1911, by final rulemaking at 11 A.A.R. 4861, effective December 31, 2006 (Supp. 05-4).

R20-6-1909. Evaluation of Network

Each HCSO shall have an effective process to evaluate the adequacy of its network to provide an enrollee with timely covered services.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Former R20-6-1909 renumbered to R20-6-1907; new Section R20-6-1909 made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1910. Process for Referral, Prior Authorization, Pre-certification, or Network Exception

- A.** An HCSO shall have an effective process for assisting an enrollee to obtain timely covered services when the enrollee or enrollee's referring provider cannot find a contracted provider who is timely accessible or available.
- B.** An HCSO shall have an effective process during normal business hours for handling referrals, prior authorizations, pre-

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tifications, or network exceptions necessary for timely routine care. This process may include the HCSO's procedure for standing referrals required in A.R.S. § 20-1057.01.

- C. Each HCSO shall have an effective process to handle referrals or network exceptions necessary for timely urgent care seven days a week.
- D. An HCSO that requires prior authorization or precertification for urgent care shall have an effective process to handle requests for prior authorization or precertification 24 hours a day, seven days a week.
- E. An HCSO shall have an effective process for handling network exceptions that ensures the HCSO reimburses an enrollee for any out-of-network cost the enrollee incurs that the enrollee would not have incurred if the enrollee had received the services in-network.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1911. HCSO Communication with Providers

An HCSO shall have an effective process for communicating with contracted providers regarding the following:

- 1. The providers in the network,
- 2. Contractual or administrative changes relating to enrollee access or provider availability, and
- 3. Procedures for handling claims and grievances submitted by providers.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 2769, effective July 1, 2001 (Supp. 01-2). Former R20-6-1911 renumbered to R20-6-1908; new R20-6-1911 made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1912. Network Directories

- A. An HCSO shall publish a provider network directory as follows:
 - 1. An HCSO shall list the name, address, telephone number, specialty, and hospital affiliation for all in-area contracted physicians or practitioners.
 - 2. An HCSO may list ancillary providers by corporate or group name and is not required to list individual physicians or practitioners.
 - 3. An HCSO is not required to list physicians or practitioners in the following areas of specialties or areas of practice:
 - a. Emergency medicine;
 - b. Anesthesiology, except anesthesiologists who provide pain management services;
 - c. Hospital-based pathology;
 - d. Hospital-based radiology; and
 - e. Hospitalists.
 - 4. An HCSO that lists any of the physicians or practitioners in subsections R20-6-1912(A)(3)(a) through (A)(3)(e) may list by corporate or group name and is not required to list individual physicians or practitioners.
 - 5. An HCSO that uses hospitalists is not required to list the hospital affiliations of PCPs who do not admit or attend hospitalized members.
 - 6. An HCSO shall publish a provider network directory that lists all its contracted facilities and contains:
 - a. The name, address, and telephone number of each facility;

- b. For each hospital at which the HCSO uses hospitalists, if any, a statement that the HCSO uses hospitalists at that hospital;
- c. For an HCSO that uses hospitalists and does not list them in the directory, information on how an enrollee can find out what hospitalists or group of hospitalists it uses at each hospital;

- B. The network directory shall conspicuously state in the directory the following:
 - 1. Changes occur in the network after the directory is published and some providers listed in the directory may no longer be contracted,
 - 2. Enrollee coverage may depend on the contract status of the provider,
 - 3. Where the enrollee can obtain more recent directory information,
 - 4. The effective date of the network directory, and
 - 5. The method for an enrollee or prospective enrollee to find out which PCPs are accepting new enrollees from the HCSO.
- C. Each HCSO shall make its network directory available on paper to enrollees or prospective enrollees requesting it. The HCSO shall:
 - 1. Publish the paper directory at least once a year;
 - 2. Update or supplement the information in the paper directory at least every six months;
 - 3. Explain in the paper directory how an enrollee or prospective enrollee can use or get assistance using the HCSO's online or telephone directories, if any; and
 - 4. Have discretion to list physicians' or practitioners' hospital affiliations in its paper directory.
- D. Each HCSO that has an online network directory shall:
 - 1. Update the online directory at least monthly;
 - 2. Make the online directory easy to use and user friendly; and
 - 3. Explain, in the online directory, how an enrollee or prospective enrollee can obtain a paper directory.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1913. Demographic Information Reports

- A. An HCSO shall report the following data to the Department:
 - 1. For each enrollee, report annually:
 - a. Street address,
 - b. Zip code,
 - c. Gender, and
 - d. Year of birth.
 - 2. For all contracted providers, report semiannually:
 - a. Provider name,
 - b. Street address or addresses at which the provider provides covered services,
 - c. Zip code, and
 - d. Arizona license number,
 - 3. For all contracted physicians or practitioners, report semiannually:
 - a. Specialty, and
 - b. Medical or other applicable degree or information that designates the type of physician or practitioner.
- B. The HCSO shall report the information in subsection (A) to the Department by the following deadlines:
 - 1. For information in subsection (A)(1) as of December 31 of each calendar year, by February 15 of the next calendar year.
 - 2. For information in subsection (A)(2) as of June 30, by August 15 of the same calendar year.

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3. For information in subsection (A)(2) as of December 31, by February 15 of the next calendar year.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1914. Access

An HCSO shall provide to or arrange for its enrollees services or appointments for services as follows:

1. For preventive care services from a contracted PCP, an appointment date within 60 days of the enrollee's request, or sooner if necessary, for the enrollee to be immunized on schedule.
2. For routine-care services from a contracted PCP, an appointment date within 15 days of the enrollee's request to the PCP or sooner if medically necessary.
3. For specialty care services from a contracted SCP, an appointment date within 60 days of the enrollee's request or sooner if medically necessary.
4. In-area urgent care services from a contracted provider seven days per week.
5. Timely non-emergency inpatient care services from a contracted facility.
6. Timely services from a contracted physician or practitioner in a contracted facility including inpatient emergency care.
7. Services from a contracted ancillary provider during normal business hours, or sooner if medically necessary.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1915. Alternative Access

- A. As an alternative to providing access to covered services from a physician, an HCSO may provide access to covered services from an appropriately licensed practitioner.
- B. As an alternative to providing access to covered services at a hospital under R20-6-1914, an HCSO may provide access to covered services at another appropriately licensed facility.
- C. As an alternative to providing access to covered services from a physician or practitioner who sees an enrollee in person under R20-6-1914, an HCSO may provide access to necessary covered services through:
 1. Telephone calls and messages,
 2. Electronic mail,
 3. Communication with the physician's or practitioner's staff,
 4. Coverage by another physician or practitioner, or
 5. Telemedicine,
- D. An HCSO that panels enrollees to PCPs may panel enrollees to appropriately licensed practitioners.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1916. Availability Ratios

- A. An HCSO shall maintain a ratio of contracted adult PCPs to adults that is adequate to provide those adults with covered services. An HCSO with a Medicare Advantage (MA) plan may have one ratio that applies to both its insured and MA populations, or a separate ratio for each.
- B. An HCSO shall maintain a ratio of contracted pediatric PCPs to children that is adequate to provide those children enrollees with covered services.
- C. An HCSO shall maintain a ratio of contracted high profile SCPs to enrollees that is adequate to provide those enrollees

with covered services that include services at contracted facilities. An HCSO with a MA plan may have one ratio that applies to both its insured and MA populations, or a separate ratio for each.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1917. Geographic Availability in an Urban Area

An HCSO shall provide each enrollee living in an urban area of the HCSO's service area the following:

1. Primary care services from a contracted PCP located within 10 miles or 30 minutes of the enrollee's home;
2. High profile specialty care services from a contracted SCP located within 15 miles or 45 minutes of the enrollee's home; and
3. Inpatient care in a contracted general hospital, or contracted special hospital, within 25 miles or 75 minutes of the enrollee's home.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1918. Geographic Availability in a Suburban Area

Each HCSO shall provide each enrollee member living in a suburban area within the HCSO's service area the following:

1. Primary care from a contracted PCP located within 15 miles or 45 minutes of the enrollee's home;
2. High profile specialty care services from a contracted SPC within 20 miles or 60 minutes of the enrollee's home; and
3. Inpatient care in a contracted hospital, or a contracted special hospital within 30 miles or 90 minutes of the enrollee's home.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1919. Geographic Availability in a Rural Area

An HCSO shall provide each enrollee living in a rural area with primary care services from a contracted physician or practitioner within 30 miles or 90 minutes of the enrollee's home.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1920. Travel Requirements

- A. An HCSO may require an enrollee to travel a greater distance in-area to obtain covered services from a contracted provider than the enrollee would have to travel to obtain equivalent services from a non-contracted provider, except where a network exception is medically necessary. Nothing in this Section creates an exception to R20-6-1918 through R20-6-1920.
- B. If the HCSO prior-authorizes services that require an enrollee to travel outside the HCSO service area because the services are not available in the area, the HCSO shall reimburse the enrollee for travel expenses. Except as provided under R20-6-1904(E)(6), an HCSO is not required to reimburse an enrollee for travel expenses the enrollee incurs to obtain covered services in-area.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

R20-6-1921. Enforcement Consideration

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In determining the appropriate enforcement action or penalties for failure to comply with these rules, the Department shall consider any documentation the HCSO provides regarding:

1. Whether seasonal shifts in demand affect access and availability of covered services;
2. Whether the HCSO's demographic information has changed significantly since the HCSO's most recent report;
3. Whether an enrollee has refused to accept covered services the HCSO has offered in the time-frames or locations required of the HCSO by this Article;
4. Whether an enrollee has requested and obtained covered services from a contracted provider whose location, or appointment availability, or capacity result in the HCSO's non-compliance; and
5. Whether market factors indicate that on a short-term basis, compliance is not possible. Market factors include shortage of providers, enrollee or provider location, and provider practice or contracting patterns.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4861, effective December 31, 2005 (Supp. 05-4).

ARTICLE 20. CAPTIVE INSURERS**R20-6-2001. Reserved****R20-6-2002. Fees; Examination Costs**

- A. A corporation applying for a license to do business as a captive insurer, under A.R.S. § 20-1098, shall pay a nonrefundable fee of \$1,000.00 to the Department for issuance of the license. A captive insurer that is a protected cell captive insurer, as defined in A.R.S. § 20-1098, also shall pay to the Department a nonrefundable fee of \$1,000 for each participant contract application that establishes a protected cell under A.R.S. § 20-1098.05(B)(9). The fee is payable in full at the time the applicant submits the application for license to the Department under A.R.S. § 20-1098.01.
- B. A captive insurer shall pay a nonrefundable annual renewal fee of \$5,500.00 to the Department at the time of filing its annual report under A.R.S. § 20-1098.07. Under A.R.S. § 20-1098.01(J), a captive insurer that is a protected cell captive insurer also shall pay to the Department a nonrefundable annual renewal fee of \$2,500.00 for each protected cell at the time of filing its annual report under A.R.S. § 20-1098.07.
- C. A captive insurer shall pay a nonrefundable fee of \$200.00 to the Department at the time of filing for issuance of an amended certificate of authority.
- D. In addition to the fees prescribed in subsections (A) and (B), an applicant for a captive insurer license or a licensed captive insurer shall pay the costs of any examination the Director conducts, under A.R.S. § 20-1098.08.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2478, effective July 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 2977, effective September 13, 2005 (Supp. 05-3). Subsection (A) corrected at request of the Department, Office File No. M11-252, filed July 20, 2011 (Supp. 11-3).

ARTICLE 21. CUSTOMER INFORMATION SECURITY PROGRAM

Article 21, consisting of R20-6-2101 through R20-6-2104, made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004 (Supp. 04-2).

R20-6-2101. Definitions

The following definitions apply in this Article:

1. "Consumer" means an individual, or the individual's legal representative, who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal information. Consumer can include a prospective applicant, policyholder, certificateholder, insured, or claimant.
2. "Customer" means a consumer who has a continuing relationship with a licensee under which the licensee provides one or more insurance products or services to the consumer that are used primarily for personal, family, or household purposes.
3. "Customer information" means nonpublic personal information and privileged information about a customer whether in paper, electronic, or other form, that is maintained by or on behalf of an insurance institution, insurance producer, or insurance support organization.
4. "Customer information systems" means the electronic, or physical methods used to access, collect, store, use, transmit, protect, or dispose of customer information.
5. "Insurance institution" has the meaning prescribed in A.R.S. § 20-2102(10).
6. "Insurance producer" means a person required to be licensed under A.R.S. Title 20, Chapter 2, Article 3 to sell, solicit, or negotiate insurance and includes a managing general agent as defined in A.R.S. § 20-311.
7. "Insurance support organization" has the meaning prescribed in A.R.S. § 20-2102(13).
8. "Licensee" means an insurance institution, insurance producer, or insurance support organization, but does not include a purchasing group or an unauthorized insurer in regard to the excess line business conducted under Title 20, Chapter 2, Article 5.
9. "Personal information" has the meaning prescribed in A.R.S. § 20-2102(19).
10. "Privileged information" has the meaning prescribed in A.R.S. § 20-2102(22).
11. "Service provider" means a person that maintains, processes, or otherwise is permitted access to customer information through its provision of services directly to a licensee.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004 (Supp. 04-2).

R20-6-2102. Customer Information Security Program

A licensee shall implement a comprehensive written customer information security program that includes administrative, technical, and physical safeguards for the protection of customer information. The administrative, technical, and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004 (Supp. 04-2).

R20-6-2103. Objectives of Customer Information Security Program

A licensee's customer information security program shall be designed to:

1. Ensure the security and confidentiality of customer information;
2. Protect against any anticipated threats or hazards to the security or integrity of the information; and

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3. Protect against unauthorized access to or use of the information.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004 (Supp. 04-2).

R20-6-2104. Guidelines for Methods of Development and Implementation

A licensee may implement the requirements of R20-6-2102 and R20-6-2103 by the actions and procedures prescribed in this Section, which are non-exclusive illustrations:

1. A licensee may assess risk by:
 - a. Identifying reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration, or destruction of customer information or customer information systems;
 - b. Assessing the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and
 - c. Assessing the sufficiency of policies, procedures, customer information systems, and other safeguards in place to control risks.
2. A licensee may manage and control risk by:
 - a. Designing its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities;
 - b. Training staff to implement the licensee's information security program; and
 - c. Regularly testing or otherwise regularly monitoring the key controls, systems and procedures of the information security program. The licensee shall determine the frequency and nature of these tests or other monitoring practices by the licensee's risk assessment.
3. A licensee may oversee service provider arrangements by:
 - a. Exercising appropriate due diligence in selecting its service providers; and
 - b. Requiring its service providers to implement measures designed to meet the objectives of this Article, and, where indicated by the licensee's risk assessment, taking appropriate steps to confirm that its service providers have satisfied these obligations.
4. A licensee may monitor, evaluate, and adjust, as appropriate, its information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to customer information systems.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2260, effective July 13, 2004 (Supp. 04-2).

ARTICLE 22. MILITARY PERSONNEL**R20-6-2201. Military Sales Practices****A. Definitions.**

1. "Active duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. "Active duty" does not include members of the reserve component who are performing active duty or

- active duty under military calls or orders specifying periods of less than 31 calendar days.
2. "Department of Defense (DoD) personnel" means all active duty service members and all civilian employees, including non-appropriated fund employees and special government employees, of the Department of Defense.
3. "Division" means the Division of Insurance of the Department of Insurance and Financial Institutions.
4. "Door-to-door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.
5. "ERISA" means the Employee Retirement and Income Security Act.
6. "Formal banking relationship" for purposes of subsection (D), means a relationship established between a service member and a depository institution which:
 - a. Provides the service member with a deposit agreement and periodic statements and makes disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301, et seq. and its accompanying regulations; and
 - b. Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.
7. "General advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer, or the promotion of the insurance producer.
8. "Insurer" means an insurance company required to be licensed under the laws of Arizona to provide life insurance products, including annuities.
9. "Insurance producer" means a person required to be licensed pursuant to A.R.S. § 20-282.
10. "IRC" means Internal Revenue Code.
11. "Known" or "Knowingly" means the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known at the time of the act or practice complained of, that depending on its use in this Section, the person solicited was either a service member or was a service member with a pay grade of E-4 or below.
12. "Life insurance" has the meaning defined at A.R.S. § 20-254.
13. "Military installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.
14. "MyPay" is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.
15. "Service member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.
16. "SGLI" means Servicemembers' Group Life Insurance.
17. "Side fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement, or other mechanism which accumulates premium, or deposits with interest, or by other means. "Side fund" does not include:

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- a. Accumulated value, or cash value, or secondary guarantees provided by an universal life insurance policy;
 - b. Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
 - c. A premium deposit fund which:
 - i. Contains only premiums paid in advance which accumulate at interest;
 - ii. Imposes no penalty for withdrawal;
 - iii. Does not permit funding beyond future required premiums;
 - iv. Is not marketed or intended as an investment; and
 - v. Does not carry a commission, either paid or calculated.
18. "Specific appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.
19. "U.S." means United States.
20. "U.S. Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, Coast Guard, and Space Force.
21. "VGLI" means Veterans' Group Life Insurance.
- B. Exemptions.**
1. This Section shall not apply to solicitations or sales involving:
 - a. Credit insurance;
 - b. Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;
 - c. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the Division; or, when a term conversion privilege is exercised among corporate affiliates;
 - d. Individual stand-alone health policies, including disability income policies;
 - e. Contracts offered by SGLI or VGLI, as authorized by 38 U.S.C. §§ 1965 et seq.;
 - f. Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the IRC, and which are not underwritten by an insurer; or
 - g. Contracts used to fund:
 - i. An employee pension or welfare benefit plan that is covered by ERISA;
 - ii. A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the IRC, as amended, if established and maintained by an employer;
 - iii. A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;
 - iv. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;
 - v. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
 - vi. Prearranged funeral contracts.
 2. Nothing in this Section shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the U.S. Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – Personal Commercial Solicitation on DoD Installations or any successor directive.
 3. This purposes of this Section, the following do not constitute solicitation:
 - a. General advertisements;
 - b. Direct mail;
 - c. Internet marketing; and
 - d. Telephone marketing if the caller explicitly and conspicuously discloses that the product being marketed is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation.
 4. Any in-person, face-to-face meeting resulting from an exempt type of solicitation listed in subsection (B)(3) is not exempt and the insurer or insurance producer is subject to this Section.
 5. The following subsections do not apply to individually issued annuities: (D)(3)(b), (D)(5)(c), (D)(5)(e), (D)(6)(a), (D)(6)(c) and (D)(6)(d).
- C. Practices Declared False, Misleading, Deceptive, or Unfair on a Military Installation.**
1. The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive, or unfair:
 - a. Knowingly soliciting the purchase of any life insurance product door-to-door or without first establishing a specific appointment for each meeting with a prospective purchaser.
 - b. Soliciting service members in a group or "mass" audience or in a "captive" audience where attendance is not voluntary.
 - c. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.
 - d. Making appointments with or soliciting service members in barracks, day rooms, unit areas, transient personnel housing, or other areas where the installation commander has prohibited solicitation.
 - e. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.
 - f. Posting unauthorized bulletins, notices, or advertisements.
 - g. Failing to present DD Form 2885, *Personal Commercial Solicitation Evaluation*, to solicited service members or discouraging solicited service members from completing or submitting a DD Form 2885.
 - h. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the U.S. Armed Forces without first obtaining a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives, or rules of the DoD or any

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- branch of the U.S. Armed Forces for the insurer's files.
2. The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences, or inducements and are declared to be false, misleading, deceptive, or unfair:
 - a. Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity, with or without compensation, with respect to the solicitation or sale of life insurance to service members.
 - b. Using an insurance producer to participate in any U.S. Armed Forces sponsored education or orientation program.
- D. Practices declared false, misleading, deceptive, or unfair regardless of location.**
1. The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive, or unfair:
 - a. Submitting, processing, or assisting in the submission or processing of any allotment form or similar device used by the U.S. Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. This includes, but is not limited to, using or assisting in using the service member's "MyPay" account or other similar internet or electronic medium. This subsection does not prohibit an insurer or insurance producer assisting a service member by providing the insurer or premium information necessary to complete any allotment form.
 - b. Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship.
 - c. Employing any device or method or entering into any agreement where funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's "Leave and Earnings Statement" or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship.
 - d. Entering into any agreement with a depository institution for the purposes of receiving funds from a service member where the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.
 - e. Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity, with or without compensation, with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade or to their family members.
 - f. Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting, or facilitating the solicitation or sale of life insurance to a service member.
 - g. Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for their attendance to any event where an application for life insurance is solicited.
 - h. Advising a service member with a pay grade of E-4 or below to change their income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance.
 2. The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval, or affiliation and are declared to be false, misleading, deceptive, or unfair:
 - a. Making any representation, or using any device, title, descriptive name, or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer, or product offered is affiliate, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. government, the U.S. Armed Forces, or any state, federal agency, or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant," or "Veteran's Benefits Counselor." An insurance producer may use a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning including, but not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Masters of Science in Financial Services (MSFS), or Masters of Science Financial Planning (MS).
 - b. Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the U.S. Armed Forces in a manner that has a tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer, or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. government or the U.S. Armed Forces.
 3. The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs, or investment returns and are declared to be false, misleading, deceptive, or unfair:
 - a. Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.
 - b. Misrepresenting the mortality costs of a life insurance product, including a statement or implication that the product costs nothing or is free.
 4. The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive, or unfair:
 - a. Making any representation regarding the availability, suitability, amount, cost, exclusions, or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading, or deceptive.
 - b. Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations of coverage of SGLI or VGLI to private insurers which is false, misleading, or deceptive.

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- c. Suggesting, recommending, or encouraging a service member to cancel or terminate their SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the U.S. Armed Forces.
5. The following acts or practices by an insurer or insurance producer regarding disclosure are declared to be false, misleading, deceptive, or unfair:
- Deploying, using, or contracting for any lead-generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.
 - Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.
 - Failing to clearly and conspicuously disclose that fact that the product being sold is life insurance.
 - Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by the Military Personnel Financial Services Protection Act, Public Law 109-290, Sec. 10, p. 16, 10 U.S.C. § 992 note.
 - When the sale is conducted in-person and face-to-face with an individual known to be a service member, failing at the time the application is taken to provide to the applicant:
 - An explanation of any applicable free look period with instructions on how to cancel if a policy is issued; and
 - Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of A.R.S. §§ 20-1241 through 20-1241.09, Section R20-6-202 and Section R20-6-209 shall be deemed sufficient to meet this requirement for a written disclosure.
6. The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive, or unfair:
- Recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.
 - Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.
 - "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.
- "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.
- c. Offering for sale or selling any life insurance contract which includes a side fund:
- Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;
 - Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from year one to year ten and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and
 - Which by default diverts or transfers funds accumulated to the side fund to pay, reduce, or offset any premiums due.
- d. Offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4215, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 28 A.A.R. 687 (April 1, 2022), effective May 7, 2022 (Supp. 22-1).

ARTICLE 23. THRESHOLD RATE REVIEW – INDIVIDUAL HEALTH INSURANCE**R20-6-2301. Applicability; Definitions**

- A.** This Article applies to rates charged by health insurers for individual health insurance. This Article does not apply to rates charged by health insurers for the following:
- Health insurance that a health insurer issues to an employer or to any group described in either A.R.S. § 20-1401 or A.R.S. § 20-1404(A), except health insurance issued to an association or its individual members as described in R20-6-2301(B)(7)(b);
 - Grandfathered health plan coverage as defined in 45 CFR 147.140; or
 - Health insurance that covers excepted benefits as described in section 2791(c) of the PHS Act, 42 U.S.C. 300gg-91(c).
- B.** In this Article, the following definitions apply:
- "Department" means the Arizona Department of Insurance.
 - "Blanket disability insurance" has the meaning prescribed in A.R.S. § 20-1404(A).
 - "CMS" means the Centers for Medicare & Medicaid Services.

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4. "Federal medical loss ratio standard" means the applicable medical loss ratio standard determined under 45 CFR 158, Subpart B.
5. "Health insurance" means disability insurance as defined in A.R.S. § 20-253, a health care plan as defined in A.R.S. § 20-1051(5) and disability insurance or a health care plan offered by a hospital service corporation, medical service corporation or hospital, medical, dental and optometric service corporation as defined in A.R.S. § 20-822(3).
6. "Health insurer" means an insurer, as that term is defined in A.R.S. § 20-104, authorized to transact disability insurance in Arizona, a health care services organization as defined in A.R.S. § 20-1051(7) or a hospital service corporation, medical service corporation or hospital, medical, dental and optometric service corporation as defined in A.R.S. § 20-822(3).
7. "Individual health insurance" means health insurance that a health insurer issues to either:
 - a. An individual, to cover:
 - i. The individual, or
 - ii. The individual's dependents, or
 - iii. The individual and the individual's dependents.
 - b. An association or its individual members to cover the individual members and their dependents, and which the Department would regulate under A.R.S. Title 20, Chapter 6 as individual health insurance if the health insurer did not issue it to an association or individual members of an association.
8. "PHS Act" means Part A of Title XXVII of the Public Health Service Act, 42 U.S.C. Chapter 6A.
9. "Product" means a package of health insurance benefits with a discrete set of rating and pricing methodologies that a health insurer offers as individual insurance in Arizona.
10. "Preliminary justification" means a justification that consists of the parts described in R20-6-2302(A).
11. "Rate increase" means an increase of the rates for an individual health insurance product that a health insurer offers in Arizona that:
 - a. Results from a change to the underlying rate structure of the product, and
 - b. May result in premium changes for the product.
12. "Secretary" means the Secretary of the United States Department of Health and Human Services.
13. "Threshold rate increase" means a rate increase that meets or exceeds an Arizona-specific threshold as noticed by the Secretary in 45 CFR 154.200, provided:
 - a. The average increase for all enrollees weighted by premium volume meets or exceeds the applicable threshold; and
 - b. If a rate increase that does not otherwise meet or exceed the Arizona-specific threshold meets or exceeds the Arizona-specific threshold when combined with a previous increase or increases during the 12-month period preceding the date on which the rate increase would become effective, then the rate increase must be considered to meet or exceed the Arizona-specific threshold and is subject to threshold rate review that shall include a review of the aggregate rate increases during the applicable 12-month period.
14. "Threshold rate review" means the review by the Department under this Article of a threshold rate increase.
15. "Unreasonable rate increase" means a rate increase that results in benefits that are not reasonable in relation to the premium the health insurer charges for the product. The following factors are relevant in determining whether a rate increase results in benefits that are unreasonable in relation to premium:
 - a. The rate increase results in a projected medical loss ratio below the federal medical loss ratio standard after accounting for any adjustments allowable under federal law;
 - b. One or more of the assumptions on which the health insurer based the rate increase is not supported by sound actuarial reasoning, data and analysis;
 - c. The choice of assumptions or combination of assumptions on which the insurer based the rate increase is unreasonable;
 - d. The health issuer provides data or documentation that is incomplete, inadequate or otherwise does not provide a basis upon which the Department can determine the reasonableness of a rate increase; or
 - e. The increase results in premium differences between insureds within similar risk categories that are unfairly discriminatory under A.R.S. Title 20, Chapter 2, Article 6.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 2721, effective October 3, 2012 (Supp. 12-4).

R20-6-2302. Disclosure of Preliminary Justification

- A. Preliminary Justification. For each threshold rate increase for each affected product, a health insurer shall submit to the Department and to CMS, on a form and in the manner prescribed by the Secretary in 45 CFR 154.215, a preliminary justification that contains all of the following:
 1. Preliminary Justification Part I. A summary of the content of the threshold rate increase that includes:
 - a. Historical and projected claims experience;
 - b. Trend projections related to utilization, and service or unit cost;
 - c. Any claims assumptions related to benefit changes;
 - d. Allocation of the overall rate increase to claims and non-claims costs;
 - e. Per enrollee per month allocation of current and projected premium; and
 - f. Three year history of rate increases for the product associated with the rate increase.
 2. Preliminary Justification Part II. A written description that justifies the rate increase and that contains a simple and brief narrative describing the data and assumptions the health insurer used to develop the rate increase, and includes the following:
 - a. An explanation of the most significant factors causing the rate increase, including a brief description of the relevant claims and non-claims expense increases reported in subsection (A)(1); and
 - b. A brief description of the overall experience of the policy, including historical and projected expenses, and loss ratios.
- B. A health insurer may submit a single, combined preliminary justification that contains all the information in subsections (A)(1) and (2) for threshold rate increases that affect more than one product if the health insurer has aggregated the claims experience of all products to calculate the rate increases and the rate increases are the same for all products.

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Historical Note

New Section made by final rulemaking at 18 A.A.R.
2721, effective October 3, 2012 (Supp. 12-4).

R20-6-2303. Timing for Submission of Preliminary Justification

- A. If R20-6-607 applies to a threshold rate increase, the health insurer shall submit its preliminary justification to the Department and to CMS on the date on which the health insurer files the rate increase request under R20-6-607.
- B. If R20-6-607 does not apply to a threshold rate increase, the health insurer shall submit the preliminary justification to the Department and to CMS at least 60 days prior to the date the health insurer intends to implement the threshold rate increase in Arizona.
- C. The Department shall provide access from its website to the Parts I and II of the Preliminary Justifications of the proposed rate increases that it reviews and have a mechanism for receiving public comments on those proposed rate increases.

Historical Note

New Section made by final rulemaking at 18 A.A.R.
2721, effective October 3, 2012 (Supp. 12-4).

R20-6-2304. Response to Unreasonableness Determination

If the health insurer receives from CMS a notice that the Department has determined that the health insurer's threshold rate increase is unreasonable, the health insurer shall select one of the following three options:

1. Option to not implement the rate increase determined unreasonable. Within 30 days of receiving from CMS the Department's determination, the health insurer shall notify the Department and CMS that it will not implement the rate increase and request the Department to withdraw the rate increase request;
2. Option to implement a smaller rate increase than the rate determined unreasonable. Within 30 days of receiving from CMS the Department's determination, the health insurer shall notify the Department and CMS, on a form and in the manner prescribed by the Secretary, that it intends to implement a rate increase that is smaller than the one determined unreasonable. One of the following shall apply to this option:
 - a. If the health insurer selects this option and the smaller rate increase is not a threshold rate increase, the smaller rate increase is not subject to this Article;
 - b. If the health insurer selects this option, and R20-6-607 applied to the rate increase the Department determined to be unreasonable, the health insurer shall revise the rate increase filing to reflect the smaller rate increase or file a new rate increase. If the smaller rate increase is a threshold rate increase, the health insurer shall submit a new preliminary justification on the date the health insurer revises the rate increase filing or files a new rate increase; or
 - c. If the health insurer selects this option, and R20-6-607 did not apply to the rate increase the Department determined to be unreasonable, and the smaller increase is a threshold rate increase, the health insurer shall submit to the Department and to CMS a new preliminary justification at least 60 days prior to the date the health insurer intends to implement the smaller increase in Arizona.
3. Option to implement the rate increase determined unreasonable. Within 10 business days after the health insurer either implements the rate increase that the Department determined unreasonable, or receives from CMS the Department's determination, the health insurer shall:

- a. Submit, to the Department and to CMS, a final justification in response to the Department's determination. The information in the final justification shall be the same as the information submitted by the insurer under R20-6-2302(A)(1) and (2) in the preliminary justification supporting the rate increase; and
- b. Prominently post on its website, on a form and in the manner prescribed by the Secretary under 45 CFR 154.230 the following information:
 - i. The Department's determination that the rate increase is unreasonable and Department's explanation of the Department's analysis of the relevant factors set forth in R20-6-2305(A)(1) and (2), and
 - ii. The health insurer's final justification for implementing the rate increase.
- c. Continue to make the information in subsection (3)(b) available to the public on its website for at least three years.

Historical Note

New Section made by final rulemaking at 18 A.A.R.
2721, effective October 3, 2012 (Supp. 12-4).

R20-6-2305. Threshold Rate Increase Documentation Requirements

- A. For a threshold rate increase, a health insurer shall submit to the Department documentation that is sufficient to allow the Department to assess:
 1. The reasonableness of the assumptions used by the health insurer to develop the proposed rate increase and the validity of the historical data underlying the assumptions, and
 2. The health insurer's data related to past projections and actual experience.
- B. To the extent applicable to the submission under review by the Department, the health insurer shall submit documentation that includes all of the following:
 1. The impact of medical trend changes by major service categories;
 2. The impact of utilization changes by major service categories;
 3. The impact of cost-sharing changes by major service categories;
 4. The impact of benefit changes;
 5. The impact of changes in enrollee risk profile;
 6. The impact of any overestimate or underestimate of medical trend for prior year periods related to the rate increase;
 7. The impact of changes in reserve needs;
 8. The impact of changes in administrative costs related to programs that improve health care quality;
 9. The impact of changes in other administrative costs;
 10. The impact of changes in applicable taxes, licensing or regulatory fees;
 11. Medical loss ratio;
 12. The health insurance insurer's capital and surplus; and
 13. Other relevant documentation at the discretion of the Director.
- C. A health insurer shall submit all documentation required under subsection (A) or (B) at the same time that:
 1. The health insurer submits the preliminary justification required under R20-6-2302, or
 2. The health insurer submits any new preliminary justification required under R20-6-2304(2)(b) and (c).

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Historical Note

New Section made by final rulemaking at 18 A.A.R. 2721, effective October 3, 2012 (Supp. 12-4).

ARTICLE 24. OUT-OF-NETWORK CLAIM DISPUTE RESOLUTION**R20-6-2401. Definitions**

The definitions in A.R.S. § 20-3111 and this Section apply to this Article.

1. "Allowed Amount" is the amount reimbursable for a covered service under the terms of the enrollee's benefit plan. The allowed amount includes both the amount payable by the insurer and the amount of the enrollee's cost sharing requirements.
2. "Alternative Arbitrator" is an individual who is mutually agreeable to the health insurer and health care provider to act as the arbitrator of a surprise out-of-network billing dispute. If the person is contracted with the State of Arizona to conduct arbitration proceedings, the provisions of that contract shall apply. Department staff may not serve as an Alternative Arbitrator.
3. "Amount of the enrollee's cost sharing requirements" means the amount determined by the insurer prior to the dispute resolution process to be owed by the enrollee for out-of-network copayment, coinsurance and deductible pursuant to the enrollee's health care policy.
4. "Arbitrator" has the same meaning as A.R.S. § 20-3111(2) and may include a mediator, arbitrator or other alternative dispute resolution professional who is contracted with the Department to arbitrate a surprise out-of-network billing dispute. Department staff may not serve as an Arbitrator.
5. "A.R.S. § 20-3113 Disclosure" means a written, dated document that contains the following information:
 - a. The name of the billing health care provider;
 - b. A statement that the health care provider is not a contracted provider;
 - c. The estimated total cost to be billed by the health care provider or the provider's representative for the health care services being provided;
 - d. A notice that the enrollee or the enrollee's authorized representative is not required to sign the A.R.S. § 20-3113 Disclosure to obtain health care services;
 - e. A notice that if the enrollee or the enrollee's authorized representative signs the A.R.S. § 20-3113 Disclosure, they may have waived any rights to request arbitration of a qualifying surprise out-of-network bill.
6. "Balance bill" means all charges that exceed the enrollee's cost sharing requirements and the amount paid by the insurer.
7. "Date of service" means the latest date on which the health care provider rendered a related health care service that is the subject of a qualifying surprise out-of-network bill.
8. "Days" as used in this Article means calendar days unless specified as business days and does not include the day of the filing of a document.
9. "Department" means the Arizona Department of Insurance or an entity with which it contracts to administer the out-of-network claim dispute resolution process.
10. "Enrollee's authorized representative" means a person to whom an enrollee has given express written consent to represent the enrollee, the enrollee's parent or legal guardian, a person appointed by the court to act on behalf of the enrollee or the enrollee's legal representative. An enrollee's authorized representative shall not be someone who represents the provider's interests.
11. "Final resolution of a health care appeal" means that a member has a final decision under the review process provided by A.R.S. Title 20, Chapter 15, Article 2.
12. "Informal Settlement Teleconference" means a teleconference arranged by the Department that is held to settle the enrollee's qualifying surprise out-of-network bill prior to an Arbitration being scheduled. The parties to the Informal Settlement Teleconference are: (a) the enrollee or the enrollee's authorized representative; (b) the health insurer; and (c) the provider or the provider's representative.
13. "Qualifying surprise out-of-network bill" is a surprise out-of-network bill for health care services provided on or after January 1, 2019, that is disputed by the enrollee and:
 - a. Is for health care services covered by the enrollee's health plan;
 - b. Is for health care services provided in a network health care facility;
 - c. Is for health care services performed by a provider who is not contracted to participate in the network that serves the enrollee's health plan;
 - d. The enrollee has resolved any health care appeal pursuant to A.R.S. Title 20, Chapter 15, Article 2, that the enrollee may have had against the insurer following the health insurer's initial adjudication of the claim;
 - e. The enrollee has not instituted a civil lawsuit or other legal action against the insurer or health care provider related to the surprise out-of-network bill or the health care services provided;
 - f. The amount of the surprise out-of-network bill for which the enrollee is responsible for all related health care services provided by the health care provider whether contained in one or multiple bills, after deduction of the enrollee's cost sharing requirements and the insurer's allowable reimbursement, is at least \$1,000.00; and
 - g. One of the following applies:
 - i. The bill is for emergency services, including under circumstances described by A.R.S. § 20-2803(A);
 - ii. The bill is for health care services directly related to the emergency services that are provided during an inpatient admission to any network facility;
 - iii. The bill is for a health care service that was not provided in the case of an emergency and the health care provider or provider's representative did not provide the enrollee a written dated A.R.S. § 20-3113 Disclosure;
 - iv. The bill is for a health care service that was not provided in the case of an emergency and the health care provider or provider's representative did not provide the enrollee a written dated A.R.S. § 20-3113 Disclosure within a reasonable amount of time before the enrollee received the service;
 - v. The bill is for a health care service that was not provided in the case of an emergency and the health care provider or provider's representative provided the enrollee a written dated A.R.S. § 20-3113 Disclosure ("Disclosure")

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

- and the enrollee or the enrollee's authorized representative chose not to sign the Disclosure;
- vi. The bill is for a health care service that was not provided in the case of an emergency and the health care provider or provider's representative provided the enrollee a written dated A.R.S. § 20-3113 Disclosure ("Disclosure") and the enrollee or the enrollee's authorized representative signed the Disclosure but the amount actually billed to the enrollee is greater than the estimated cost provided in the signed Disclosure.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

R20-6-2402. Request for Arbitration

- A. Request for Arbitration. An enrollee may request dispute resolution of a surprise out-of-network bill by filing a timely Request for Arbitration with the Department on a Request for Arbitration form available on the Department's website.
- B. Deadline for filing a Request for Arbitration with the Department. A Request for Arbitration must be received by the Department within one year after the date of service listed on the surprise out-of-network bill. If the enrollee filed a health care appeal pursuant to A.R.S. Title 20, Chapter 15, Article 2, the one year deadline is tolled from the date the enrollee filed the health care appeal to the date of the final resolution of the appeal.
- C. Evaluation of the Request for Arbitration by the Department. Within 15 days after receipt of a Request for Arbitration, the Department shall do one of the following:
 1. Determine that the surprise out-of-network bill is a qualifying surprise out-of-network bill and notify the enrollee, health insurer and health care provider that the Request for Arbitration qualifies for Arbitration;
 2. Determine that the surprise out-of-network bill is not a qualifying surprise out-of-network bill and notify the enrollee of the reason for the Department's determination;
 3. Determine that the Request for Arbitration is incomplete; or
 4. Return the Request for Arbitration to the enrollee without making a determination if the enrollee's request should instead be filed as a health care appeal within the meaning of A.R.S. Title 20, Chapter 15, Article 2.
- D. Request for additional information for an incomplete Request for Arbitration. If the Department determines that the Request for Arbitration is incomplete, the Department may send a written request for additional information to the enrollee, health insurer, health care provider or health care provider's billing company.
- E. Time to respond to the Department's Request for Additional Information. The enrollee, health insurer, health care provider or the health care provider's billing company shall have 15 days from the date of the request to respond to the Department's Request for Additional Information.
- F. Failure to respond to the Department's Request for Additional Information.
 1. If the enrollee fails to respond to the Department's Request for Additional Information, the Department shall deny the enrollee's Request for Arbitration.
 2. If either the health insurer or the health care provider or health care provider's billing company fail to respond to the Department's Request for Additional Information, the

Department shall deem that the enrollee's Request for Arbitration qualifies for arbitration.

- G. Receipt of Additional Information. Upon receipt of the additional information requested by the Department under subsection (D) of this Section, the Department shall determine, within seven days, whether the enrollee's Request for Arbitration qualifies for Arbitration and send the notice required under subsection (C)(1) or subsection (C)(2) of this Section, whichever applies.
- H. Final Determination. The Department's determination whether an enrollee's Request for Arbitration qualifies for Arbitration is a final decision and not an appealable agency action within the meaning of A.R.S. § 41-1092(3). A claim that is the subject of a qualifying surprise out-of-network bill is not subject to the timely payment of claims law during the pendency of the Arbitration.
- I. Enrollee's payment responsibility.
 1. Notwithstanding any informal settlement or Arbitrator's Final Written Decision, the enrollee is responsible for only the following:
 - a. The amount of the enrollee's cost sharing requirements; and
 - b. Any amount received by the enrollee from the enrollee's health insurer as payment for the health care services at issue in a qualifying surprise out-of-network bill.
 2. A health care provider may not issue, either directly or indirectly through its billing company, any additional balance bill to the enrollee for the same health care services.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

R20-6-2403. Informal Settlement Teleconference

- A. Deadline to arrange the Informal Settlement Teleconference. Upon a determination that an enrollee has made a Request for Arbitration that qualifies for Arbitration, the Department shall arrange an Informal Settlement Teleconference between the parties within 30 days of notifying the enrollee that the enrollee's Request for Arbitration qualifies for Arbitration required by Section R20-6-2402(C)(1).
- B. Notice of Informal Settlement Teleconference. At least 14 days prior to the scheduled date, the Department shall send a Notice of Informal Settlement Teleconference to the enrollee, the enrollee's authorized representative, the health insurer, the health care provider and the health care provider's representative informing them of the date, time and instructions on how to participate in the Informal Settlement Teleconference.
- C. Health Insurer documentation. On or before the Informal Settlement Teleconference, the health insurer shall provide to the parties the enrollee's cost sharing requirements under the enrollee's health plan based on the qualifying surprise out-of-network bill.
- D. Consequences of non-participation in the Informal Settlement Teleconference. If a party fails to participate in the Informal Settlement Teleconference, it shall be subject to the following consequences:
 1. If the health insurer, provider or provider's representative fails to participate in an Informal Settlement Teleconference scheduled by the Department, the participating party may notify the Department which shall promptly schedule the Arbitration. The non-participating party shall pay the entire cost of the Arbitration.
 2. If the enrollee or the enrollee's authorized representative fails to participate in the original Informal Settlement

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

Teleconference, the original Informal Settlement Teleconference is terminated.

3. If the enrollee or the enrollee's authorized representative fails to participate in a rescheduled Informal Settlement Teleconference, the enrollee's Request for Arbitration is terminated.
- E. One-time opportunity for the enrollee to reschedule the Informal Settlement Teleconference. If the enrollee or the enrollee's representative fails to participate in the Informal Settlement Teleconference originally scheduled by the Department, the enrollee may request that the Department reschedule the Informal Settlement Conference. The enrollee's request to reschedule must be received by the Department within 14 days after the originally scheduled Informal Settlement Teleconference. Failure to submit a request to the Department to reschedule the Informal Settlement Teleconference within the 14 day period terminates the enrollee's Request for Arbitration.
- F. Notification to the Department after the Informal Settlement Teleconference. Within seven days after the date of the Informal Settlement Teleconference, the health insurer shall:
 1. Notify the Department whether a settlement was reached between the parties; and
 2. If a settlement was reached, notify the Department of the terms of the settlement on a form prescribed by the Department.
- G. Failure to settle. If the parties fail to settle the qualifying surprise out-of-network bill at the Informal Settlement Teleconference, the Department shall arrange for the Arbitration.
- H. Settlement. If the parties settle the qualifying surprise out-of-network bill at the Informal Settlement Teleconference, the health insurer shall remit its portion of the payment to the health care provider within 30 days after the Informal Settlement Teleconference. A claim that is reprocessed by a health insurer as a result of informal settlement is not in violation of A.R.S. § 20-3102(L).

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

R20-6-2404. Arbitrators

- A. Contracted entities. The Department shall contract with one or more persons to provide Arbitrators. The Department must have a list of at least four Arbitrators to assign to Arbitrations. The Department shall publish the list of contracted entities and a list of each entity's qualified Arbitrators on its website.
- B. Arbitrator Qualifications. Any person contracting with the Department must be able to provide Arbitrators who possess at least three years of experience in health care services claims.
- C. Alternative Arbitrators. A health insurer and provider may mutually agree to use an Alternative Arbitrator if either the health insurer or the health care provider objects to an Arbitrator appointed by the Department.
- D. Appointment of an Arbitrator.
 1. The Department shall appoint an Arbitrator for each Arbitration.
 2. If the health insurer and health care provider do not agree to the Arbitrator appointed by the Department, they shall either:
 - a. Mutually agree to use an Alternative Arbitrator; or
 - b. Participate in the following procedure:
 - i. The Department shall assign three Arbitrators.
 - ii. The health insurer shall strike one Arbitrator.
 - iii. The health care provider shall strike one Arbitrator.

- iv. If one Arbitrator remains, the Department shall appoint the remaining Arbitrator to the Arbitration.
- v. If the health insurer and health care provider strike the same Arbitrator, the Department shall randomly assign the Arbitrator from the remaining two Arbitrators.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

R20-6-2405. Before the Arbitration

- A. Enrollee's duties. Before the Arbitration, the enrollee shall:
 1. Pay or make arrangements in writing to pay to the health care provider the amount stated by the health insurer in the Informal Settlement Teleconference which shall be the total amount of the enrollee's cost sharing requirements due for the health care services that are the subject of the qualifying surprise out-of-network bill.
 2. Pay to the health care provider any amount that the enrollee has received from the health insurer as payment for the health care services that are the subject of the qualifying surprise out-of-network bill.
- B. Health insurer's duties. Before the Arbitration, the health insurer shall remit any amount due to the health care provider if the health care insurer pays for out-of-network services directly to health care providers and the health insurer has not remitted any amounts due.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

R20-6-2406. The Arbitration

- A. Conduct of Arbitration. An Arbitration of a qualifying out-of-network surprise bill shall be conducted:
 1. Telephonically unless the parties agree otherwise;
 2. With or without the enrollee's participation;
 3. Within 120 days after the Department's Notice of Arbitration unless agreed otherwise by the parties; and
 4. For a maximum duration of four hours unless agreed otherwise by the parties.
- B. Arbitrator's Determination. The Arbitrator or Alternative Arbitrator shall determine the amount the health care provider is entitled to receive as payment for the health care services that are the subject of the qualifying surprise out-of-network bill.
- C. Allowable Evidence. The Arbitrator or Alternative Arbitrator shall allow each party to provide relevant information for evaluating the qualifying surprise out-of-network bill including:
 1. The average contracted amount that the health insurer pays for the health care services at issue in the county where the health care provider performed the health care services;
 2. The average amount that the health care provider has contracted to accept for the health care services at issue in the county where the health care provider performed the services;
 3. The amount Medicare and Medicaid pay for the health care services at issue;
 4. The health care provider's direct pay rate for the health care services at issue, if any, under A.R.S. § 32-3216;
 5. Any information that would be evaluated in determining whether a fee is reasonable under title 32 and not excessive for the health care services at issue, including the usual and customary charges for the health care services at issue performed by a health care provider in the same

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS - INSURANCE DIVISION

or similar specialty and provided in the same geographic area; and

6. Any other reliable sources of information, including databases, that provide the amount paid for the health care services at issue in the county where the health care provider performed the services.
- D.** Final Written Decision. Within 10 business days following the Arbitration, the Arbitrator or Alternative Arbitrator shall issue a Final Written Decision and provide a copy to the enrollee, the health insurer, the health care provider, the health care provider's billing company (if applicable) and the health care provider's authorized representative (if applicable).
- E.** Payment of the claim. The health insurer shall remit its portion of the payment awarded by the Arbitrator or Alternative Arbitrator to the health care provider within 30 days of the date of the Final Written Decision. A claim that is reprocessed by a health insurer as a result of the Arbitration is not in violation of A.R.S. § 20-3102(L).
- F.** Payment of the Costs of Arbitration. The health insurer and health care provider shall make payment arrangements with the Arbitrator or Alternative Arbitrator to pay their respective shares of the costs of the Arbitration within 30 days after the date of the Final Written Decision. The respective shares of the costs of Arbitration are determined as follows:
1. The enrollee is not responsible for any portion of the cost of the Arbitration.
 2. The health insurer and the health care provider shall share the costs of the Arbitration equally unless one of the following exceptions applies:
 - a. The health insurer and health care provider agree to share the costs of the Arbitration in non-equal portions.
 - b. The health insurer pays the entire cost of the Arbitration for failing to participate in the Informal Settlement Teleconference after receiving proper notice from the Department.
 - c. The health care provider or the health care provider's representative pays the entire cost of the
- Arbitration for failing to participate in the Informal Settlement Teleconference after receiving proper notice from the Department.
- G.** Confidentiality. In connection with the Arbitration of a qualifying surprise out-of-network bill, all of the following apply:
1. All pricing information provided by a health insurer or health care provider is confidential.
 2. Pricing information provided by a health insurer or health care provider may not be disclosed by the Arbitrator, Alternative Arbitrator or any other party participating in the Arbitration.
 3. Pricing information provided by a health insurer or health care provider may not be used by anyone, except the party providing the information, for any purpose other than to resolve the qualifying surprise out-of-network bill.
 4. All information received by the Department in connection with the Arbitration is confidential and may not be disclosed to any person except the Arbitrator or Alternative Arbitrator.
- H.** Arbitrator's Report. At the conclusion of each Arbitration, the Arbitrator shall produce a report to the Department that contains the following information:
1. Date of Arbitration;
 2. Date the Arbitrator issued the Final Written Decision;
 3. Whether the parties settled the qualifying surprise out-of-network bill during the Arbitration;
 4. The initial amount billed by the health care provider;
 5. The payment amount awarded to the health care provider; and
 6. Any other information the Department may request an Arbitrator to report prior to an Arbitration.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 155, effective January 2, 2019 (Supp. 19-1).

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE

CHAPTER 6. DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS – INSURANCE DIVISION

Authorizing Statute: A.R.S. § 20-143

Implementing Statute: A.R.S. § 20-161

20-143. Rule-making power

A. The director may make reasonable rules necessary for effectuating any provision of this title.

B. The director shall make rules concerning proxies, consents or authorizations in respect of securities issued by domestic stock insurance companies having a class of equity securities held of record by one hundred or more persons to conform with the requirements of section 12(g)(2)(G)(ii) of the securities exchange act of 1934, as amended, and as may be amended. Such rule shall not apply to any such company having a class of equity securities which are registered or are required to be registered pursuant to section 12 of the securities exchange act of 1934, as amended, or as may be amended. Whenever such equity securities of any such company are registered or are required to be registered pursuant to section 12 of the securities exchange act of 1934, as amended, or as may be amended, then, no person shall solicit or permit the use of his name to solicit, in any manner whatsoever, any proxy, consent or authorization in respect of any equity security of such company without having first complied with the rules prescribed by the securities and exchange commission pursuant to section 14 of the securities exchange act of 1934, as amended, or as may be amended.

C. All rules made pursuant to this section shall be subject to title 41, chapter 6.

D. In addition to any other penalty provided, wilful violation of any rule made by the director is a violation of this title.

20-161. Hearings

A. The director may hold hearings for any purpose deemed by him to be necessary and within the scope of this title and shall hold a hearing if required by any provision of this title. Hearings shall be conducted pursuant to title 41, chapter 6, article 10.

B. In a hearing conducted pursuant to this section, an insurer may be represented by a corporate officer.

C-7

ARIZONA STATE LOTTERY COMMISSION

Title 19, Chapter 3

Amend: R19-3-401, R19-3-402, R19-3-403, R19-3-404, R19-3-405, R19-3-406, R19-3-407, R19-3-408, R19-3-409, R19-3-410, R19-3-411, R19-3-412, R19-3-701, R19-3-702, R19-3-703, R19-3-704, R19-3-705, R19-3-707, R19-3-708, R19-3-1001, R19-3-1003, R19-3-1004, R19-3-1007, R19-3-1008

Repeal: R19-3-706, R19-3-709



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - REGULAR RULEMAKING

MEETING DATE: November 1, 2022

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

FROM: Council Staff

DATE: October 18, 2022

SUBJECT: **Arizona State Lottery Commission**
Title 19, Chapter 3

Amend: R19-3-401, R19-3-402, R19-3-403, R19-3-404, R19-3-405,
R19-3-406, R19-3-407, R19-3-408, R19-3-409, R19-3-410,
R19-3-411, R19-3-412

R19-3-701, R19-3-702, R19-3-703, R19-3-704, R19-3-705,
R19-3-707, R19-3-708

R19-3-1001, R19-3-1003, R19-3-1004, R19-3-1007, R19-3-1008

Repeal: R19-3-706, R19-3-709

Summary:

This regular rulemaking from the Arizona State Lottery Commission (Commission) seeks to amend twenty-four (24) rules and repeal two (2) rules in Title 19, Chapter 3, Articles 4, 7, and 10, related to Game Development Rules. In this rulemaking, the Commission seeks to amend its rules to incorporate new developments in technology, simplify rule language, and remove unnecessary or redundant requirements.

The Commission received an exception from the rulemaking moratorium to initiate this rulemaking on April 18, 2022 and final approval to submit it to the Council on September 13, 2022.

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

Yes, the Commission cites both general and specific statutory authority for these rules.

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

No, the Commission indicates 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?**

No, the Commission indicates they did not review or rely on any study in conducting this rulemaking.

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

The Commission's Game Development Rules describe the requirements and procedures for the development of various Lottery game products. The Commission indicates that these rules primarily impact the Lottery and the documentation of game development and approval, including rules of play, prize amounts, and verification of winners. The rule amendments reduce redundancy and provide flexibility for developing new game products. Additionally, the amended rules benefit the Lottery by clarifying processes, benefit players by providing new products, and benefit retailers and the state revenues by facilitating an increase in sales. The Commission indicates that the addition of new game play styles and promotion play styles will provide clarity to Lottery Commission staff and board members when developing and approving future games. The Commission anticipates that the rules will not have any negative impact on political subdivisions, private/public employment, or the general public.

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 Commission concludes that these rules represent the least intrusive and least costly method for achieving the purpose of the rules: maintenance of game integrity. The Lottery is statutorily required to maintain rules for game development and receive approval from the Commission prior to the sale of any games. The Commission states that the rules provide both standardization and flexibility to allow the Lottery to continually streamline processes and achieve maximum profits from each game offering.

6. What are the economic impacts on stakeholders?

These rules primarily impact the Lottery regarding game development, and secondarily impact retailers and players by clarifying game validation requirements. The Commission anticipates that the rules will positively impact all affected parties.

The Game Development Rules primarily affect the Commission. Costs to the Lottery include expenditures associated with game development and production, cash or merchandise prizes, point of sale items, any dedicated advertising, and any costs associated with agency and Commission approvals of a game.

Independent retailers licensed to sell Lottery games are also impacted by these rules. These rules clarify the requirements for validating winning game tickets and streamline the requirements for Lottery retailers. Because these rules streamline the development of new product offerings, independent retailers will be positively impacted by the additional revenue opportunities created by such new product offerings.

Because the purchase of Lottery products is voluntary, there are no required costs to consumers or the general public associated with this rulemaking. Consumers who purchase Lottery products will potentially benefit from new types of entertainment products. Additionally, consumers will likely benefit from clearer requirements for validating winning game tickets.

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

No, the Commission indicates that there are no substantial changes between the proposed and final rulemaking. The Commission provides that a change was made to expand the promotion requirements in Article 10 to apply to all “games” and not only tickets. Additionally, the Commission indicates that non-substantial changes were made to ensure consistency in section titles, correct typographical errors, and improve rule language consistency. Council staff does not find these changes to be substantial changes, considered as a whole, from the proposed rules.

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

The Commission indicates that it did not receive any public comments.

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

No, the rules do not require the issuance of a general permit or 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?

No, the Commission indicates that there are no corresponding federal laws.

11. Conclusion

The Commission seeks to amend twenty-four (24) rules and repeal two rules in Title 19, Chapter 3, Articles 4, 7, and 10 to incorporate new developments in technology, simplify rule language, and remove unnecessary or redundant requirements. The Commission is seeking the standard 60-day delayed effective date for this rulemaking. Council staff recommends approval of this rulemaking.



Douglas A. Ducey
Governor

Gregory R. Edgar
Executive Director

September 19, 2022

Nicole Sornsin, Chair
Governor's Regulatory Review Council
100 North 15th Avenue, Suite 402
Phoenix, AZ 85007

**Re: A.A.C. Title 19. Alcohol, Horse and Dog Racing, Lottery, and Gaming
Chapter 3. Arizona State Lottery Commission
Articles 4, 7, and 10**

Dear Ms. Sornsin:

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

1. Close of record date: The proposed rule was adopted by the agency and the rulemaking record was closed on June 27, 2022, following a period for public comment and an oral proceeding.
2. Relation of rulemaking to a five-year review: Amendments to article 10 are related to the April 2021 five-year review (5YRR) where the agency committed to updates by June 2022. Additionally, amendments based upon comments from the 2017 5YRR for Articles 4 and 7 were included where applicable. .
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 not requested.
5. Certification regarding studies: I certify that the preamble accurately discloses all studies relating to the rule that were either reviewed and relied on or not relied on in the agency's evaluation of or justification for the rules.
6. JLBC notification regarding new full-time employees. Not applicable; at this time the agency is expecting to use existing staff.
7. Comments regarding proposed rule: A public meeting regarding the proposed rulemaking was conducted on June 27, 2022. At that time, interested persons were afforded the opportunity to comment on the rules. No oral or written comments from the public were received. The Lottery Commission authorized the

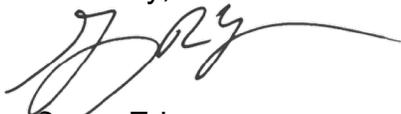
Director to adopt the rules on September 16, 2022.

8. List of documents enclosed:

- a. Documentation from the Office of the Governor, dated September 13, 2022, providing authorization to proceed with the rulemaking;
- b. Notice of Final Rulemaking including the preamble, table of contents, and rule text;
- c. Economic, Small Business, and Consumer Impact Statement; and
- d. Minutes from oral proceeding held on June 27, 2022.

Please contact Sherri Zendri at (480) 921-4401 if we may be of further assistance.

Sincerely,



Gregg Edgar,
Executive Director

Enclosures

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

PREAMBLE

1. <u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R19-3-401	Amend
R19-3-402	Amend
R19-3-403	Amend
R19-3-404	Amend
R19-3-405	Amend
R19-3-406	Amend
R19-3-407	Amend
R19-3-408	Amend
R19-3-409	Amend
R19-3-410	Amend
R19-3-411	Amend
R19-3-412	Amend
R19-3-701	Amend
R19-3-702	Amend
R19-3-703	Amend
R19-3-704	Amend
R19-3-705	Amend
R19-3-706	Repeal

R19-3-707	Amend
R19-3-708	Amend
R19-3-709	Repeal
R19-3-1001	Amend
R19-3-1003	Amend
R19-3-1004	Amend
R19-3-1007	Amend
R19-3-1008	Amend

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

Authorizing statute: A.R.S. § 5-554(B)

Implementing statute: A.R.S. §§ 5-554 (C) and (D).

3. The effective date of the rules:

Sixty days after filing with 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 final rulemaking package:

Notice of Rulemaking Docket Opening: 21 A.A.R. 1074, May 20, 2022

Notice of Proposed Rulemaking: 21 A.A.R. 1031, May 20, 2022

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

Name: Sherri Zendri, Director of Legal Services
Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034
Telephone: (480) 921-4401
Fax: (480) 921-4512
E-mail: SZendri@azlottery.gov

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

Articles 4, 7, and 10, collectively referred to as the “Game Development Rules” prescribe the requirements for the development of Arizona Lottery (Lottery) games, including approval by the Lottery Commission. These rules document how the Lottery will introduce new games and modify existing games in a timely and cost effective manner, thus providing the State and licensed retailers with a potential to increase sales revenue. Promotions are also included in these rules and expand knowledge and visibility of various Lottery game products. These rules also provide an effective method for management of tickets and validations to limit losses to the Lottery. The Lottery is making changes to these rules in to include new technology developments, simplify the language, and remove unnecessary redundant requirements. An exemption to Executive Order 2022-01 was provided by Tuesday Elias, of the Governor’s Office, in an email dated April 18, 2022.

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 rules, where

the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. 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

1. Identification of the proposed rulemaking.

The rules for Articles 4, 7, and 10, collectively referred to as the “Game Development Rules,” describe various types of Lottery games, including special promotions, and the requirements related to development, approval, and distribution of the games and promotions. The Lottery anticipates amendments to these articles will impact the agency the greatest. These rules allow the Lottery to introduce various product promotions, thus providing the State with a potential to increase revenue.

- *Article 4 – Design and Operation of Lottery Games Generally:* This article describes the requirements for Lottery games generally. The article includes the common provisions for the development, approval, validation, and redemption processes for all Lottery games.
- *Article 7 – Design and Operation of Instant Games:* This article describes the various requirements for the Lottery’s instant ticket games that are different from the games

generally. The article includes provisions for both instant “scratch” tickets and instant “tab” tickets.

- *Article 10 – Promotions:* This article clarifies Lottery promotion procedures, including the types of promotions and who may participate in the promotion.

The Governor’s Office approved an exception from the rulemaking moratorium on April 18, 2022.

- a. The conduct and its frequency of occurrence that the rule is designed to change: This rulemaking is primarily designed to streamline current language and provide guidance for additional Lottery product development. The Lottery employs 6 FTEs whose main function is product development and management.
- 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 the rule amendments the Lottery staff will continuously reinvent documentation of development and approvals for innovative Lottery products not contemplated under the current rules. Such continued process struggles will slow product innovation and creativity, risking Lottery losing players to other forms of entertainment and thus losing potential revenue-sharing funds for the State.
- c. The estimated change in frequency of the targeted conduct expected from the rule change: The Lottery expects a reduction in the length of time staff spend on dealing with documentation of development and approval of games since the language will be streamlined and simplified.

2. *Persons who will be directly affected by, bear the costs of, or directly benefit from the*

rulemaking.

These rules primarily impact the Lottery regarding game development, and secondarily impact retailers and players with clarity around game validation requirements. It is expected that all parties impacted will be positively impacted.

3. *Cost-benefit Analysis:*

a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking, including the number of new full-time employees necessary to implement and enforce the proposed rules: The Game Development Rules primarily affect the agency. Costs to the Lottery include expenditures associated with game development and production, cash or merchandise prizes, point of sale items, any dedicated advertising, and any costs associated with agency and Commission approvals of a game. These expenses are included in the agency's annual appropriations:

- *Article 4 – Design and Operation of Lottery Games Generally:* Cost for this article include the approval, validation, and redemption processes for all Lottery games generally. In FY 21 the Lottery paid out approximately \$998 million in prizes to Lottery players across all game and promotions types. Costs related to this article includes expenses to administer the on-line draw games network, including contract monitoring, game development, and providing customer service to retailers. As mentioned above, the costs are included in the agency's appropriated budget with the exception of development of a Keno game. As part of the rulemaking, the Lottery adds specific playstyles to accommodate future

game opportunities, including Keno. This will provide flexibility for the Lottery to introduce new game initiatives or modify existing games in a timelier manner, thereby providing the state and licensed retailers with the potential to increase revenue. While the Lottery does not expect any unanticipated costs as a result of the game development rules, the addition of Keno in the Lottery's portfolio will incur more costs than revenue.

- *Article 7 – Design and Operation of Instant Games:* This article describes the various requirements for the Lottery's instant ticket games that are different from the games generally. The article includes provisions for both instant "scratch" tickets and instant "tab" tickets. The Lottery currently contracts with a variety of vendors for printing of instant games. Again, the Lottery does not expect any unanticipated costs to instant ticket development as a result of the game development rules.
- *Article 10 – Promotions:* This article clarifies Lottery promotion procedures, including the types of promotions and who may participate in the promotion. The Lottery uses a variety of promotional game styles and has created a number of innovative promotional products to increase awareness of the Lottery and promote responsible play. These amended rules provide flexibility for the Lottery to introduce more innovative promotional initiatives.

Impact on Other Agencies: The rules have no identifiable impact on other agencies.

FTE Requirements: The Lottery anticipates the need for no new positions to implement and enforce the proposed rules.

b. Probable costs and benefits to a political subdivision of this state directly affected by

the implementation and enforcement of the proposed rulemaking. This rulemaking will not have any identifiable impact on political subdivisions of the state, other than providing funding for designated state programs.

c. 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. Businesses impacted by these rules are licensed Lottery retailers. These rules streamline the development of additional product offerings for retailers while continuing to maintain the highest standards for game integrity. Better game development processes will result in new games more frequently which is something both players and retailers desire. Additionally, businesses may realize nominal costs regarding the personnel resources/processes required to review and validate a winning ticket prior to payout. However these costs to retailers existed prior to these rule amendments, which should reduce the costs by adding clarity to the processes. The overall impact on businesses will be positive as a means to generate additional revenue.

4. Probable impact on private and public employment in businesses, agencies, and political subdivisions of the state directly affected by the proposed rulemaking.

These rules have no identifiable impact on private and public employment. However, as new product offerings generate more opportunities for social retailers such as bars and restaurants, an increase in customer occupancy in these locations may also chose to increase employee numbers.

5. *Probable impact of the rulemaking on small businesses.*

a. Identification of the small businesses subject to the rulemaking: Small businesses impacted by these rules are independent retailers licensed to sell Lottery games. These rules provide clarity regarding the requirements to validate a game ticket is a winning ticket. The rules streamline what is required for both the Lottery and a Lottery retailer. Furthermore, as these rules streamline development of additional product offerings that any specific store may choose to provide for their customers, the impact on these businesses will be positive as a means to generate additional revenue.

b. Administrative and other costs required for compliance with the rulemaking: Administrative costs incurred to comply with these rules will be borne almost exclusively by the Lottery in maintaining game integrity as part of game development. Costs to small businesses will be in the personnel resources/processes required to review and validate a winning ticket prior to payout. However, these costs to retailers existed prior to these rule amendments, which should reduce the costs by adding clarity to the processes.

c. A description of methods that may be used to reduce the impact on small businesses and reasons for the agency's decision to use or not use each method: Not applicable; these rules are expected to have a positive impact on small businesses.

d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking: Purchasing Lottery products is voluntary, therefore there are no required costs to consumers or the general public associated with this rulemaking. Consumers who purchase Lottery products will potentially benefit from a

new type of entertainment product. Additionally, these rules provide clarity for retailers and players regarding the requirements to validate a game ticket as a winning ticket.

6. *Probable effect on state revenues.*

A percentage of Lottery game revenue is returned to the state to fund various beneficiary programs as specified in A.R.S. § 5-572. In FY 21, the Lottery generated a total of \$1.43 billion in sales and provided \$280 million to Lottery beneficiaries, including the General Fund. An increase in sales due to additional product offerings will have a positive effect on the revenue coming into the Lottery and subsequently distributed to Lottery beneficiaries, including the General Fund.

7. *Less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.*

The Lottery believes these rules are the least intrusive and least costly methods for achieving the purpose of the rules, maintaining game integrity. Statute requires the Lottery to have rules for game development and receive approval from the Lottery Commission prior to sale for any games. These rules provide standardization, as well as flexibility where necessary, allowing the Lottery to continuously streamline processes and achieve the maximum profit from each game offering.

8. *Description of any data on which the rule is based.*

Revenue data is actual ticket sales data collected through Lottery inventory and billing

tracking systems.

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

Name: Sherri Zendri, Director of Legal Services

Address: Arizona State Lottery
4740 E. University Drive
Phoenix, AZ 85034

Telephone: (480) 921-4401

Fax: (480) 921-4512

E-mail: SZendri@azlottery.gov

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

There are no substantive changes between the proposed rules and the final rules. Minor changes were made to expand promotion requirements in Article 10 to all “games” and not just tickets. Additionally a few edits were made to ensure the section titles were consistent throughout rulemaking and to correct typographical errors and improve language consistency throughout the rules.

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

No oral or written comments were received regarding the rulemaking.

13. 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:

No other matters are applicable.

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 implementing statutes of the Lottery require a licensing process rather than a general permit.

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

There is no corresponding federal law that is applicable to the subject matter. The rules are based on state 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.

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

None

15. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING
CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

ARTICLE 4. DESIGN AND OPERATION OF ~~ON-LINE~~ LOTTERY GAMES

GENERALLY

Section

- R19-3-401. Definitions
- R19-3-402. Applicability; Game Profile
- R19-3-403. ~~Ticket~~Game Purchases, Characteristics, and Restrictions
- R19-3-404. Drawings
- R19-3-405. Determination of a Winning Game Play
- R19-3-406. Ticket Ownership and Responsibility; Prize Payment
- R19-3-407. Ticket Validation Requirements
- R19-3-408. Procedure for Claiming Prizes
- R19-3-409. Claim Period
- R19-3-410. Disputes Concerning a Ticket or Prize
- R19-3-411. Prize Fund
- R19-3-412. Multi-State Lottery Association Games

ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES

Section

- R19-3-701. Definitions
- R19-3-702. Instant Game Profile

- R19-3-703. Instant Game Playstyle
- R19-3-704. Determination of a Winning Instant Game Ticket
- R19-3-705. Ticket Validation and Confirmation Requirements
- R19-3-706. ~~Ticket Ownership and Responsibility; Prize Payment~~ Repealed
- R19-3-707. Instant Games Claim Period
- R19-3-708. Procedure for Claiming Prizes
- R19-3-709. ~~Disputes Concerning a Ticket~~ Repealed

ARTICLE 10. PROMOTIONS

Section

- R19-3-1001. Definitions
- R19-3-1003. Promotion Playstyle – Promotion Type
- R19-3-1004. Determination of a Winning Promotion
- R19-3-1007. Procedure for Claiming Promotion Prizes and Claim Period
- R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner

ARTICLE 4. DESIGN AND OPERATION OF ~~ON-LINE~~LOTTERY GAMES

GENERALLY

R19-3-401. Definitions

Definitions. In this Article, unless the context otherwise requires, these words and terms shall have the following meanings:

1. “Cash Value” means payment of the ~~Division 1~~ (jackpot) prize pool share amount paid in

one lump sum as provided in the prize structure in the ~~game~~Game profileProfile.

2. “Drawing” means the process used to randomly select the winning play symbols from the defined game matrix.
3. “Draw game” or “On-line Lottery Gamegame” means a game where tickets are purchased through a network of Arizona Lottery-issuedauthorized computer terminals located in retail outlets. The terminals are linked to a central ~~computer~~computerized systems that records the wagers.
4. “Fixed payout” means a set prize dollar amount for that specific prize in the prize structure.
5. ~~“Game board” or “board” means the area of the selection slip which contain a matrix that lists all the offered play symbols. More than one game board may appear on the selection slip.~~“Game” or “Lottery game” means any form of play, irrespective of whether a wager is involved, played according to official rules and determined by skill, strategy, or luck.
6. “Game option” means a game feature that is tied to a specific game which the player has a choice to play.
7. “Game play” or “play” means the selected play symbols which appear on a ticket as a single wager. More than one game play may appear on a ticket.
8. ~~“Game profile~~Profile” means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals ~~required by these rules for an on-line a Lottery~~ game.
9. “Game ticket” or “ticket” means a receipt ~~paper product~~ produced by the Lottery or a Lottery-issuedauthorized terminaldevice evidencing ~~the purchase of a participation in a Lottery~~ game or game option. The ticket contains a security code, ticket price, a retailer

~~number, a serial number and the game symbols purchased for one or more specific drawings.~~

10. "Matrix" means the ~~number of selections a player may choose from a predetermined pool~~ of play symbols for a game.
11. "Multiple winners" means a situation in which more than one claimant redeems an individual share in one wager.
12. "Pari-mutuel" means a system in which those holding winning tickets divide the total prize amount in proportion to their wagers.
13. "Play slip" means a form that may be used by players to select numbers, symbols and game options. A play slip entered into the lottery system will generate a ticket for a terminal-based lottery game. A single play slip may allow selection for multiple games.
- ~~14.~~ 14. "Play-style" means the description in the ~~game~~Game profileProfile of the ~~matrix, play symbols; and the manner of selecting the winning play symbols~~in which the game is played.
- ~~15.~~ 15. "Play symbols" means the numbers, letters, symbols, or pictures used in the matrix to determine if a player is entitled to a prize.
15. ~~"POWERBALL" means a multi-state game that is conducted pursuant to the rules of the Multi-State Lottery Association (MUSL) and approved by a game profile.~~
16. "Prize category" means the value of a specific prize.
17. "Prize structure" means the chart of the prize value, number of prizes or prize payout percentage, any fixed payments, any pari-mutuel payments, and the approximate overall odds of winning the prizes.
18. ~~"Prohibited games" mean on-line or electronic keno or internet games.~~

~~19.~~ “Quick pick” means the random selection by a terminal of one or more play symbols from the defined game matrix.

~~20.~~ “Selection slip” means a preprinted set of game boards provided by the Lottery upon which the player selects play symbols and game options. Each selection slip may have multiple game boards.

~~21~~19. “Share” means any single winning game play, which is equal to any other share in the same prize division.

~~22~~20. “Terminal” means a device authorized by the Lottery linked to a central ~~computer~~computerized system that records the wagers for the purpose of issuing Lottery tickets and entering, receiving, and processing Lottery transactions.

~~23~~21. “Winning numbers or winning play symbols” means the numbers or play symbols from the defined game matrix randomly selected at each drawing which determine winning game plays contained on a ticket.

R19-3-402. Applicability; Game Profile

A. This article applies to all Lottery games generally. Additional requirements for instant games may will be found in Article 7 of this Chapter.

B. Each game or game option shall have a Game Profile ~~and at a minimum, the Profile shall contain~~containing the following information:

1. Game name or game option name;
2. Game number;
- ~~23.~~ Playstyle or Matrix, and a description of how to play and win;
3. Retail sales price;
4. Purchase conditions and characteristics;

5. Play symbols and prize symbols, if any;
6. Prize structure, including the approximate odds, the prize ~~amounts~~value available, the prize ~~pool~~payout percentage, if alternate prize structures are to be used, any subsection (BC) provisions, and any special ~~Division 1 (jackpot)~~ multi-jurisdictional prize specifications;
7. Special features, if any; and
8. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.

BC. Each ~~on-line~~ game or game option may include specific variants that provide added or alternative methods of play or winning. Any variants shall be described in the Game Profile.

ED. The Commission shall approve the Game Profile prior to the game being sold to the public.

R19-3-403. ~~Ticket~~Game Purchases, Characteristics, and Restrictions

A. Participation in a game may be purchased with U.S. currency, check, credit card, debit card, the exchange of a winning Lottery ticket, or any other State of Arizona approved consideration.

AB. To play ~~an~~any ~~on-line~~ draw game, a player shall select the specified number of play symbols from the defined game matrix approved in the Game Profile for input into the terminal. Selection methods include:

1. Communicating the play symbols and game options to a retailer, or
2. Marking the ~~selection~~play slip and submitting the ~~selection~~play slip to a retailer, or
3. Requesting a “Quick Pick,” or
4. Marking a “Quick Pick” box on a ~~selection~~play slip.

BC. ~~Draw~~ Game plays must be entered into the Lottery terminal manually or by inserting a Lottery ~~selection~~play slip that is hand marked by the player. Facsimiles, simulations, copies of ~~selection~~play slips, or other materials not printed or approved by the Lottery are prohibited from use.

CD. To claim a prize, a player must submit the original ticket or Lottery-approved proof of purchase for validation. ~~Selection Play slips, store receipts, digital logs, or photographs~~ are not proof of purchase.

DE. The ticket holder is responsible for the accuracy of ticket data when specific game symbols are requested. The Lottery shall not be liable for ticket errors.

R19-3-404. Drawings

A. ~~The drawings~~Drawings, when applicable, shall be held at the times and places established in the Game Profile.

B. ~~The on-line game drawing shall randomly select the Mechanical, electronic, or computerized drawing methods may be used to make the random selection of~~ winning play symbols ~~from those~~ as defined in the Game Profile. ~~Mechanical, electrical, or computerized drawing methods may be used to make the random selection.~~

R19-3-405. Determination of a Winning Game Play

A. A player shall win the prize(s) indicated in the prize structure ~~by matching the winning play symbols selected at the drawing to the play symbols selected by the player.~~ in the Game Profile in the manner described in the approved Game Profile.

B. Players may win on each game play on a ticket.

C. There may be multiple ~~winning patterns~~ ways to win on a single ticket ~~game that match winning patterns~~ as described in the Game Profile.

D. The prize structure ordered in the Game Profile shall determine the pari-mutuel and/or fixed prize amount to be paid on a single winning game play.

R19-3-406. Ticket Ownership and Responsibility; Prize Payment

A. Until a ticket is signed, the ticket is owned by its physical possessor.

B. The ~~Director shall recognize as the~~ owner of a winning ~~on-line~~ game ticket is the person whose signature appears upon the ticket in the area designated for that purpose.

1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.

2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.

3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant's portion of the prize.

4. In the event there is an inconsistency in the information submitted on a claim form and as shown on the winning ~~on-line~~ ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.

C. Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-575.

1. If there is a match on any of the ~~claims~~ claim forms submitted with a ticket, the amount

that is owed shall be deducted from the prize due the claimant.

2. The claimant shall be notified in writing of the amount of the debt set-off and the agency to which it shall be paid.
3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support set-off shall be paid in full before any amount shall be paid to another agency.
4. The claimant shall be notified in writing that a right to appeal the set-off exists and must be commenced within 30 days of the receipt of this notification. The notification shall include the name and address of the agency with which to file the appeal.
5. If, after deducting withholding taxes and the set-off, a portion of the prize remains, then that portion shall be paid to the winner with the notification of set-off.
6. The amount of set-off shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.
7. Upon a determination that a set-off is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.

D. Prizes shall be paid by cash, check, pre-paid debit card, or if requested by the player, by Lottery tickets.

1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in Section R19-3-408.
2. Each winning game play wins the prize amount specified in the Game Profile.

E. The Lottery is not responsible for lost or stolen tickets.

R19-3-407. Ticket Validation Requirements

A. Each ~~on-line~~ game ticket shall be validated prior to the payment of a prize.

B. To be eligible for a prize, a ticket holder must present ~~a~~the original ticket or other Lottery-approved proof of ticket purchase meeting all of the following requirements;

1. Issued by the Lottery through a licensed retailer, ~~from a approved self-service terminal, in an~~ or other legally authorized manner;
2. Intact and not mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
3. Not blank, partially blank, misregistered, defectively printed, or produced in error;
4. Not a reprinted ticket stating “Not for Sale” or “VOID” on the ticket;
5. Not counterfeit or ~~stolen~~ forged in whole or in part;
6. Not stolen or appearing on any list of omitted or missing tickets on file with the Lottery;
7. The display printed on the ticket shall correspond precisely with the approved artwork on file at the Lottery;
68. Able to pass all other confidential validation tests determined by the Director; and
7. ~~Validated in accordance with the provisions of sections R19-3-406 and R19-3-408.~~
89. Where available, The ticket data is:
 - a. Recorded in the designated central computer system prior to the drawing;
 - b. In agreement with the computer record; and
 - c. In the Lottery’s official file of winning tickets;
910. Any winning game play on the ticket consists of a selected set of play symbols from the defined game matrix shown in the Game Profile.

11. Where required by the Game Profile, play and prize symbols shall have the captions that confirm and agree with those applicable to the game;

~~1012.~~ ~~Has not been~~ Not previously paid.

C. If the ticket fails to pass any of the requirements in Section R19-3-407(B), the ticket is void and ineligible for any prize payout.

R19-3-408. Procedure for Claiming Prizes

A. To claim a prize of up to and including \$599, the claimant shall present the ticket or other Lottery-approved proof of game purchase to any participating ~~on-line~~ licensed Lottery retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay a winner a prize up to and including \$100 and may pay a winner a prize up to and including \$599 provided that:

1. All ~~of the applicable~~ ticket validation criteria in ~~Section R19-3-407~~ this chapter has been satisfied; and
2. A proper validation slip, which is an authorization to pay, has been issued by the terminal.

B. To claim a prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer and online, and the ticket to the Lottery. If the claim is:

1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt set-off amounts and/or withheld taxes.
2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.

- C. If a prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D. The Lottery is discharged of all liability upon claim verification and payment of the prize money.
- E. By accepting a prize, the winner, his or her heirs, or legal representative agrees to indemnify and hold harmless, release, and discharge the Lottery, its employees, directors, and Commissioners from and against loss, claim, damage, suit, or injury arising out of or relating to the acceptance of the prize.
- F. Payment of prize money shall not be accelerated ahead of its normal date of payment.

R19-3-409. Claim Period

- A. In order for the claimant to receive payment, a winning ~~on-line~~ game ticket shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the game drawing date or the announced end of the game in question.
- B. If a claimant presents a valid winning ticket to a retailer for payment on the ~~180th calendar~~ last day following the game drawing date of the applicable claim period and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.
- C. The end of ~~any on-line~~ game shall be designated by the Director and on file at the Lottery.

R19-3-410. Disputes Concerning a Ticket or Prize

- A. If a dispute between the Lottery and a claimant occurs concerning a ticket or prize, the Lottery, at the sole discretion of the Director, is authorized to~~may~~ replace the disputed ticket or prize with a ticket or tickets of equivalent sales price for any subsequent drawing from the

same game, or any current game of equivalent value.

- B. If a defective ticket is purchased, the Lottery, at the sole discretion of the Director, ~~shall~~ may replace the defective ticket with a ticket or tickets of equivalent sales price from the same game, or any current game of equivalent value.
- C. ~~Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.~~
- D. If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into ~~a Grand Prize~~ any drawing, the Director is authorized to place any person's eligible entry ~~that was not entered in the Grand Prize drawing~~ into a subsequent ~~Grand Prize~~ drawing or drawings.

R19-3-411. Prize Fund

- A. Not less than 50 percent of the total annual revenue accruing from the sale of ~~on-line draw~~ draw game tickets shall be deposited in the state lottery prize fund for payment of prizes to the holders of winning tickets.
- B. If ~~an on-line~~ draw game is terminated for any reason, any remaining prize monies shall be held by the Lottery for a period of 180 days from the date of the last drawing and then used for additional prizes in any other Lottery game.

R19-3-412. Multi-State Lottery Association Games

- A. The Arizona Lottery is a participating member of the Multi-State Lottery Association (MUSL) referred to as a "party lottery" in the MUSL game rules.
- B. A ~~game~~ Game profile ~~Profile~~ approved by the Commission and conforming to the information required in R19-3-403 shall be on file at the Arizona State Lottery for all MUSL games played in Arizona.

ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES

R19-3-701. Definitions

In this Article, unless the context otherwise requires:

1. “Caption” means the printed characters appearing below a play symbol or prize symbol that verify and correspond with that symbol. No more than one caption will appear under a symbol.
2. “Game ~~profile~~Profile” means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an instant game.
- ~~3. “Game ticket” or “ticket” means a paper product produced or procured by the Lottery or by a Lottery-authorized device.~~
3. “Instant game” means a game ~~that is played by removing the protective covering from a ticket to reveal the play symbols, or prize symbols, or both that determine if a ticket holder is entitled to a prize or prizes~~in which the outcome is predetermined, and the player discovers if they are a winner through game play and/or by scanning the game’s barcode.
4. “Instant scratch game” means an instant game ~~where the~~in which a protective coating covering the game data ~~is made of latex or another substance that~~ is scratched off.
5. “Instant tab game” means an instant game ~~where~~in which the protective covering is a perforated paper tab that is opened.
6. “Pack” means a group of tickets bearing a common identification number.
7. “Pack-ticket number” means a unique multi-digit number that includes a game number, a pack number, and a ticket number which distinguishes each ticket from every other ticket

within an instant game.

~~8. “PIN” means the designated characters within the validation number that allows an on-line terminal to validate an instant ticket.~~

~~98. “Play area” means the portion or portions of the ticket which contains the play symbol or symbols. More than one play area may appear on a ticket.~~

~~109. “Play symbols” means the printed image or images that appear within the defined play area of the ticket that determine if the ticket holder is entitled to a prize or prizes.~~

~~110. “Prize structure” means the estimated number of prizes, prize values, and overall odds of winning prizes for an individual game.~~

~~121. “Prize symbol” means the printed image or images that indicates the prize or prizes available in that game.~~

~~13. “Retailer validation code” means the multiple letters in the play area, under the protective covering that verify prizes less than \$600.~~

~~1412. “Validation code” means the unique multi-positional code barcode on each ticket that is used to authenticate winning tickets.~~

R19-3-702. Instant Game Profile

A. Each instant game shall have a Game Profile ~~and at a minimum, the Profile shall contain the following information:~~ that includes the requirements of R19-3-402 and a detailed description of how to play and win the game.

~~1. Game name;~~

~~2. Game number;~~

~~3. Prize structure;~~

~~4. Game Playstyle;~~

- ~~5. Play symbols;~~
- ~~6. Retailer validation codes, if any;~~
- ~~7. Special features, if any;~~
- ~~8. Retail sales price;~~
- ~~9. How to play and win instructions; and~~
- ~~10. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.~~

B. The Commission shall approve the individual Game Profile prior to the game being sold to the public.

C. A new Game Profile is not required on a previously approved instant game where the only change is the game number.

R19-3-703. Instant Game Playstyle

A. The playstyle for an individual game shall be fully described in the Game Profile and shall be one of the following methods of play unless ~~a different method is prescribed by another rule~~ otherwise approved by the Commission:

1. Match Two,
2. Match Three,
3. Add-up,
4. Tic-Tac-Toe,
5. Key Symbol or Symbols Match,
6. Key Symbol or Symbols Beat,
7. Symbols in Sequence,
8. Spell Outs,

9. In Between,
10. Bingo,
11. Pattern,
12. Legend,
13. Coordinates,
14. Find,
15. Maze,
16. Grid,
17. Elimination,
18. Sets.

B. More than one game and more than one playstyle may appear on a ticket.

R19-3-704. Determination of a Winning Instant Game Ticket

A. The play symbols are the only determining factor for prize eligibility for a valid ticket.

B. ~~For each play area on an individual ticket, the player shall remove the protective covering to find the play symbols, or the play and prize symbols.~~ Eligibility to win a prize is based on compliance with the designated playstyle, ~~as follows~~ One or more of the following playstyles may be used on a game:

1. Match Two. The player shall win the prize or prizes indicated by uncovering two identical play symbols on a play area.
2. Match Three. The player shall win the prize or prizes indicated by uncovering three identical play symbols on a play area.
3. Add-Up. The player shall win the prize or prizes indicated in either of the following ways:

- a. The player adds up the play symbols and the amount is greater than or equal to the designated key symbol on the ticket, or
 - b. The player adds up the play symbols designated for the player and the total is greater than or equal to the control key symbol or symbols.
4. Tic-Tac-Toe. The player shall win the prize or prizes indicated by uncovering three identical play symbols, in any horizontal row, or any vertical column, or any diagonal, on a multi-symbol grid on the play area.
 5. Key Symbol or Symbols Match. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols identical to the designated key play symbol or symbols.
 6. Key Symbol or Symbols Beat. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated for the player in the ticket play area which is greater than the control play symbol or symbols.
 7. Symbols in Sequence. The player shall win the prize or prizes indicated by uncovering the designated play symbols in the specified sequential order.
 8. Spell Outs. The player shall win the prize or prizes indicated by uncovering the play symbols to form the designated word or words.
 9. In Between. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated for the player with a value less than the highest control play symbol or symbols and greater than the play lowest control play symbol or symbols.
 10. Bingo. The player shall win the prize or prizes indicated by uncovering the play symbols on the designated play area or areas that are identical to the play symbols uncovered on the control play area to form the specified pattern or patterns.

11. Pattern. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols on a multi-symbol play area that follow a designated pattern.
 12. Legend. The player shall win the prize or prizes indicated by uncovering the designated number or type of play symbols that correspond to a legend.
 13. Coordinates. The player shall win the prize or prizes indicated by uncovering a play symbol or symbols that direct the player to a location on the play area to reveal the specified play symbol, or the number or pattern of play symbols.
 14. Find. The player shall win the prize or prizes indicated by uncovering the designated play or prize symbol.
 15. Maze. The player shall win the prize or prizes indicated by uncovering the directional symbols to make a path or paths leading to a designated prize symbol.
 16. Grid. The player shall win the prize or prizes indicated by uncovering a specified number or pattern of play symbols on a grid on the play area.
 17. Elimination. The player shall win the prize indicated by uncovering the corresponding prize or symbol on a prize table to eliminate all but one remaining prize amount or symbol.
 18. Sets. The player shall win the prize or prizes indicated by uncovering the designated group or groups of play symbols, without repetition or deletion of any play symbol, within a specified location of the play area.
- C. Each of the playstyles described in subsection (B) may include one or more special features such as “automatic win,” “multiplier,” “wild,” “win all,” “extra chance,” or “free space” that provides an added or alternative method of winning.

R19-3-705. Ticket Validation and Confirmation Requirements

- A. Each instant game ticket shall be validated prior to payment of a prize.
- B. To be eligible for a prize, a ticket holder shall present a ticket meeting all of the ~~following~~ requirements: of R19-3-407.
- ~~1. The ticket shall not be stolen or appear on any list of omitted tickets on file with the Lottery;~~
 - ~~2. The ticket shall not be counterfeit or forged, in whole or in part;~~
 - ~~3. The ticket shall not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;~~
 - ~~4. The ticket shall not be blank, partially blank, misregistered, defective, or printed or produced in error;~~
 - ~~5. The play and prize symbols shall have the captions that confirm and agree with those applicable to that instant game;~~
 - ~~6. The ticket shall have been issued by the Lottery in an authorized manner;~~
 - ~~7. The ticket shall have been legally obtained;~~
 - ~~8. The ticket shall pass all other confidential validation tests determined by the Director;~~
 - ~~9. The ticket shall be validated in accordance with the provisions of R19-3-706 and R19-3-708;~~
 - ~~10. The display printed on the ticket shall correspond precisely with the approved artwork on file at the Lottery;~~
 - ~~11. All of the ticket symbols originally printed on the ticket shall appear in the play area on the ticket and shall correspond to those shown in the Game Profile; and~~
 - ~~12. The play and prize symbols shall have the required captions that confirm and agree with those of the appropriate instant game.~~

C. In addition to the requirements in ~~subsection (B)~~ R19-3-407, each instant scratch game ticket shall meet the following:

1. The ticket ~~shall contain~~contains a game number, a pack-ticket number, a retailer validation code, ~~and where applicable, a PIN number~~, and at least one ticket validation code; and
2. The validation code of a winning ticket ~~shall appear~~appears in the Lottery's official file of validation codes of winning tickets and ~~shall~~has not ~~have~~ been previously paid.

D. In addition to the requirements in ~~subsection (B)~~ R19-3-407, each instant tab game ticket shall ~~meet~~include the following:

1. The ticket shall contain a game number and a serial number, and
2. A winning tab ticket shall contain the necessary prize and win symbol captions to enable visual confirmation of a prize.

E. If the ticket fails to pass any of the applicable requirements in ~~subsections (B) and (C) for instant scratch games, or subsections (B) and (D) for instant tab games~~this Section, the ticket is void and ineligible for any prize payout.

R19-3-706. ~~Ticket Ownership and Responsibility; Prize Payment Repealed~~

~~A. Until a ticket is signed, the ticket is owned by its physical possessor.~~

~~B. The owner of a winning instant ticket is the person whose signature appears upon the ticket, if an area has been designated for that purpose.~~

1. ~~If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.~~

- ~~2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.~~
 - ~~3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant's portion of the prize.~~
 - ~~4. In the event there is an inconsistency in the information submitted on a claim form, when required, and as shown on the winning instant ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.~~
- ~~C. Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-575.~~
- ~~1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the prize due the claimant.~~
 - ~~2. The claimant shall be notified in writing of the amount of the setoff and the agency to which it shall be paid.~~
 - ~~3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support setoff shall be paid in full before any amount shall be paid to another agency.~~
 - ~~4. The claimant shall be notified in writing that a right to appeal the setoff exists. The notification shall include the name and address of the agency with which to file the appeal and that the appeal shall commence within 30 days of receipt of the notification.~~

- ~~5. If, after deducting withholding taxes and the setoff, a portion of the prize remains, then that portion shall be paid to the winner with the notification of setoff.~~
- ~~6. The setoff amount shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.~~
- ~~7. Upon a determination that a setoff is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.~~

~~D. Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets.~~

- ~~1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in R19-3-708.~~
- ~~2. Each winning game play wins the prize amount specified in the Game Profile.~~

~~E. The Lottery is not responsible for lost or stolen tickets.~~

R19-3-707. Instant Games Claim Period

~~A. For the claimant to receive payment, Unless otherwise approved by the Commission in the Game Profile, a winning instant ~~scratch~~ game ticket, except an instant tab ticket, shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the announced end of the instant game as designated by R19-3-409.~~

- ~~1. If a claimant presents a valid winning instant scratch ticket to a retailer for payment on the 180th calendar day following the announced end of the instant scratch game and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.~~

~~2. In the case of a drawing prize associated with an instant scratch game, the claimant shall claim the prize no later than 5:00 p.m. (Phoenix time) on the final day designated by the Director and on file at the Lottery.~~

~~B. The end of an instant game shall be designated by the Director and on file at the Lottery. Unless otherwise approved by the Commission in the Game Profile, a winning instant tab game ticket must be presented to the selling retailer on the same day as purchased.~~

R19-3-708. Procedure for Claiming Instant Ticket Prizes

~~A. To claim an instant scratch ticket prize of up to and including \$599, the claimant shall present the ticket to any participating licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay all winning prizes up to and including \$100 and may pay all winning prizes from \$101 up to and including \$599 provided that: To claim an instant game ticket prize, except an instant tab ticket prize, the claimant shall meet the requirements of R19-3-408.~~

~~1. All of the ticket validation criteria in Section R19-3-705 have been satisfied; and~~

~~2. A proper validation slip, which is an authorization to pay, has been generated by the terminal.~~

~~B. To claim an instant scratch ticket prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:~~

~~1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt setoff amounts, or withheld taxes, or both.~~

~~2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.~~

~~C. If an instant scratch ticket prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.~~

~~D. To claim an instant tab ticket prize, the claimant shall present the ticket to the selling retailer on the same day as purchased. The selling retailer shall pay all winning prizes provided that:~~

~~1. All of the ticket validation criteria in R19-3-705(A) and (B)(1) through (8) have been satisfied; and~~

~~2. once ~~The~~the retailer has performed a visual confirmation of the winning play, prize, and win symbol captions.~~

~~E. Payment of prize money shall not be accelerated ahead of its normal date of payment.~~

~~F. The Lottery is discharged of all liability upon payment of the instant scratch ticket prize money.~~

~~G. The retailer has sole responsibility to pay prizes on instant tab tickets. The Lottery is discharged of all liability to pay prizes on instant tab tickets.~~

R19-3-709. ~~Disputes Concerning a Ticket~~ Repealed

~~A. If a dispute between the Lottery and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket or tickets of equivalent sales price from any current instant game.~~

~~B. If a defective ticket is purchased, the Lottery shall replace the defective ticket with a ticket or tickets of equivalent sales price from any current instant game.~~

~~C. Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.~~

~~D. If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a grand prize, second chance or promotional drawing, the Director is authorized to place any person's eligible entry that was not entered in that drawing into any subsequent drawing or drawings.~~

ARTICLE 10. PROMOTIONS

R19-3-1001. Definitions

In this Article, unless the context otherwise requires:

1. "Category" means player, consumer, retailer, vendor, or other person who participates in the promotion.
2. "Charitable organization" means a non-profit organization organized and operated exclusively for charitable purposes and is qualified under § 502(c)(3) of the United States Internal Revenue Code.
3. "Media" means the method of communication including any social media, such as ~~in~~ television, radio, print, outdoor, digital, or Internet, with wide reach and influence.
4. "Prize type" means cash, gift cards, free ticket or tickets, coupon or coupons, merchandise, retailer or vendor product or service, or discount on retailer or vendor product or service.
5. "Promotion" means a program designed to increase awareness of the Lottery, Lottery beneficiaries, and Lottery games that is intended to increase the sale of Lottery ~~tickets~~ games to produce the maximum amount of net revenue for the state.
6. "Promotion playstyle" means the type of process or procedure used to control the promotion.

7. "Promotion Profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential promotion fundamentals required by ~~these rules~~ statute for a promotion.
8. "Promotional merchandise" means Lottery related goods, consumer products, or services provided by the Lottery for use in a promotion.
9. "Promotional ~~ticket~~game" means a Lottery ~~ticket~~ game ~~from a current, active game or a specially designed game provided by the Lottery~~ for use in a promotion.
10. "Targeted game or targeted games" means the specific game or games a promotion is intended to increase sales or awareness of.
- ~~11. "Tickets" means one or more Lottery game plays from the targeted game or games.~~

R19-3-1003. Promotion Playstyle - Promotion Type

A. The playstyle for a specific promotion shall be fully described in the Promotion Profile and shall be one of the following methods of play unless ~~a different method is prescribed by another rule~~ otherwise approved by the Commission:

1. Second Chance Drawing – Player.
2. Second Chance Drawing – Retailer.
3. Retailer’s Second Chance Drawing – Retailer/Player.
4. Increased Prize Payment.
5. Buy X and Get Y ~~Free~~ – Player.
6. Sell X and Get Y ~~Free~~ – Retailer.
7. Validate X and Get Y ~~Free~~ – Retailer.
8. Buy X and Get Y ~~Free~~, Every Nth Transaction – Player.
9. Sell X and Get Y ~~Free~~, Every Nth Transaction – Retailer.

10. Complete Survey.
11. Special Events – Player.
12. Retailer Incentive.
13. Cross Promotion.
14. Media Promotion.
15. Customer Service.
16. Mystery Shopper – Retailer.
17. Ask For the Sale – Retailer.
18. Charitable Organization.
19. Public Contest – not related to specific Lottery game.
20. Multi-State Lottery (MUSL) Promotions.
21. Sweepstakes Drawing.
22. Applicant Incentive

- B.** More than one promotion may run concurrently.
- C.** Promotion may be held only on specific days of the week.
- D.** Promotion may be held only during specific hours of the day.
- E.** Promotion may be available for selected regions, zones, retailer groups or player groups.

Groups may be made by business codes, regions, county, zip code, chain designator, field representative or sales quota.

R19-3-1004. Determination of a Winning Promotion

Eligibility to win a prize is based on compliance with the designated promotion playstyle as follows:

1. Second Chance Drawing – Player. The player shall submit, as entry into a second chance

drawing, the required coupon, tickets or entry form as defined in the Promotion Profile. The player or players selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.

2. Second Chance Drawing – Retailer. The retailer shall submit, as entry into a second chance drawing, the required coupon, tickets or entry form as defined in the Promotion Profile, or the Lottery may use information collected on its database as defined in the Promotion Profile to qualify the retailer. The retailer or retailers selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
3. Retailer’s Second Chance Drawing – Retailer/Player. Retailers participating in the promotion shall ask players to deposit the required coupon, tickets or entry form into a Drawing Container at the retailer’s location. The retailer shall perform random drawings according to the Promotion Profile. The players selected in the drawings shall win the prize type designated in the Promotion Profile. The Lottery shall provide the participating retailer with a predetermined number of prizes for the promotion.
4. Increased Prize Payout. Players who win a particular prize denomination in the target game or games shall win an additional amount specified in the Promotion Profile. The Promotion Profile shall define any required level of participation to be eligible.
5. Buy X and Get Y ~~Free~~ – Player. Each time a player buys a predetermined number of tickets from the targeted game or games, the player shall receive entry into a drawing or the prize type designated in the Promotion Profile. The Buy X requirement and the Get Y ~~Free~~ shall be specified in the Promotion Profile.
6. Sell X and Get Y ~~Free~~ – Retailer. Each time a retailer sells a predetermined number of tickets from the targeted game or games, the retailer shall receive entry into a drawing or

the prize type designated in the Promotion Profile. The Sell X requirement and the Get Y ~~Free~~ shall be specified in the Promotion Profile.

7. Validate X and Get Y ~~Free~~ – Retailer. Each time a retailer validates a predetermined number or prize amount from the targeted game or games, the retailer shall receive entry into a drawing or the prize type designated in the Promotion Profile. The Validate X requirement and the Get Y ~~Free~~ shall be specified in the Promotion Profile.
8. Buy X and Get Y ~~Free~~, Every Nth Transaction – Player. Each time a player buys a predetermined number or type of ticket or tickets from the target game or games and that purchase is the Nth transaction produced by the on-line system, the player shall receive the entry into a drawing or prize type designated in the Promotion Profile. The Buy X requirement, the Get Y ~~Free~~, and the Nth transaction shall be specified in the Promotion Profile.
9. Sell X and Get Y ~~Free~~, Every Nth Transaction – Retailer. Each time a retailer sells a predetermined number of tickets from the target game or games and that sale is the Nth transaction produced by the on-line system, the retailer shall receive the entry into a drawing or prize type designated in the Promotion Profile. The Sell X requirement, the Get Y ~~Free~~, and the Nth transaction shall be specified in the Promotion Profile.
10. Complete Survey. The player or retailer who completes a designated survey shall receive the prize type designated in the Promotions Profile.
11. Special Events – Players. Players who attend a Lottery sponsored special event may participate in activities designed to promote Lottery products. Player participation may include spinning the Lottery prize wheel, various carnival type games of little or no skill, or purchase of tickets for targeted game or games. The prize type shall be designated and

awarded according to the Promotion Profile.

12. Retailer Incentive. The retailer shall become eligible to earn the designated prize type through participation as defined in the Promotion Profile.
13. Cross Promotion. Players who present a predetermined number of non-winning tickets of the targeted game or games to a participating retailer or vendor shall win the prize type designated in the Promotion Profile.
14. Media Promotion. Players who participate in media-related promotions shall be eligible to receive the prize type designated in the Promotion Profile. The Lottery shall provide the participating media outlet with coupons or tickets from the targeted game or games or promotional merchandise items.
15. Customer Service. If a player is inconvenienced or dissatisfied as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with the prize type designated in the Promotions Profile.
16. Mystery Shopper – Retailer. The Lottery shall send mystery shoppers or spotters to visit randomly selected retailers in the promotional area. Each retailer who meets the requirements specified in the Promotion Profile shall win the designated prize type.
17. Ask For The Sale – Retailer. Each retailer participating in the promotion shall ask all customers who are determined to be of legal gaming age if they want to purchase a Lottery ticket for the targeted game or games. If the retailer does not ask an eligible customer, the customer shall receive ~~a free coupon or ticket from the~~ prize type designated ~~game~~ in the Promotion Profile. ~~The Lottery shall provide the participating retailer with a predetermined number of coupons or tickets from the targeted game or games according to the Promotion Profile.~~

18. Charitable Organization. The Lottery shall provide a qualifying charitable organization with a predetermined number of tickets, coupons, or promotional merchandise from a targeted game or games to distribute during their charitable event.
19. Public Contest – not related to specific Lottery game. The Lottery may conduct a contest not related to any specific Lottery game as defined in the Promotion Profile.
20. Multi-State Lottery (MUSL) Promotions. The Lottery may participate in a Multi-State Lottery game-related promotion adopted by the MUSL board.
21. Sweepstakes Drawing. The player shall enter into a Sweepstakes drawing as defined in the Promotion Profile. The player or players selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
22. Applicant Incentive. A prospective retailer shall become eligible to earn the designated prize type through timely submission of a Retailer application as defined in the Promotion Profile.

R19-3-1007. Procedure for Claiming Promotion Prizes and Claim Period

- ~~A. To claim a promotion prize, a claimant must follow the procedure procedures provided in the Promotion Profile.~~
- ~~B. Promotion details are subject to the terms of the Promotion Profile which may modify or specify the ownership, authentication, validation procedures, or the time period for claiming a prize.~~

R19-3-1008. Disputes Concerning a Promotion Ticket Game, or a Promotion Winner

- ~~A. If a dispute between the Lottery and a claimant occurs concerning a promotion ticket or the winning of a promotion prize, the Director is authorized to replace the disputed ticket or promotion prize with a ticket or promotion prize of equivalent value from any current~~

~~promotion. The decision of the Director is a final, appealable agency action.~~

~~B. Upon claim verification and payment of a prize, the Lottery shall be discharged of all liability to the claimant.~~

~~C. By accepting a prize, the winner, his or her heirs, or legal representative agrees to indemnify and hold harmless, release, and discharge the Lottery, its employees, directors, and Commissioners from and against loss, claim, damage, suit, or injury arising out of or relating to the acceptance of the prize.~~

All disputes concerning a Promotion ~~Ticket~~ Game or a Promotion ~~Winner~~ Prize are subject to the requirements of R19-3-410.

ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT
TITLE 19: ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING
CHAPTER 3: ARIZONA STATE LOTTERY COMMISSION
ARTICLE 4: DESIGN & OPEATION OF LOTTERY GAMES GENERALLY
ARTICLE 7: DESIGN & OPEATION OF INSTANT GAMES
ARTICLE 10: PROMOTIONS

1. Identification of the proposed rulemaking.

The rules for Articles 4, 7, and 10, collectively referred to as the “Game Development Rules,” describe various types of Lottery games, including special promotions, and the requirements related to development, approval, and distribution of the games and promotions. The Lottery anticipates amendments to these articles will impact the agency the greatest. These rules allow the Lottery to introduce various product promotions, thus providing the State with a potential to increase revenue.

- *Article 4 – Design and Operation of Lottery Games Generally:* This article describes the requirements for Lottery games generally. The article includes the common provisions for the development, approval, validation, and redemption processes for all Lottery games.
- *Article 7 – Design and Operation of Instant Games:* This article describes the various requirements for the Lottery’s instant ticket games that are different from the games generally. The article includes provisions for both instant “scratch” tickets and instant “tab” tickets.
- *Article 10 – Promotions:* This article clarifies Lottery promotion procedures, including the types of promotions and who may participate in the promotion.

The Governor’s Office approved an exception from the rulemaking moratorium on April 19, 2022.

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

This rulemaking is primarily designed to streamline current language and provide guidance for additional Lottery product development. The Lottery employs 6 FTEs whose main function is product development and management.

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 the rule amendments the Lottery staff will continuously reinvent documentation of development and approvals for innovative Lottery products not contemplated under the current rules. Such continued process struggles will slow product innovation and creativity, risking Lottery losing players to other forms of entertainment and thus losing potential revenue-sharing funds for the State.

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

The Lottery expects a reduction in the length of time staff spend on dealing with documentation of development and approval of games since the language will be streamlined and simplified.

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

The Lottery's Game Development Rules describe the requirements and procedures for development of a variety of Lottery game products. These rules primarily impact the Lottery and the documentation of game development and approval, including rules of play, prize amounts, and verification of winners. The rule amendments reduce duplicated text, and provide flexibility for developing new games products. The amended rules benefit the

Lottery by clarifying processes; players by providing new products; and retailers and the state revenues by increasing sales. The addition of new game play styles and promotion play styles will provide clarity to staff and the Lottery Commission board members when developing and approving games. The rules will not have any negative impact on political subdivisions, private/public employment, or the general public.

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: Sherri Zendri, Director of Legal Services

Address: 4740 E. University Dr.
Phoenix, AZ 85034

Telephone: (480) 921-4401

Fax: (480) 921-4512

E-mail: SZendri@azlottery.gov

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

These rules primarily impact the Lottery regarding game development, and secondarily impact retailers and players with clarity around game validation requirements. It is expected that all parties impacted will be positively impacted.

5. Cost-benefit Analysis:

- a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed***

rulemaking, including the number of new full-time employees necessary to implement and enforce the proposed rules.

The Game Development Rules primarily affect the agency. Costs to the Lottery include expenditures associated with game development and production, cash or merchandise prizes, point of sale items, any dedicated advertising, and any costs associated with agency and Commission approvals of a game. These expenses are included in the agency's annual appropriations:

Article 4 – Design and Operation of Lottery Games Generally: Cost for this article include the approval, validation, and redemption processes for all Lottery games generally. In FY 21 the Lottery paid out approximately \$998 million in prizes to Lottery players across all game and promotions types. Costs related to this article includes expenses to administer the on-line draw games network, including contract monitoring, game development, and providing customer service to retailers. As mentioned above, the costs are included in the agency's appropriated budget with the exception of development of a Keno game. As part of the rulemaking, the Lottery adds specific playstyles to accommodate future game opportunities, including Keno. This will provide flexibility for the Lottery to introduce new game initiatives or modify existing games in a timelier manner, thereby providing the state and licensed retailers with the potential to increase revenue. While the Lottery does not expect any unanticipated costs to date as a result of the game development rules, the addition of Keno in the Lottery's portfolio will incur more costs than revenue.

Article 7 – Design and Operation of Instant Games: This article describes the various requirements for the Lottery's instant ticket games that are different from the games generally. The article includes provisions for both instant "scratch" tickets and instant "tab" tickets. The Lottery currently contracts with a variety of vendors for printing of instant games. Again, the

Lottery does not expect any unanticipated costs to instant ticket development as a result of the game development rules.

Article 10 – Promotions: This article clarifies Lottery promotion procedures, including the types of promotions and who may participate in the promotion. The Lottery uses a variety of promotional game styles and has created a number of innovative promotional products to increase awareness of the Lottery and promote responsible play. These amended rules provide flexibility for the Lottery to introduce more innovative promotional initiatives.

Impact on Other Agencies: The rules have no identifiable impact on other agencies.

FTE Requirements: The Lottery anticipates the need for no new positions to implement and enforce the proposed rules.

b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.

This rulemaking will not have any identifiable impact on political subdivisions of the state, other than providing funding for designated state programs.

c. 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.

Businesses impacted by these rules are licensed Lottery retailers. These rules streamline the development of additional product offerings for retailers while continuing to maintain the highest standards for game integrity. Better game development processes will result in new games more frequently which is something both players and retailers desire. Additionally, businesses may realize nominal costs regarding the personnel resources/processes required to review and validate a winning ticket prior to payout. However these costs to retailers existed

prior to these rule amendments, which should reduce the costs by adding clarity to the processes. The overall impact on businesses will be positive as a means to generate additional revenue.

6. *Probable impact on private and public employment in businesses, agencies, and political subdivisions of the state directly affected by the proposed rulemaking.*

These rules have no identifiable impact on private and public employment. However, as new product offerings generate more opportunities for social retailers such as bars and restaurants, an increase in customer occupancy in these locations may also chose to increase employee numbers.

7. *Probable impact of the rulemaking on small businesses.*

a. *Identification of the small businesses subject to the rulemaking.*

Small businesses impacted by these rules are independent retailers licensed to sell Lottery games. These rules provide clarity regarding the requirements to validate a game ticket is a winning ticket. The rules streamline what is required for both the Lottery and a Lottery retailer. Furthermore, as these rules streamline development of additional product offerings that any specific store may choose to provide for their customers, the impact on these businesses will be positive as a means to generate additional revenue.

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

Administrative costs incurred to comply with these rules will be borne almost exclusively by the Lottery in maintaining game integrity as part of game development. Costs to small businesses will be in the personnel resources/processes required to review and validate a winning ticket prior to payout. However, these costs to retailers existed prior

to these rule amendments, which should reduce the costs by adding clarity to the processes.

c. A description of methods that may be used to reduce the impact on small businesses and reasons for the agency's decision to use or not use each method.

Not applicable; these rules are expected to have a positive impact on small businesses.

8. *Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.*

Purchasing Lottery products is voluntary, therefore there are no required costs to consumers or the general public associated with this rulemaking. Consumers who purchase Lottery products will potentially benefit from a new type of entertainment product. Additionally, these rules provide clarity for retailers and players regarding the requirements to validate a game ticket as a winning ticket.

9. *Probable effect on state revenues.*

A percentage of Lottery game revenue is returned to the state to fund various beneficiary programs as specified in A.R.S. § 5-572. In FY 21, the Lottery generated a total of \$1.43 billion in sales and provided \$280 million to Lottery beneficiaries, including the General Fund. An increase in sales due to additional product offerings will have a positive effect on the revenue coming into the Lottery and subsequently distributed to Lottery beneficiaries, including the General Fund.

10. *Less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.*

The Lottery believes these rules are the least intrusive and least costly methods for achieving the purpose of the rules, maintaining game integrity. Statute requires the Lottery to have rules for game development and receive approval from the Lottery Commission prior to sale for any games. These rules provide standardization, as well as flexibility where necessary, allowing the Lottery to continuously streamline processes and achieve the maximum profit from each game offering.

11. Description of any data on which the rule is based.

Revenue data is actual ticket sales data collected through Lottery inventory and billing tracking systems.

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Historical Note

Adopted effective July 17, 1995 (Supp. 95-3). Section, including Exhibit D, repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

Exhibit D. Repealed**Historical Note**

Exhibit D repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

R19-3-397. Repealed**Historical Note**

Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

R19-3-398. Repealed**Historical Note**

Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

R19-3-399. Repealed**Historical Note**

Adopted effective September 13, 1995 (Supp. 95-3). Section repealed by final rulemaking at 11 A.A.R. 3075, effective September 16, 2005 (05-3).

ARTICLE 4. DESIGN AND OPERATION OF ON-LINE GAMES**R19-3-401. Definitions**

Definitions. In this Article, unless the context otherwise requires, these words and terms shall have the following meanings:

1. "Cash Value" means payment of the Division 1 (jackpot) prize pool share amount paid in one lump sum as provided in the prize structure in the game profile.
2. "Drawing" means the process used to randomly select the winning play symbols from the defined game matrix.
3. "On-line Lottery Game" means a game where tickets are purchased through a network of Arizona Lottery-issued computer terminals located in retail outlets. The terminals are linked to a central computer that records the wagers.
4. "Fixed payout" means a set prize dollar amount for that specific prize in the prize structure.
5. "Game board" or "board" means the area of the selection slip which contain a matrix that lists all the offered play symbols. More than one game board may appear on the selection slip.
6. "Game option" means a game feature that is tied to a specific game which the player has a choice to play.
7. "Game play" or "play" means the selected play symbols which appear on a ticket as a single wager. More than one game play may appear on a ticket.
8. "Game profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an on-line game.
9. "Game ticket" or "ticket" means a receipt produced by a Lottery-issued terminal evidencing the purchase of a participation in a game or game option. The ticket contains a security code, ticket price, a retailer number, a serial number and the game symbols purchased for one or more specific drawings.
10. "Matrix" means the number of selections a player may choose from a predetermined pool of play symbols.

11. "Multiple winners" means a situation in which more than one claimant redeems an individual share in one wager.
12. "Pari-mutuel" means a system in which those holding winning tickets divide the total prize amount in proportion to their wagers.
13. "Play style" means the description in the game profile of the matrix, play symbols, and the manner of selecting the winning play symbols.
14. "Play symbols" means the numbers, letters, symbols, or pictures used in the matrix to determine if a player is entitled to a prize.
15. "POWERBALL" means a multi-state game that is conducted pursuant to the rules of the Multi-State Lottery Association (MUSL) and approved by a game profile.
16. "Prize category" means the value of a specific prize.
17. "Prize structure" means the chart of the prize value, number of prizes or prize payout percentage, any fixed payments, any pari-mutuel payments, and the odds of winning the prizes.
18. "Prohibited games" mean on-line or electronic keno or internet games.
19. "Quick pick" means the random selection by a terminal of one or more play symbols from the defined game matrix.
20. "Selection slip" means a preprinted set of game boards provided by the Lottery upon which the player selects play symbols and game options. Each selection slip may have multiple game boards.
21. "Share" means any single winning game play, which is equal to any other share in the same prize division.
22. "Terminal" means a device authorized by the Lottery linked to a central computer for the purpose of issuing Lottery tickets and entering, receiving, and processing Lottery transactions.
23. "Winning numbers or winning play symbols" means the numbers or play symbols from the defined game matrix randomly selected at each drawing which determine winning game plays contained on a ticket.

Historical Note

Adopted as an emergency effective June 10, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R4-37-401 adopted as an emergency effective June 10, 1983, now adopted without change as a permanent rule effective September 14, 1983 (Supp. 83-5). Amended subsections (A), (D), (E), (J), (K) effective September 7, 1984 (Supp. 84-4). Amended subsection (K) effective March 14, 1985 (Supp. 85-2). Amended effective September 26, 1986 (Supp. 86-5). Amended effective June 29, 1989 (Supp. 89-2). Amended as an emergency effective September 25, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency expired. Emergency amendments permanently adopted effective March 3, 1992 (Supp. 92-1). Amended effective March 9, 1992 (Supp. 92-1). Amended effective April 4, 1994 (Supp. 94-2). R19-3-401 recodified from R4-37-401 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-402. Game Profile

- A.** Each game or game option shall have a Game Profile and at a minimum, the Profile shall contain the following information:
1. Game name or game option name;
 2. Matrix/description of how to play and win;
 3. Retail sales price;
 4. Purchase conditions and characteristics;

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5. Play symbols and prize symbols, if any;
 6. Prize structure, including the approximate odds, the prize amounts available, the prize pool percentage, if alternate prize structures are to be used, any subsection (B) provisions, and any special Division 1 (jackpot) prize specifications;
 7. Special features, if any; and
 8. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B.** Each on-line game or option may include specific variants that provide added or alternative methods of winning. Any variants shall be described in the Game Profile.
- C.** The Commission shall approve the Game Profile prior to the game being sold to the public.

Historical Note

Adopted effective June 27, 1997 (Supp. 97-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 1. Repealed**Historical Note**

Exhibit 1 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 2. Repealed**Historical Note**

Exhibit 2 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 3. Repealed**Historical Note**

Exhibit 3 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 4. Repealed**Historical Note**

Exhibit 4 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 5. Repealed**Historical Note**

Exhibit 5 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 6. Repealed**Historical Note**

Exhibit 6 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 7. Repealed**Historical Note**

Exhibit 7 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 8. Repealed**Historical Note**

Exhibit 8 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 9. Repealed**Historical Note**

Exhibit 9 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 10. Repealed**Historical Note**

Exhibit 10 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 11. Repealed**Historical Note**

Exhibit 11 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 12. Repealed**Historical Note**

Exhibit 12 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 13. Repealed**Historical Note**

Exhibit 13 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 14. Repealed**Historical Note**

Exhibit 14 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

Exhibit 15. Repealed**Historical Note**

Exhibit 15 adopted effective June 27, 1997 (Supp. 97-2). Repealed by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-403. Ticket Purchases, Characteristics, and Restrictions

- A.** To play an on-line game, a player shall select the specified number of play symbols from the defined game matrix approved in the Game Profile for input into the terminal. Selection methods include:
1. Communicating the play symbols and game options to a retailer, or
 2. Marking the selection slip and submitting the selection slip to a retailer, or
 3. Requesting a "Quick Pick," or
 4. Marking a "Quick Pick" box on a selection slip.
- B.** Game plays must be entered into the Lottery terminal manually or by inserting a Lottery selection slip that is hand marked by the player. Facsimiles, simulations, copies of selection slips, or other materials not printed or approved by the Lottery are prohibited from use.
- C.** To claim a prize, a player must submit the original ticket for validation. Selection slips are not proof of purchase.

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- D. The ticket holder is responsible for the accuracy of ticket data. The Lottery shall not be liable for ticket errors.

Historical Note

Adopted effective April 30, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-404. Drawings

- A. The drawings shall be held at the times and places established in the Game Profile.
- B. The on-line game drawing shall randomly select the winning play symbols from those defined in the Game Profile. Mechanical, electrical, or computerized drawing methods may be used to make the random selection.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-405. Determination of a Winning Game Play

- A. A player shall win the prize(s) indicated in the prize structure by matching the winning play symbols selected at the drawing to the play symbols selected by the player.
- B. Players may win on each game play on a ticket.
- C. There may be multiple winning patterns on a single ticket that match winning patterns described in the Game Profile.
- D. The prize structure ordered in the Game Profile shall determine the pari-mutuel and/or fixed prize amount to be paid on a single winning game play.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-406. Ticket Ownership and Responsibility; Prize Payment

- A. Until a ticket is signed, the ticket is owned by its physical possessor.
- B. The Director shall recognize as the owner of a winning on-line ticket the person whose signature appears upon the ticket in the area designated for that purpose.
 1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.
 2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.
 3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant's portion of the prize.
 4. In the event there is an inconsistency in the information submitted on a claim form and as shown on the winning on-line ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- C. Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-575.

1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the prize due the claimant.
2. The claimant shall be notified in writing of the amount of the set-off and the agency to which it shall be paid.
3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support set-off shall be paid in full before any amount shall be paid to another agency.
4. The claimant shall be notified in writing that a right to appeal the set-off exists and must be commenced within 30 days of the receipt of this notification. The notification shall include the name and address of the agency with which to file the appeal.
5. If, after deducting withholding taxes and the set-off, a portion of the prize remains then that portion shall be paid to the winner with the notification of set-off.
6. The amount of set-off shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.
7. Upon a determination that a set-off is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.

- D. Prizes shall be paid by cash, check, or if requested by the player, by Lottery tickets.
 1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in Section R19-3-408.
 2. Each winning game play wins the prize amount specified in the Game Profile.
- E. The Lottery is not responsible for lost or stolen tickets.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (C) was updated. Agency request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

R19-3-407. Ticket Validation Requirements

- A. Each on-line game ticket shall be validated prior to the payment of a prize.
- B. To be eligible for a prize, a ticket holder must present a ticket meeting all of the following requirements;
 1. Issued by the Lottery through a retailer, from a terminal, in an authorized manner;
 2. Intact and not mutilated or tampered with in any manner;
 3. Not defectively printed;
 4. Not a reprinted ticket stating "Not for Sale" on the ticket;
 5. Not counterfeit or stolen;
 6. Able to pass all other confidential validation tests determined by the Director; and
 7. Validated in accordance with the provisions of sections R19-3-406 and R19-3-408.
 8. The ticket data is:
 - a. Recorded in the designated central computer system prior to the drawing;
 - b. In agreement with the computer record;
 - c. In the Lottery's official file of winning tickets;
 9. Any winning game play on the ticket consists of a selected set of play symbols from the defined game matrix.

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10. Has not been previously paid.
- C. If the ticket fails to pass any of the requirements in Section R19-3-407(B), the ticket is void and ineligible for any prize payout.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-408. Procedure for Claiming Prizes

- A. To claim a prize of up to and including \$599, the claimant shall present the ticket to any participating on-line licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay a winner a prize up to and including \$100 and may pay a winner a prize up to and including \$599 provided that:
1. All of the ticket validation criteria in Section R19-3-407 has been satisfied; and
 2. A proper validation slip, which is an authorization to pay, has been issued by the terminal.
- B. To claim a prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:
1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt set-off amounts and/or withheld taxes.
 2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.
- C. If a prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D. The Lottery is discharged of all liability upon payment of the prize money.
- E. Payment of prize money shall not be accelerated ahead of its normal date of payment.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-409. Claim Period

- A. In order for the claimant to receive payment, a winning on-line game ticket shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the game drawing date.
- B. If a claimant presents a valid winning ticket to a retailer for payment on the 180th calendar day following the game drawing date and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.
- C. The end of an on-line game shall be designated by the Director and on file at the Lottery.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-410. Disputes Concerning a Ticket

- A. If a dispute between the Lottery and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket of equivalent sales price for any subsequent drawing from the same game.

- B. If a defective ticket is purchased, the Lottery shall replace the defective ticket with a ticket or tickets of equivalent sales price from the same game.
- C. Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.
- D. If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a Grand Prize drawing, the Director is authorized to place any person's eligible entry that was not entered in the Grand Prize drawing into a subsequent Grand Prize drawing or drawings.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-411. Prize Fund

- A. Not less than 50 percent of the total annual revenue accruing from the sale of on-line game tickets shall be deposited in the state lottery prize fund for payment of prizes to the holders of winning tickets.
- B. If an on-line game is terminated for any reason, any remaining prize monies shall be held by the Lottery for a period of 180 days from the date of the last drawing and then used for additional prizes in any other Lottery game.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

R19-3-412. Multi-State Lottery Association Games

- A. The Arizona Lottery is a participating member of the Multi-State Lottery Association (MUSL) referred to as a "party lottery" in the MUSL game rules.
- B. A game profile approved by the Commission and conforming to the information required in R19-3-403 shall be on file at the Arizona State Lottery for all MUSL games played in Arizona.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 393, effective February 15, 2005 (Supp. 04-4).

ARTICLE 5. PROCUREMENTS**R19-3-501. Definitions**

In this Article, unless the context otherwise requires:

1. "Affiliate" means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. The term applies to persons doing business under a variety of names, persons in a parent-subsidary relationship, or persons that are similarly affiliated.
2. "Aggregate dollar amount" means purchase price, including taxes and delivery charges, for the term of the contract and accounting for all allowable extensions and options.
3. "Best and Final Offer" means a revision to an offer submitted after negotiations are completed that contain the offeror's most favorable terms for price, service, and products to be delivered.
4. "Best interests of the Lottery" means advantageous to the Lottery.
5. "Bid" means an offer in response to solicitation.
6. "Business" means a corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.
7. "Change order" means a written order that is signed by the procurement officer and that directs the contractor to

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final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

R19-3-568. Controversies Involving Lottery Claims Against the Contractor

If the procurement officer is unable to resolve, by mutual agreement, a claim asserted by the Lottery against a contractor, the procurement officer shall seek resolution under A.R.S. § 41-1092.07. The procurement officer shall furnish a copy of the claim to the Director.

Historical Note

New Section R19-3-568 renumbered from R19-3-562 and amended by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2). Section renumbered to R19-3-569; new Section R19-3-568 renumbered from R19-3-567 by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

R19-3-569. Guidance

If a procedure is not provided by these rules, the procurement officer may issue a written determination using for guidance A.R.S. § 41-2501 through § 41-2591 or 2 A.A.C. 7, including, but not limited to a procurement utilizing a cooperative contract.

Historical Note

New Section R19-3-569 renumbered from R19-3-568 and amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

ARTICLE 6. ANNUITY ASSIGNMENTS**R19-3-601. Voluntary Assignment of Prizes Paid in Installments**

- A.** A prize winner may request a voluntary assignment of an annuity or a portion of the remaining installments of the annuity by filing an action in a court of competent jurisdiction requesting judicial approval of the assignment. The prize winner and the purchaser of the annuity shall name the state of Arizona as a defendant in the action and shall bear all costs associated with filing the request for judicial approval of the assignment.
- B.** A prize winner shall include in the request for judicial approval under subsection (A) the following:
1. The affidavit required under A.R.S. § 5-563(A)(3);
 2. A copy of the signed assignment agreement between the prize winner and the assignee; and
 3. Proof that the fee under subsection (D) has been paid to the Lottery.
- C.** After the court approves the assignment, the prize winner shall send the written judicial approval to the Lottery. Upon receipt of judicial approval of the voluntary assignment, the Director shall direct the insurance company to make future annuity payments as provided in the Court order.
- D.** The prize winner or assignee shall pay a fee of \$235.00 to the Lottery to process the voluntary assignment.

Historical Note

Adopted as an emergency effective October 31, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-5). Adopted without change as a permanent rule effective February 25, 1987 (Supp. 87-1). Amended effective May 7, 1993 (Supp. 93-2). R19-3-601 recodified from R4-37-601 (Supp. 95-1). Repealed effective June 14, 1997 (Supp. 97-2). New Section made by final rulemaking at 11 A.A.R. 2028, effective July 2, 2005 (Supp. 05-2). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (B)(1) was updated. Agency

request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**R19-3-701. Definitions**

In this Article, unless the context otherwise requires:

1. "Caption" means the printed characters appearing below a play symbol or prize symbol that verify and correspond with that symbol. No more than one caption will appear under a symbol.
2. "Game profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an instant game.
3. "Instant game" means a game that is played by removing the protective covering from a ticket to reveal the play symbols, or prize symbols, or both that determine if a ticket holder is entitled to a prize or prizes.
4. "Instant scratch game" means an instant game where the protective covering is made of latex or another substance that is scratched off.
5. "Instant tab game" means an instant game where the protective covering is a perforated paper tab that is opened.
6. "Pack" means a group of tickets bearing a common identification number.
7. "Pack-ticket number" means a unique multi-digit number that includes a game number, a pack number, and a ticket number which distinguishes each ticket from every other ticket within an instant game.
8. "PIN" means the designated characters within the validation number that allows an on-line terminal to validate an instant ticket.
9. "Play area" means the portion or portions of the ticket which contains the play symbol or symbols. More than one play area may appear on a ticket.
10. "Play symbols" means the printed image or images that appear within the defined play area of the ticket that determine if the ticket holder is entitled to a prize or prizes.
11. "Prize structure" means the estimated number of prizes, prize values, and odds of winning prizes for an individual game.
12. "Prize symbol" means the printed image or images that indicates the prize or prizes available in that game.
13. "Retailer validation code" means the multiple letters in the play area, under the protective covering that verify prizes less than \$600.
14. "Validation code" means the unique multi-positional code on each ticket that is used to authenticate winning tickets.

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4). Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

R19-3-702. Game Profile

- A.** Each game shall have a Game Profile and at a minimum, the Profile shall contain the following information:
1. Game name;
 2. Game number;
 3. Prize structure;
 4. Game Playstyle;
 5. Play symbols;
 6. Retailer validation codes, if any;

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7. Special features, if any;
 8. Retail sales price;
 9. How to play and win instructions; and
 10. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B.** The Commission shall approve the individual Game Profile prior to the game being sold to the public.

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

R19-3-703. Game Playstyle

- A.** The playstyle for an individual game shall be fully described in the Game Profile and shall be one of the following methods of play unless a different method is prescribed by another rule:
1. Match Two,
 2. Match Three,
 3. Add-up,
 4. Tic-Tac-Toe,
 5. Key Symbol or Symbols Match,
 6. Key Symbol or Symbols Beat,
 7. Symbols in Sequence,
 8. Spell Outs,
 9. In Between,
 10. Bingo,
 11. Pattern,
 12. Legend,
 13. Coordinates,
 14. Find,
 15. Maze,
 16. Grid,
 17. Elimination,
 18. Sets.
- B.** More than one game and more than one playstyle may appear on a ticket.

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1).

R19-3-704. Determination of a Winning Ticket

- A.** The play symbols are the only determining factor for prize eligibility for a valid ticket.
- B.** For each play area on an individual ticket, the player shall remove the protective covering to find the play symbols, or the play and prize symbols. Eligibility to win a prize is based on compliance with the designated playstyle as follows:
1. Match Two. The player shall win the prize or prizes indicated by uncovering two identical play symbols on a play area.
 2. Match Three. The player shall win the prize or prizes indicated by uncovering three identical play symbols on a play area.
 3. Add-Up. The player shall win the prize or prizes indicated in either of the following ways:
 - a. The player adds up the play symbols and the amount is greater than or equal to the designated key symbol on the ticket, or
 - b. The player adds up the play symbols designated for the player and the total is greater than or equal to the control key symbol or symbols.
 4. Tic-Tac-Toe. The player shall win the prize or prizes indicated by uncovering three identical play symbols, in any

- row, or any column, or any diagonal, on a multi-symbol grid on the play area.
 5. Key Symbol or Symbols Match. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols identical to the designated key play symbol or symbols.
 6. Key Symbol or Symbols Beat. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated for the player in the ticket play area which is greater than the control play symbol or symbols.
 7. Symbols in Sequence. The player shall win the prize or prizes indicated by uncovering the designated play symbols in the specified sequential order.
 8. Spell Outs. The player shall win the prize or prizes indicated by uncovering the play symbols to form the designated word or words.
 9. In Between. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols designated for the player with a value less than the highest control play symbol or symbols and greater than the play lowest control play symbol or symbols.
 10. Bingo. The player shall win the prize or prizes indicated by uncovering the play symbols on the designated play area or areas that are identical to the play symbols uncovered on the control play area to form the specified pattern or patterns.
 11. Pattern. The player shall win the prize or prizes indicated by uncovering the play symbol or symbols on a multi-symbol play area that follow a designated pattern.
 12. Legend. The player shall win the prize or prizes indicated by uncovering the designated number or type of play symbols that correspond to a legend.
 13. Coordinates. The player shall win the prize or prizes indicated by uncovering a play symbol or symbols that direct the player to a location on the play area to reveal the specified play symbol, or the number or pattern of play symbols.
 14. Find. The player shall win the prize or prizes indicated by uncovering the designated play or prize symbol.
 15. Maze. The player shall win the prize or prizes indicated by uncovering the directional symbols to make a path or paths leading to a designated prize symbol.
 16. Grid. The player shall win the prize or prizes indicated by uncovering a specified number or pattern of play symbols on a grid on the play area.
 17. Elimination. The player shall win the prize indicated by uncovering the corresponding prize or symbol on a prize table to eliminate all but one remaining prize amount or symbol.
 18. Sets. The player shall win the prize or prizes indicated by uncovering the designated group or groups of play symbols, without repetition or deletion of any play symbol, within a specified location of the play area.
- C.** Each of the playstyles described in subsection (B) may include one or more special features such as "automatic win," "multiplier," "wild," "win all," "extra chance," or "free space" that provides an added or alternative method of winning.

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1).

R19-3-705. Ticket Validation and Confirmation Requirements

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- A. Each instant game ticket shall be validated prior to payment of a prize.
- B. To be eligible for a prize, a ticket holder shall present a ticket meeting all of the following requirements:
1. The ticket shall not be stolen or appear on any list of omitted tickets on file with the Lottery;
 2. The ticket shall not be counterfeit or forged, in whole or in part;
 3. The ticket shall not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner;
 4. The ticket shall not be blank, partially blank, misregistered, defective, or printed or produced in error;
 5. The play and prize symbols shall have the captions that confirm and agree with those applicable to that instant game;
 6. The ticket shall have been issued by the Lottery in an authorized manner;
 7. The ticket shall have been legally obtained;
 8. The ticket shall pass all other confidential validation tests determined by the Director;
 9. The ticket shall be validated in accordance with the provisions of R19-3-706 and R19-3-708;
 10. The display printed on the ticket shall correspond precisely with the approved artwork on file at the Lottery;
 11. All of the ticket symbols originally printed on the ticket shall appear in the play area on the ticket and shall correspond to those shown in the Game Profile; and
 12. The play and prize symbols shall have the required captions that confirm and agree with those of the appropriate instant game.
- C. In addition to the requirements in subsection (B), each instant scratch game ticket shall meet the following:
1. The ticket shall contain a game number, a pack-ticket number, a retailer validation code, and where applicable, a PIN number, and at least one ticket validation code; and
 2. The validation code of a winning ticket shall appear in the Lottery's official file of validation codes of winning tickets and shall not have been previously paid.
- D. In addition to the requirements in subsection (B), each instant tab game ticket shall meet the following:
1. The ticket shall contain a game number and a serial number, and
 2. A winning tab ticket shall contain the necessary prize and win symbol captions to enable visual confirmation of a prize.
- E. If the ticket fails to pass any of the requirements in subsections (B) and (C) for instant scratch games, or subsections (B) and (D) for instant tab games, the ticket is void and ineligible for any prize payout.
- form shall be submitted by each claimant who is designated to receive a portion of the prize claimed from the winning ticket.
2. Prior to payment of a prize, a claimant who has signed the ticket may designate another claimant to receive the prize by signing a relinquishment of claim statement.
 3. When the winning ticket was purchased by a group of players, the group shall designate one of the claimants to sign the ticket for the group. Each claimant shall complete an individual claim form to receive the claimant's portion of the prize.
 4. In the event there is an inconsistency in the information submitted on a claim form, when required, and as shown on the winning instant ticket, the Director shall authorize an investigation and withhold all winnings payable to the ticket owner or holder until such time as the Director is satisfied that the proper person is being paid.
- C. Prior to paying the claimant a prize of \$600 or more, the Lottery shall match the winner's name against the lists of persons owing a debt to a participating state agency, furnished to the Lottery under A.R.S. § 5-575.
1. If there is a match on any of the claims submitted with a ticket, the amount that is owed shall be deducted from the prize due the claimant.
 2. The claimant shall be notified in writing of the amount of the setoff and the agency to which it shall be paid.
 3. If the claimant has two or more agencies which are owed a debt, the Lottery shall pay a pro-rata share to each of the agencies, except that a Department of Economic Security overdue child support setoff shall be paid in full before any amount shall be paid to another agency.
 4. The claimant shall be notified in writing that a right to appeal the setoff exists. The notification shall include the name and address of the agency with which to file the appeal and that the appeal shall commence within 30 days of receipt of the notification.
 5. If, after deducting withholding taxes and the setoff, a portion of the prize remains, then that portion shall be paid to the winner with the notification of setoff.
 6. The setoff amount shall be forwarded to the agency, and that agency shall be responsible for any appeal and crediting of the payment against the amount owed or refunding any amount to the winner.
 7. Upon a determination that a setoff is due, the winner loses the right under subsection (B)(2) to assign any portion of the claim.
- D. Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets.
1. If a ticket contains more than one winning game play, any prize amounts shall be combined and paid in accordance with the prize payment limits specified in R19-3-708.
 2. Each winning game play wins the prize amount specified in the Game Profile.
- E. The Lottery is not responsible for lost or stolen tickets.

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

R19-3-706. Ticket Ownership and Responsibility; Prize Payment

- A. Until a ticket is signed, the ticket is owned by its physical possessor.
- B. The owner of a winning instant ticket is the person whose signature appears upon the ticket, if an area has been designated for that purpose.
1. If more than one signature appears on the ticket, the Director is authorized to require that one or more of those claimants be designated to receive the payment. A claim

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (C) was updated. Agency request

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filed September 24, 2012, Office File No. M12-343
(Supp. 12-3).

R19-3-707. Claim Period

- A. For the claimant to receive payment, a winning instant scratch game ticket shall be received by the Lottery or a retailer no later than 5:00 p.m. (Phoenix time) on the 180th calendar day following the announced end of the instant game.
1. If a claimant presents a valid winning instant scratch ticket to a retailer for payment on the 180th calendar day following the announced end of the instant scratch game and is not paid the prize, the Director is authorized to pay the prize if the claimant presents the valid winning ticket to the Lottery no later than 5:00 p.m. (Phoenix time) on the following business day.
 2. In the case of a drawing prize associated with an instant scratch game, the claimant shall claim the prize no later than 5:00 p.m. (Phoenix time) on the final day designated by the Director and on file at the Lottery.
- B. The end of an instant game shall be designated by the Director and on file at the Lottery.

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

R19-3-708. Procedure for Claiming Prizes

- A. To claim an instant scratch ticket prize of up to and including \$599, the claimant shall present the ticket to any participating licensed retailer or to a Lottery office, or mail the ticket to a Lottery office for validation. The licensed retailer shall pay all winning prizes up to and including \$100 and may pay all winning prizes from \$101 up to and including \$599 provided that:
1. All of the ticket validation criteria in Section R19-3-705 have been satisfied; and
 2. A proper validation slip, which is an authorization to pay, has been generated by the terminal.
- B. To claim an instant scratch ticket prize that the retailer does not validate or is not authorized to pay, including all prizes of \$600 or more, the claimant shall submit a claim form, available from any retailer, and the ticket to the Lottery. If the claim is:
1. Verified and validated by the Lottery as a winning ticket, the Lottery shall make payment of the amount due to the claimant, less any authorized debt setoff amounts, or withheld taxes, or both.
 2. Denied by the Lottery, the claimant shall be notified within 15 days from the day the claim is received in the Lottery office.
- C. If an instant scratch ticket prize winner dies prior to receiving full payment, the Lottery shall pay all remaining prize money to the prize winner's beneficiary or to any person designated by an appropriate judicial order.
- D. To claim an instant tab ticket prize, the claimant shall present the ticket to the selling retailer. The selling retailer shall pay all winning prizes provided that:
1. All of the ticket validation criteria in R19-3-705(A) and (B)(1) through (8) have been satisfied; and
 2. The retailer has performed a visual confirmation of the winning play, prize, and win symbol captions.
- E. Payment of prize money shall not be accelerated ahead of its normal date of payment.
- F. The Lottery is discharged of all liability upon payment of the instant scratch ticket prize money.

- G. The retailer has sole responsibility to pay prizes on instant tab tickets. The Lottery is discharged of all liability to pay prizes on instant tab tickets.

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

R19-3-709. Disputes Concerning a Ticket

- A. If a dispute between the Lottery and a claimant occurs concerning a ticket, the Director is authorized to replace the disputed ticket with a ticket or tickets of equivalent sales price from any current instant game.
- B. If a defective ticket is purchased, the Lottery shall replace the defective ticket with a ticket or tickets of equivalent sales price from any current instant game.
- C. Replacement of the disputed ticket is the sole and exclusive remedy for a claimant.
- D. If a dispute between the Lottery and a claimant occurs concerning the eligibility of an entry into a grand prize, second chance or promotional drawing, the Director is authorized to place any person's eligible entry that was not entered in that drawing into any subsequent drawing or drawings.

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4).
Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

ARTICLE 8. RESERVED**ARTICLE 9. RESERVED****ARTICLE 10. PROMOTIONS****R19-3-1001. Definitions**

In this Article, unless the context otherwise requires:

1. "Category" means player, consumer, retailer, vendor, or other person who participates in the promotion.
2. "Charitable organization" means a non-profit organization organized and operated exclusively for charitable purposes and is qualified under § 502(c)(3) of the United States Internal Revenue Code.
3. "Media" means the method of communication, as in television, radio, print, outdoor, or Internet, with wide reach and influence.
4. "Prize type" means cash, free ticket or tickets, coupon or coupons, merchandise, retailer or vendor product or service, or discount on retailer or vendor product or service.
5. "Promotion" means a program designed to increase awareness of the Lottery, Lottery beneficiaries, and Lottery games that is intended to increase the sale of Lottery tickets to produce the maximum amount of net revenue for the state.
6. "Promotion playstyle" means the type of process or procedure used to control the promotion.
7. "Promotion Profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential promotion fundamentals required by these rules for a promotion.
8. "Promotional merchandise" means Lottery related goods, consumer products, or services provided by the Lottery for use in a promotion.

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9. "Promotional ticket" means a Lottery ticket from a current, active game or a specially designed game provided by the Lottery for use in a promotion.
10. "Targeted game or targeted games" means the specific game or games a promotion is intended to increase sales or awareness of.
11. "Tickets" means one or more Lottery game plays from the targeted game or games.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

R19-3-1002. Promotion Profile

- A. Each promotion shall have a Promotion Profile and at a minimum, the Profile shall contain the following information:
 1. Promotion name;
 2. Promotion playstyle;
 3. Category;
 4. Targeted game, games or Lottery beneficiaries involved in the promotion;
 5. Promotion description;
 6. Promotion selection criteria, if applicable;
 7. Prize type and structure, including the estimated number and size of monetary prizes, free tickets, coupons, certificates, discounts, and merchandise prizes available, if applicable;
 8. Retail sales price, if applicable;
 9. Promotion date range (beginning and ending promotion dates);
 10. Time range, if applicable;
 11. Day or days of the week, if applicable;
 12. Special feature, if any; and
 13. Prize draw eligibility requirements, including filing period for eligibility in a winners drawing, if applicable.
- B. The Commission shall approve the Promotion Profile prior to the promotion being introduced to the public for participation.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

R19-3-1003. Promotion Playstyle - Promotion Type

- A. The playstyle for a specific promotion shall be fully described in the Promotion Profile and shall be one of the following methods of play unless a different method is prescribed by another rule:
 1. Second Chance Drawing – Player.
 2. Second Chance Drawing – Retailer.
 3. Retailer's Second Chance Drawing – Retailer/Player.
 4. Increased Prize Payment.
 5. Buy X and Get Y Free – Player.
 6. Sell X and Get Y Free – Retailer.
 7. Validate X and Get Y Free – Retailer.
 8. Buy X and Get Y Free, Every Nth Transaction – Player.
 9. Sell X and Get Y Free, Every Nth Transaction – Retailer.
 10. Complete Survey.
 11. Special Events – Player.
 12. Retailer Incentive.
 13. Cross Promotion.
 14. Media Promotion.
 15. Customer Service.
 16. Mystery Shopper – Retailer.
 17. Ask For the Sale – Retailer.

18. Charitable Organization.
19. Public Contest – not related to specific Lottery game.
20. Multi-State Lottery (MUSL) Promotions.
- B. More than one promotion may run concurrently.
- C. Promotion may be held only on specific days of the week.
- D. Promotion may be held only during specific hours of the day.
- E. Promotion may be available for selected regions, zones, retailer groups or player groups. Groups may be made by business codes, regions, county, zip code, chain designator, field representative or sales quota.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

R19-3-1004. Determination of a Winning Promotion

Eligibility to win a prize is based on compliance with the designated promotion playstyle as follows:

1. Second Chance Drawing – Player. The player shall submit, as entry into a second chance drawing, the required coupon, tickets or entry form as defined in the Promotion Profile. The player or players selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
2. Second Chance Drawing – Retailer. The retailer shall submit, as entry into a second chance drawing, the required coupon, tickets or entry form as defined in the Promotion Profile, or the Lottery may use information collected on its database as defined in the Promotion Profile to qualify the retailer. The retailer or retailers selected in the prize drawing procedure shall win the prize type designated in the Promotion Profile.
3. Retailer's Second Chance Drawing – Retailer/Player. Retailers participating in the promotion shall ask players to deposit the required coupon, tickets or entry form into a Drawing Container at the retailer's location. The retailer shall perform random drawings according to the Promotion Profile. The players selected in the drawings shall win the prize type designated in the Promotion Profile. The Lottery shall provide the participating retailer with a predetermined number of prizes for the promotion.
4. Increased Prize Payout. Players who win a particular prize denomination in the target game or games shall win an additional amount specified in the Promotion Profile. The Promotion Profile shall define any required level of participation to be eligible.
5. Buy X and Get Y Free – Player. Each time a player buys a predetermined number of tickets from the targeted game or games, the player shall receive the prize type designated in the Promotion Profile. The Buy X requirement and the Get Y Free shall be specified in the Promotion Profile.
6. Sell X and Get Y Free – Retailer. Each time a retailer sells a predetermined number of tickets from the targeted game or games, the retailer shall receive the prize type designated in the Promotion Profile. The Sell X requirement and the Get Y Free shall be specified in the Promotion Profile.
7. Validate X and Get Y Free – Retailer. Each time a retailer validates a predetermined number or prize amount from the targeted game or games, the retailer shall receive the prize type designated in the Promotion Profile. The Validate X requirement and the Get Y Free shall be specified in the Promotion Profile.

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8. Buy X and Get Y Free, Every Nth Transaction – Player. Each time a player buys a predetermined number or type of ticket or tickets from the target game or games and that purchase is the Nth transaction produced by the on-line system, the player shall receive the prize type designated in the Promotion Profile. The Buy X requirement, the Get Y Free, and the Nth transaction shall be specified in the Promotion Profile.
 9. Sell X and Get Y Free, Every Nth Transaction – Retailer. Each time a retailer sells a predetermined number of tickets from the target game or games and that sale is the Nth transaction produced by the on-line system, the retailer shall receive the prize type designated in the Promotion Profile. The Sell X requirement, the Get Y Free, and the Nth transaction shall be specified in the Promotion Profile.
 10. Complete Survey. The player or retailer who completes a designated survey shall receive the prize type designated in the Promotions Profile.
 11. Special Events – Players. Players who attend a Lottery sponsored special event may participate in activities designed to promote Lottery products. Player participation may include spinning the Lottery prize wheel, various carnival type games of little or no skill, or purchase of tickets for targeted game or games. The prize type shall be designated and awarded according to the Promotion Profile.
 12. Retailer Incentive. The retailer shall become eligible to earn the designated prize type through participation as defined in the Promotion Profile.
 13. Cross Promotion. Players who present a predetermined number of non-winning tickets of the targeted game or games to a participating retailer or vendor shall win the prize type designated in the Promotion Profile.
 14. Media Promotion. Players who participate in media-related promotions shall be eligible to receive the prize type designated in the Promotion Profile. The Lottery shall provide the participating media outlet with coupons or tickets from the targeted game or games or promotional merchandise items.
 15. Customer Service. If a player is inconvenienced or dissatisfied as a result of Lottery actions below the usual level of service the Lottery provides, the Lottery may provide the player with the prize type designated in the Promotions Profile.
 16. Mystery Shopper – Retailer. The Lottery shall send mystery shoppers or spotters to visit randomly selected retailers in the promotional area. Each retailer who meets the requirements specified in the Promotion Profile shall win the designated prize type.
 17. Ask For The Sale – Retailer. Each retailer participating in the promotion shall ask all customers who are determined to be of legal gaming age if they want to purchase a Lottery ticket for the targeted game or games. If the retailer does not ask an eligible customer, the customer shall receive a free coupon or ticket from the designated game. The Lottery shall provide the participating retailer with a predetermined number of coupons or tickets from the targeted game or games according to the Promotion Profile.
 18. Charitable Organization. The Lottery shall provide a qualifying charitable organization with a predetermined number of tickets, coupons, or promotional merchandise from a targeted game or games to distribute during their charitable event.
 19. Public Contest – not related to specific Lottery game. The Lottery may conduct a contest not related to any specific Lottery game as defined in the Promotion Profile.
 20. Multi-State Lottery (MUSL) Promotions. The Lottery may participate in a Multi-State Lottery game-related promotion adopted by the MUSL board.
- Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).
- R19-3-1005. Repealed**
- Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Section repealed by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).
- R19-3-1006. Repealed**
- Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Section repealed by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).
- R19-3-1007. Procedure for Claiming Prizes and Claim Period**
- A. To claim a promotion prize, a claimant must follow the procedure provided in the Promotion Profile.
 - B. Promotion details are subject to the terms of the Promotion Profile which may modify or specify the ownership, authentication, validation procedures, or the time period for claiming a prize.
- Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).
- R19-3-1008. Disputes Concerning a Promotion Ticket or a Promotion Winner**
- A. If a dispute between the Lottery and a claimant occurs concerning a promotion ticket or the winning of a promotion prize, the Director is authorized to replace the disputed ticket or promotion prize with a ticket or promotion prize of equivalent value from any current promotion. The decision of the Director is a final, appealable agency action.
 - B. Upon claim verification and payment of a prize, the Lottery shall be discharged of all liability to the claimant.
 - C. By accepting a prize, the winner, his or her heirs, or legal representative agrees to indemnify and hold harmless, release, and discharge the Lottery, its employees, directors, and Commissioners from and against loss, claim, damage, suit, or injury arising out of or relating to the acceptance of the prize.
- Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 1077, effective March 3, 2000 (Supp. 00-1). Amended by final rulemaking at 13 A.A.R. 2775, effective September 15, 2007 (Supp. 07-3).

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

5-554. Commission; director; powers and duties; definitions

A. The commission shall meet with the director not less than once each quarter to make recommendations and set policy, receive reports from the director and transact other business properly brought before the commission.

B. The commission shall oversee a state lottery to produce the maximum amount of net revenue consonant with the dignity of the state. To achieve these ends, the commission shall authorize the director to adopt rules in accordance with title 41, chapter 6. Rules adopted by the director may include the following:

1. Subject to the approval of the commission, the types of lottery games and the types of game play-styles to be conducted.

2. The method of selecting the winning tickets or shares for noncomputerized online games, except that a method may not be used that, in whole or in part, depends on the results of a dog race, a horse race, any gaming activity conducted pursuant to the 2021 tribal-state gaming compact amendments or any sports event or other event.

3. The manner of payment of prizes to the holders of winning tickets or shares, including providing for payment by the purchase of annuities in the case of prizes payable in installments, except that the commission staff shall examine claims and may not pay any prize based on altered, stolen or counterfeit tickets or based on any tickets that fail to meet established validation requirements, including rules stated on the ticket or in the published game rules, and confidential validation tests applied consistently by the commission staff. No particular prize in a lottery game may be paid more than once, and in the event of a binding determination that more than one person is entitled to a particular prize, the sole remedy of the claimants is the award to each of them of an equal portion of the single prize.

4. The method to be used in selling tickets or shares, except that no elected official's name may be printed on the tickets or shares. The overall estimated odds of winning some prize or some cash prize, as appropriate, in a given game shall be printed on each ticket or share.

5. The licensing of agents to sell tickets or shares, except that a person who is under eighteen years of age shall not be licensed as an agent.

6. The manner and amount of compensation to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public, including provision for variable compensation based on sales volume.

7. Matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

8. The licensing of authorized keno locations, including the persons that control the business or other activity conducted at an authorized keno location.

C. The commission shall authorize the director to issue orders and shall approve orders issued by the director for the necessary operation of the lottery. Orders issued under this subsection may include the following:

1. The prices of tickets or shares in lottery games.

2. The themes, game play-styles, and names of lottery games and definitions of symbols and other characters used in lottery games, except that each ticket or share in a lottery game shall bear a unique distinguishable serial number.

3. The sale of tickets or shares at a discount for promotional purposes.

4. The prize structure of lottery games, including the number and size of prizes available. Available prizes may include free tickets in lottery games and merchandise prizes.

5. The frequency of drawings, if any, or other selections of winning tickets or shares, except that:

(a) All drawings shall be open to the public.

(b) The actual selection of winning tickets or shares may not be performed by an employee or member of the commission.

(c) Noncomputerized online game drawings shall be witnessed by an independent observer.

6. Requirements for eligibility for participation in grand drawings or other runoff drawings, including requirements for the submission of evidence of eligibility within a shorter period than that provided for claims by section 5-568.

7. Incentive and bonus programs designed to increase sales of lottery tickets or shares and to produce the maximum amount of net revenue for this state.

8. The method used for the validation of a ticket, which may be by physical or electronic presentation of a ticket.

D. Notwithstanding title 41, chapter 6 and subsection B of this section, the director, subject to the approval of the commission, may establish a policy, procedure or practice that relates to an existing online game or a new online game that is the same type and has the same type of game play-style as an online game currently being conducted by the lottery or may modify an existing rule for an existing online game or a new online game that is the same type and has the same type of game play-style as an online game currently being conducted by the lottery, including establishing or modifying the matrix for an online game by giving notice of the establishment or modification at least thirty days before the effective date of the establishment or modification.

E. The commission shall maintain and make the following information available for public inspection at its offices during regular business hours:

1. A detailed listing of the estimated number of prizes of each particular denomination expected to be awarded in any instant game currently on sale.

2. After the end of the claim period prescribed by section 5-568, a listing of the total number of tickets or shares sold and the number of prizes of each particular denomination awarded in each lottery game.

3. Definitions of all play symbols and other characters used in each lottery game and instructions on how to play and how to win each lottery game.

F. Any information that is maintained by the commission and that would assist a person in locating or identifying a winning ticket or share or that would otherwise compromise the integrity of any lottery game is deemed confidential and is not subject to public inspection.

G. The commission, in addition to other games authorized by this article, may establish multijurisdictional lottery games to be conducted concurrently with other lottery games authorized under subsection B of this section. The monies for prizes, for operating expenses and for payment to the state general fund shall be accounted for separately as nearly as practicable in the lottery commission's general accounting system. The monies shall be derived from the revenues of multijurisdictional lottery games.

H. The commission, in addition to other games authorized by this article, shall establish special instant ticket games with play areas protected by paper tabs designated for use by charitable organizations. The monies for prizes and for operating expenses shall be accounted for separately as nearly as practicable in the lottery commission's general accounting system. Monies saved from the revenues of the special games, by reason of operating efficiencies, shall become other revenue of the lottery commission and revert to the state general fund,

except that the commission shall transfer the proceeds from any games that are sold from a vending machine in an age-restricted area to the state treasurer for deposit in the following amounts:

1. Nine hundred thousand dollars each fiscal year in the internet crimes against children enforcement fund established by section 41-199.
2. One hundred thousand dollars each fiscal year in the victims' rights enforcement fund established by section 41-1727.
3. Any monies in excess of the amounts listed in paragraphs 1 and 2 of this subsection, in the state lottery fund established by section 5-571.

I. The commission or director shall not establish or operate any online or electronic keno game or any game played on the internet, except for the electronic keno game and the mobile draw game authorized in subsection J of this section.

J. From and after the date on which the conditions prescribed in sections 5-1213 and 5-1321 are met, the commission or director, in addition to any other game authorized in this section, may establish and operate a single electronic keno game and a single mobile draw game on a centralized computer system controlled by the lottery that allows a player to place wagers, view the outcome of a game and receive winnings over the internet, including on personal electronic devices.

K. An electronic keno game conducted pursuant to subsection J of this section may be operated only within an authorized keno location. If the electronic keno game is authorized to be played on personal electronic devices, players shall be geographically restricted by means of geofencing to authorized keno locations. Electronic keno game draws may not be conducted more frequently than once every four minutes. The number of authorized keno locations may not exceed the number published annually by the director, which is equal to the total number of establishments licensed by the department of gaming to allow wagering on live horse races and simulcast wagering pursuant to section 5-107, plus the total number of class 14 liquor licenses that the department of liquor licenses and control issued to fraternal organizations or veterans' organizations as of January 1, 2021. The total number of authorized keno locations shall be automatically increased by two percent every two years.

L. A mobile draw game conducted pursuant to subsection J of this section may offer players multiple game play styles and wagering options. Players of the mobile draw game may not play or win a prize more frequently than once per hour.

M. An electronic keno game or mobile draw game conducted pursuant to this section may not present the player with a user interface depicting spinning reels or that replicates a slot machine, blackjack, poker, roulette, craps or any other casino-style game other than traditional keno or a traditional lottery draw game.

N. Except as provided in subsections J, K, L and M of this section, the commission or director shall not establish or operate any lottery game or any type of game play-style, either individually or in combination, that uses gaming devices or video lottery terminals as those terms are used in section 5-601.02, including monitor games that produce or display outcomes or results more than once per hour.

O. The director shall print, in a prominent location on each lottery ticket or share, a statement that help is available if a person has a problem with gambling and a toll-free telephone number where problem gambling assistance is available. The director shall require all licensed agents to post a sign with the statement that help is available if a person has a problem with gambling and the toll-free telephone number at the point of sale as prescribed and supplied by the director.

P. For the purposes of this section:

1. "Additional wagering facility" has the same meaning prescribed in section 5-101.

2. "Authorized keno location" means a physical facility located at least five miles from an Indian gaming facility that is licensed by the director in the same manner as licenses issued pursuant to section 5-562 but only to a fraternal organization or veterans' organization or to a racetrack enclosure or additional wagering facility where pari-mutuel wagering on horse races is conducted.
3. "Charitable organization" means any nonprofit organization, including not more than one auxiliary of that organization, that has operated for charitable purposes in this state for at least two years before submitting a license application under this article.
4. "Electronic keno game" means a house banking game in which:
 - (a) A player selects from one to twenty numbers on a card that contains the numbers one through eighty.
 - (b) The lottery randomly draws twenty numbers.
 - (c) Players win if the numbers they select correspond to the numbers drawn by the lottery.
 - (d) The lottery pays all winners, if any, and collects from all losers.
5. "Fraternal organization" has the same meaning prescribed in section 5-401.
6. "Game play-style" means the process or procedure that a player must follow to determine if a lottery ticket or share is a winning ticket or share.
7. "Matrix" means the odds of winning a prize and the prize payout amounts in a given game.
8. "Mobile draw game" conducted pursuant to subsection J of this section, means a lottery draw game offered to players over the internet, including on mobile devices, in which:
 - (a) A combination of numbers, symbols or characters is selected.
 - (b) A computer system authorized by the lottery randomly selects a winning combination of numbers, symbols or characters.
 - (c) A computer system validates any prize awarded to the players.
9. "Other event" has the same meaning prescribed in section 5-1301.
10. "Sports event" has the same meaning prescribed in section 5-1301.
11. "Veterans' organization" has the same meaning prescribed in section 5-401.

ARIZONA DEPARTMENT OF GAMING

Title 19, Chapter 2, Article 4



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - ONE-YEAR REVIEW REPORT

MEETING DATE: November 1, 2022

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

FROM: Council Staff

DATE: October 12, 2022

SUBJECT: ARIZONA DEPARTMENT OF GAMING
Title 19, Chapter 2, Article 4

Summary

This One-Year Review Report from the Arizona Department of Gaming (Department) relates to two rules in Title 19, Chapter 2, Article 4 related to Advance Deposit Wagering, Teletracking, and Simulcasting. Specifically, HB2772 (Laws 2021, Chapter 234) granted the Department a one-time exemption from the rulemaking requirements of that Administrative Procedures Act to conduct a rulemaking to modernize rules regarding the regulation of Advanced Deposit Wagering (ADW) accounts for Arizona's horse racing industry. The updated rules allowed for ADW providers to offer mobile accounts instead of relying on the "telephone only" rule that has existed in the past. The Department states this provides companies the ability to expand their reach to consumers in Arizona and grow the number of participants who wish to engage in betting on horse racing that are conducted on a pari-mutuel basis.

Ultimately, the Department indicates the most important impact of the rule changes is that consumers in Arizona are now allowed to bet on horse racing using methods that they could only enjoy previously while betting outside of Arizona.

Proposed Action

The Department is proposing no additional course of action related to these rules.

1. Has the agency analyzed whether the rules are authorized by statute?

The Department cites both general and specific statutory authority for the rules under review. The session law authorizing a one-time exemption from the APA is Laws 2021, Chapter 234. A copy of the session law is included in the final materials for the Council's reference

2. Summary of the agency's economic impact comparison and identification of stakeholders:

The Department states there will be limited economic benefit from the modernization of rules regarding the regulation of Advanced Deposit Wagering (ADW) accounts for Arizona's horse racing industry. Further, the Department indicates that these updated rules allow for ADW providers to offer mobile accounts instead of relying on the "telephone only" rule that has existed in the past. The Department says that this effectively provides companies the ability to expand their reach to consumers in Arizona and grow the number of participants who wish to engage in betting on horse racing that are conducted on a pari-mutuel basis. Stakeholders include that Department and advance deposit wagering providers.

3. 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 Arizona Advance Deposit Wagering Providers (ACWPs) have offered their online wagering in addition to their telephone betting option since September 2021. The Department states that when comparing the same months in 2021 and 2022, SDWPs show an average increase of \$1,000,000 handle per month in 2022 after online wagering became legal, capturing a percentage of the horse track handle from live races and growing their customer base from sport wagering.

The Department believes that the most important impact of these rules is that consumers in Arizona are now allowed to bet on horse racing using methods they could only enjoy previously while betting outside of Arizona. The Department states that these rules allow for better consumer protections and account oversight due to the elimination of outdated rules.

4. Has the agency received any written criticisms of the rules since the rule was adopted?

The Department indicates it has not received any written criticisms of the rules since they were adopted.

5. Has the agency analyzed the rules' clarity, conciseness, and understandability?

The Department states the rules under review are clear, concise, and understandable.

6. **Has the agency analyzed the rules' consistency with other rules and statutes?**

The Department states the rules under review are consistent with other rules and statutes.

7. **Has the agency analyzed the rules' effectiveness in achieving its objectives?**

The Department states the rules are currently effective in achieving their objectives.

8. **Has the agency analyzed the current enforcement status of the rules?**

The Department states the rules under review are currently enforced as written.

9. **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 the rules are not more stringent than corresponding federal law. Specifically, the Department states the Professional and Amateur Sports Protection Act ("PASPA"), enacted by Congress in 1992, was struck down by the United States Supreme Court on May 14, 2018. The Department indicates this ruling cleared the way for individual states to determine whether to and how to legalize sports betting. The Department indicates, due to the passage of Arizona laws corresponding to Sports Betting that allow for similar online betting to occur within racing, Arizona rules have been updated accordingly.

10. **Has the agency completed any additional process required by law?**

Not applicable.

11. **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 reviewed do not require a permit, license, or agency authorization.

12. **Conclusion**

Council staff finds that the Department submitted an adequate report that meets the requirements of A.R.S. § 41-1095. As indicated above, HB2772 (Laws 2021, Chapter 234) granted the Department a one-time exemption from the rulemaking requirements of that Administrative Procedures Act to conduct a rulemaking to modernize rules regarding the regulation of Advanced Deposit Wagering (ADW) accounts for Arizona's horse racing industry. The updated rules allowed for ADW providers to offer mobile accounts instead of relying on the "telephone only" rule that has existed in the past. The Department states this provides companies the ability to expand their reach to consumers in Arizona and grow the number of participants who wish to engage in betting on horse racing that are conducted on a pari-mutuel

basis. Consumers in Arizona are now allowed to bet on horse racing using methods that they could only enjoy previously while betting outside of Arizona.

Council staff recommends approval of this report.

October 17, 2022

VIA EMAIL: grrc@azdoa.gov
Nicole Sornsins, Chair
Governor's Regulatory Review Council
100 North 15th Avenue, Suite 305
Phoenix, Arizona 85007

RE: Arizona Department of Gaming, 19 A.A.C., Chapter 2, Article 4
Racing, One Year Review Report

Dear Nicole Sornsins,

Please find enclosed the One Year Review Report of the Arizona Department of Gaming for 19 A.A.C., Chapter 2, Article 4 which is due on November 23, 2022.

The Arizona Department of Gaming hereby certifies compliance with A.R.S. 41-1091.

For questions about this report, please contact Aiden Fleming at afleming@azgaming.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Aiden Fleming". The signature is stylized with a large, sweeping initial "A" and a long, horizontal flourish at the end.

Aiden Fleming
Assistant Director

Arizona Department of Gaming
 19 A.A.C., Chapter 2, Article 4
 Racing
 1 Year Rule Report
 10/17/2022

1. **Authorization of the rule by existing statutes**

A.R.S § 5-101, et seq. A.R.S. § 5-1314(B) specifically authorizes “wagers on racing meetings or simulcasted races...through the means that other wagers allowed by this chapter.” Further, Sec. 7 of HB2772 provides authorization for emergency exempt rulemaking states: “the Department of Gaming (“ADG” or the “Department”) is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.”

2. **The objective of each rule:**

Rule	Objective
R19-2-401	Definitions: This rule provides commonly used definitions to be used throughout the Article for ease of reference; updates were made to comply with statutory changes.
R19-2-410	Advanced Deposit Wagering (ADW) Accounts: The rule states standards and practice for any individual to establish an ADW account, including methods for account set up, information needed, designations, and compliance. Updates were made to comply with statutory changes.

3. **Are the rules effective in achieving their objective?** YES ✓ NO__

4. **Are the rules consistent with other rules and statutes?** YES ✓ NO__

5. **Are the rules enforced as written?** YES ✓ NO__

6. **Are the rules clear, concise, and understandable?** YES ✓ NO__

7. **Has the agency received written criticisms of the rules within the last year?**

YES ___ NO ✓

8. **Economic, small business, and consumer impact comparison**

There will be limited economic benefit from the modernization of rules regarding the regulation of Advanced Deposit Wagering (ADW) accounts for Arizona’s horse racing industry. These updated rules allow for ADW providers to offer mobile accounts instead of relying on the “telephone only” rule that has existed in the past. Effectively, this provides companies the ability to expand their reach to consumers in Arizona and grow the number of participants who wish to engage in betting on horse racing that are conducted on a pari-mutuel basis. Once the acquisition of new consumers has been completed, these new rules would be expected to bring in an additional \$160,000 – \$180,000 to the Arizona Department of Gaming, a portion of which is set aside to provide funding for a Breeders Award program that is essential to maintaining horse racing as an industry in the long term.

Neither a positive nor negative change on the impact of small business is expected from the updating of these rules, due to existing barriers of entry in the ADW space. This market is dominated by national companies and there exist high barriers of entry that have limited the number of companies offering ADW betting. However, the State of Arizona may attract new entries into this market that were not willing to participate previously due to burdens that previous rules forced them to adhere to.

The most important impact of these rules is that consumers in Arizona are now allowed to bet on horse racing using methods that they could only enjoy previously while betting outside of Arizona. These rules allow for better consumer protections and account oversight due to the elimination of outdated rules.

9. **Has the agency received any business competitiveness analyses of the rules?** YES _____ NO ✓_____

10. **Has the agency completed the course of action indicated in the agency’s previous one-year-review report?** YES ___ NO ✓_____

N/A. This is our first one year review report.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

Arizona Advance Deposit Wagering Providers (ADWPs) have offered their customers online wagering in addition to their telephone betting option since September 2021. When comparing the same months in 2021 and 2022, ADWPs show an average increase of \$1,000,000 handle per month in 2022 after online wagering became legal, capturing a percentage of the horse track handle from live races and growing their customer base from sport wagering. Anecdotally, some ADWPs anticipate additional expenses related to enhancing software platforms, but the Department has not been provided with data or evidence reflecting this claim.

12. **Are the rules more stringent than corresponding federal laws** YES _____ NO ✓_____

Professional and Amateur Sports Protection Act (“PASPA”), enacted by Congress in 1992, was struck down by the United States Supreme Court on May 14, 2018. This ruling cleared the way for individual states to determine whether to and how to legalize sports betting. Due to the passage of Arizona laws corresponding to Sports Betting that allow for similar online betting to occur within racing, Arizona rules have been updated accordingly.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S § 41-1037 or explain why the agency believes an exception applies:**

Non-applicable as there are no licenses issued.

14. **Proposed course of action:**

No additional course of action; however, the Department requests that the Governor's Regulatory Review Council place these rules on a 5 year review timeline going forward, as any further rulemaking revisions will comply with all regular rulemaking requirements.

CHAPTER 2. ARIZONA RACING COMMISSION

§ 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

R19-2-323. Expired**Historical Note**

Adopted effective August 5, 1983 (Supp. 83-4). Amended effective March 20, 1990 (Supp. 90-1). R19-2-323 recodified from R4-27-323 (Supp. 95-1). Amended by final rulemaking at 19 A.A.R. 3412, effective November 30, 2013 (Supp. 13-4). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

R19-2-324. Expired**Historical Note**

Adopted effective March 1, 1995; R19-2-324 recodified from R4-27-324 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

R19-2-325. Expired**Historical Note**

Adopted effective March 1, 1995; R19-2-325 recodified from R4-27-325 (Supp. 95-1). Amended effective August 7, 1996 (Supp. 96-3). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

R19-2-326. Expired**Historical Note**

Adopted effective March 1, 1995; R19-2-326 recodified from R4-27-326 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

R19-2-327. Expired**Historical Note**

Adopted effective March 1, 1995; R19-2-327 recodified from R4-27-327 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

R19-2-328. Expired**Historical Note**

Adopted effective March 1, 1995; R19-2-328 recodified from R4-27-328 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1771, effective July 1, 2006 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

R19-2-329. Expired**Historical Note**

Adopted effective March 1, 1995; R19-2-329 recodified from R4-27-329 (Supp. 95-1). Amended by final rulemaking at 12 A.A.R. 1771, effective July 1, 2006 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

R19-2-330. Expired**Historical Note**

Adopted effective March 1, 1995; R19-2-330 recodified from R4-27-330 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective Decem-

ber 2, 2020 (Supp. 20-4).

R19-2-331. Expired**Historical Note**

Adopted effective February 28, 1995; R19-2-331 recodified from R4-27-331 (Supp. 95-1). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

R19-2-332. Expired**Historical Note**

Adopted effective January 6, 1998 (Supp. 98-1). Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 3259, effective December 2, 2020 (Supp. 20-4).

ARTICLE 4. ADVANCE DEPOSIT WAGERING, TELETRACKING, AND SIMULCASTING

Editor's Note: Under Laws 2014, Ch. 277, § 9, the Commission was required to provide at least one public hearing on the final exempt rulemaking amendments in R19-2-205. The Office of the Secretary of State makes a distinction between exempt rulemakings and final exempt rulemakings. Final exempt rulemakings are those filed with conditional exemptions to the Arizona Administrative Procedures Act such as requirements to conduct a public hearing or accept public comments on a proposed exempt rulemaking (Supp. 15-2).

Section R19-2-401 was adopted and subsequently amended under an exemption from the provisions of the Arizona Administrative Procedure Act under A.R.S. § 41-1005(A)(18). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-401. Definitions

In addition to the definitions in R19-2-102 and R19-2-302, unless the context otherwise requires, the following definitions apply in this Article:

1. "Account holder" means "natural person" not otherwise precluded from wagering by any Arizona statute or rule.
2. "Advance deposit wagering (ADW)" means a mechanism for pari-mutuel wagering in which wagers are debited and payouts credited to an advance deposit account held by an association or ADWP on behalf of an account holder.
3. "Advance deposit wagering permit" means a permit issued by the Commission allowing an entity to conduct advance deposit wagering on behalf of a contracted Arizona racetrack permittee.
4. "Advance Deposit Wagering Vendor or Provider (ADWP)" means the Arizona licensed and racetrack permittee-contracted vendor providing advance deposit wagering services for Arizona resident account holders.
5. "Confidential Information" means advance deposit wagering account holders and their accounts; may include money transactions in to or out of accounts, specifics of monies wagered from any account on any race or series of races, the account number and security code of any account holder, the specifics of wagering interests wagered on, the specific identifying details of any account unless authorized by the account holder.
6. "Limited Event Wagering Operator" means a Racetrack enclosure or additional wagering facility that holds a permit issued by the Division of Racing to offer wagers on horseracing and that is licensed under this chapter and

CHAPTER 2. ARIZONA RACING COMMISSION

- that is in compliance with licensure requirements under A.R.S. Title 5, Chapter 11 and A.A.C. Title 19, Chapter 4, Article 1.
7. "Operating Hours" means the hours in which pari-mutuel windows are open at a teletrack facility.
 8. "Pari-Mutuel Output Data" means any data provided by the totalisator system other than sales transaction data including, but not limited to, odds, will pays, race results, and pay-off prices.
 9. "Racing Program" means the live races conducted at an authorized track, approved dark-day simulcasts and any simulcast races shown to the public in conjunction with live racing on which pari-mutuel wagering is allowed.
 10. "Sales transaction data" means the electronic signals transmitted between totalisator ticket-issuing machines or approved ADW wager-issuing equipment and the totalisator central processing unit for the purpose of accepting wagers and generating, canceling, and cashing pari-mutuel tickets; also, the financial information resulting from processing sales transaction data, such as handle and revenues.
 11. "Sending track" means the enclosure where a racing program of authorized live racing is conducted and from which teletracking originates.
 12. "Telephone" means any device that a person uses for voice communications in connection with the services of a telephone company but does not include digital devices utilizing non-verbal communications.
 13. "Teletrack facility" means an additional wagering facility owned or leased by an Arizona permittee that is used for handling legal wagers.
 14. "Teletracking" means the telecast of live audio and visual signals of live or simulcast horse, mule, or greyhound racing programs conducted at an authorized enclosure within Arizona to an authorized additional wagering facility within Arizona, by a racetrack permittee for the purpose of pari-mutuel wagering, or the teletrack wagering conducted on the racing program.
 15. "Teletrack wagering" means pari-mutuel wagering conducted at a teletrack facility within Arizona on a racing program conducted at an authorized track within Arizona regardless of whether the racing program is telecast to the teletrack location.
 16. "Teletrack wagering permit" means a permit issued by the Commission authorizing an Arizona racetrack permittee to operate a single or multiple teletrack wagering facilities within the state for the purpose of pari-mutuel wagering.
 17. "TIM-to-tote linkage" means the connection in which ticket issuing machines (TIM) are directly connected to the permittee's own calculating or compiling totalisator with no intermediate totalisator systems within that connection.
 18. "Tote-to-tote linkage" means the connection between totalisator systems in which one of the systems is not part of the permittee's calculating system and may or may not be used for the compilation of TIM-to-tote wagers within its own wagering network that are then forwarded to the permittee's calculating totalisator system.
 19. "Transmission" means the point-to-point sending and receiving of an audio or visual signal by any method approved by the Arizona Department of Racing.

Historical Note

Adopted effective April 3, 1984 (Supp. 84-2). Amended by adding paragraphs (8) and (9) effective August 21, 1985 (Supp. 85-4). Repealed effective December 14,

1994 (Supp. 94-4). R19-2-401 recodified from R4-27-401 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Amended effective July 22, 1998, pursuant to an exemption from the rulemaking process (Supp. 98-3). Amended by exempt rulemaking at 5 A.A.R. 532, effective January 29, 1999 (Supp. 99-1). Amended by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4). Amended by final exempt rulemaking under Laws 2014, Ch. 277, § 9, at 21 A.A.R. 643, effective April 20, 2015 (Supp. 15-2). Amended by exempt rulemaking at 27 A.A.R. 1437, with an immediate effective date of August 20, 2021 (Supp. 21-3).

Section R19-2-402 was adopted under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-105(A)(18). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-402. ADWP Licensing Requirements

- A. An ADWP shall be licensed by the Department.
- B. An ADWP shall comply with these and all other rules relating to entities permitted by the Commission as they apply to pari-mutuel wagering.
- C. The Department may suspend or revoke an ADWP license, withdraw approval of a contract between an ADWP and a racetrack permittee, or impose fines if the ADWP, its officers, directors or employees violate these rules or applicable sections of A.R.S. Title 5 or fail to abide by orders of the Department.
- D. An ADWP shall accept wagers only on the species for which the contracted Arizona racetrack permittee has a permit.

Historical Note

Adopted effective April 3, 1984 (Supp. 84-2). Amended effective August 21, 1985 (Supp. 85-4). Repealed effective December 14, 1994 (Supp. 94-4). R19-2-402 recodified from R4-27-401 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Section R19-2-402 renumbered to R19-2-412; new Section made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-403 was adopted and subsequently amended under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(18). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-403. ADW Permit Applications

- A. A person, association, or corporation desiring to operate advance deposit wagering and open accounts for residents of Arizona shall file with the Department both a paper and electronic permit application that contains the information required in A.R.S. § 5-107. All electronic submissions shall be compatible with the Department's computer system and software. If any addendum to the permit application cannot be submitted electronically, the applicant shall submit the addendum in a paper copy.

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- B. An ADW permittee shall contract only with ADWPs licensed by the Department.
- C. An ADWP shall pay daily the Regulatory Wagering Assessment (RWA) to the Department.
- D. An ADWP shall provide daily wagering information to the Department and the contracted racetrack permittee for verification of RWA and source market fees at a time and in a manner specified by the Department.
- E. A racetrack permittee shall verify that the total RWA paid each day for the both the racetrack's and the ADW's wagering activity is correct.
- F. The following reports shall be available for inspection upon request by the Department in a form acceptable to the Department and at a place of the Department's choosing within a reasonable time:
1. ADW handle and related pari-mutuel data such as commission and breakage sorted by date, track or event, race and pool or by Source such as customer account; in total or detail;
 2. Reports for taxation purposes;
 3. Customer complaints;
 4. List of active accounts;
 5. List of excluded persons;
 6. List of account holders;
 7. Log of all system accesses; and
 8. List of all deposits, withdrawals, wagers and winning payouts, in summary or detail.
- G. An ADWP shall certify that the ADWP will provide the Department unrestricted access to all records and financial information of the ADWP, including all account information. The ADWP shall make this information available to the Department upon notice from the Department to the extent that disclosure is not expressly prohibited by law. Department access to and use of information concerning wager transactions and ADWP customers shall be considered proprietary and shall not be disclosed publicly, except as may be required by law. This information may be shared for multi-jurisdiction investigative purposes. An ADWP shall report to the Department any known or suspected rule violations by any person involving ADWP and cooperate in any subsequent investigations.
- H. An ADWP shall detail each method used for placing wagers through the ADW system and specify what information and place of recording constitutes proof of a wager placed through each wagering method.
- I. An ADWP shall give access to the Department, or its designee, for review and audit of all records. The ADWP or applicant shall make the required information available at the ADWP's location during business hours. The Department may require an ADWP to submit an annual audited financial statement.
- J. The Department may conduct investigations and inspections or request additional information from an ADWP or applicant if required to determine whether to approve an application.

Historical Note

Adopted effective April 3, 1984 (Supp. 84-2). Amended paragraphs (16) and (17) effective August 21, 1985 (Supp. 85-4). Repealed effective December 14, 1994 (Supp. 94-4). R19-2-403 recodified from R4-27-403 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Amended effective July 22, 1998, pursuant to an exemption from the rulemaking process (Supp. 98-3). Amended by exempt rulemaking at 5 A.A.R. 532, effective January 29, 1999 (Supp. 99-1). Section R19-2-403 repealed; new Section made by

exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-404 was adopted under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-105(A)(18). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-404. Application for ADWP Permit; Plan of Operation

Before operating advance deposit wagering in Arizona, a person shall submit to the Department an application for an ADWP permit and a plan of operation. The Department shall issue an ADWP permit for no more than three years. An ADWP permit shall expire when the racing permit expires. If necessary, the Department may request additional information regarding any plan of operation.

Historical Note

Adopted effective April 3, 1984 (Supp. 84-2). Amended effective August 21, 1985 (Supp. 85-4). Repealed effective December 14, 1994 (Supp. 94-4). R19-2-404 recodified from R4-27-404 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Section R19-2-404 renumbered to R19-2-414; new Section R19-2-404 made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-405 was adopted under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-105(A)(18). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-405. Contracts and Agreements

An ADWP shall submit the following information regarding any group, concession, or contract related to the ADW operation whether within or outside of Arizona:

1. Copy of all contracts to provide services, including totalisator vendor services, within or on behalf of Arizona racetrack permittees or residents;
2. Name and background of the individuals responsible for operating the ADW accounts system;
3. Other information that, in the Director's judgment, is or may be material, such as information pertaining to financial background and persons associated with the parties to the contract;
4. Security measures to be employed to protect the ADWP account maintenance and wagering facilities;
5. Security measures to be employed to protect transmission of sales transaction and pari-mutuel output data;
6. Type of data processing, communication, and transmission equipment to be used;
7. Description of all computer services and all other methods used to transmit any data or signal; and
8. Description of any alternate or backup system in case of principal system failure of communications or data-processing equipment used for forwarding wagers.

Historical Note

Adopted effective April 3, 1984 (Supp. 84-2). Amended effective August 21, 1985 (Supp. 85-4). Repealed effective

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tive December 14, 1994 (Supp. 94-4). R19-2-405 recodified from R4-27-405 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Section R19-2-405 repealed; new Section R19-2-405 made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-406 was adopted under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-105(A)(18). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-406. Plan of Operation Approval and Amendments

An ADWP shall conduct an ADW operation only according to the provisions of an approved plan of operation. The ADWP shall obtain the Director's written approval for any change to the plan of operation. The ADWP shall:

1. Notify the Department of any anticipated change in the plan of operation,
2. Report to the Department any change in ownership or management groups,
3. Provide the Department with a copy of all new contracts or amendments to existing ones, and
4. Request the approval of the Director for any change in technology used to transmit sales transaction data.

Historical Note

Adopted effective April 3, 1984 (Supp. 84-2). Amended effective August 21, 1985 (Supp. 85-4). Repealed effective December 14, 1994 (Supp. 94-4). R19-2-406 recodified from R4-27-406 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Section R19-2-406 repealed; new Section R19-2-406 made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-407 was adopted under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-105(A)(18). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-407. ADWP Permit Renewal

A permittee shall apply to the Department for renewal of its ADWP permit before the permit expires. The application for renewal shall provide the information required on a form available from the Department.

Historical Note

Adopted effective April 3, 1984 (Supp. 84-2). Repealed effective December 14, 1994 (Supp. 94-4). R19-2-407 recodified from R4-27-407 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Section R19-2-407 repealed; new Section R19-2-407 made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-408 was adopted under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-105(A)(18). Exemption from the rulemaking pro-

cess means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-408. ADWP Licensing

- A. The following individuals shall be licensed as required by the Department:
1. An individual with at least 10 percent ownership interest in the ADW; and
 2. All ADWP employees working in Arizona.
- B. An ADWP shall ensure that all ADWP employees working in another jurisdiction are licensed as required by that jurisdiction.

Historical Note

Adopted effective April 3, 1984 (Supp. 84-2). Repealed effective December 14, 1994 (Supp. 94-4). R19-2-408 recodified from R4-27-408 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Section R19-2-408 renumbered to R19-2-416; new Section R19-2-408 made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-409 was adopted under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-105(A)(18). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-409. ADW – Racetrack Permittee Contracts

- A. An ADWP that accepts accounts from Arizona residents shall obtain and maintain a contract with one or more Arizona racetrack permittees. The ADWP shall ensure that the contract includes:
1. Disclosure of Regulatory Wagering Assessments (RWA) assignment of responsibility for payment of:
 - a. The assessment on wagers placed by Arizona account holders on races conducted in Arizona, which will be considered to be live, in-state, off-track wagers; and
 - b. The assessment on wagers placed by Arizona account holders on races conducted outside of Arizona, which will be considered to be simulcast, in-state, off-track wagers;
 2. Disclosure of all ADWs wagering on any races run in this jurisdiction, and all ADWs wagering on races run in other jurisdictions that would be available for wagering in this jurisdiction under the contract;
 3. Certification of ADW licensing, authorization, or approval by the recognized pari-mutuel authority in the other jurisdiction;
 4. Disclosure of all fees, market share revenue, and distribution details and other financial considerations relating to the contract and any other non-contracted Arizona racetrack permittees;
 5. Certification of prompt access for the Department, in print or electronic form acceptable to the Department, to:
 - a. Reports, logs, wagering transaction detail, and customer account detail;
 - b. Records relating to customer identify, age, and residency;
 - c. Records of customer account detail for individuals;

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- i. In any jurisdiction that places wagers on races conducted in this jurisdiction and races available for wagering by individuals in this jurisdiction;
 - ii. The Department has reason to investigate based on possible placing of wagers for individuals other than the account holder; and
 - iii. Determined by the Department to be relevant to an investigation by the Department;
 - 6. A detailed description and certification of systems and procedures used to validate the identity, age, and jurisdiction of legal residence of account holders and to validate the legality of wagers accepted;
 - 7. Certification of secure retention of and prompt Department access to all records related to wagering and customers' accounts, including deposits, withdrawals, wagers, and winning payouts for at least three years or a longer period specified by the Department; and
 - B. An ADWP shall attach the following to all contracts under this subsection:
 - 1. A certified copy of rules governing the acceptance and management of accounts, and
 - 2. A certified copy of any change in the rules provided at least thirty days before the change takes effect.
- Historical Note**
- Adopted effective April 3, 1984 (Supp. 84-2). Repealed effective December 14, 1994 (Supp. 94-4). R19-2-409 recodified from R4-27-409 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Section R19-2-409 renumbered to R19-2-417; new Section R19-2-409 made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).
- Section R19-2-410 was adopted under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-105(A)(18). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.*
- R19-2-410. ADW Accounts**
- A. An individual who wishes to establish an ADW account shall establish the account in person or by mail, telephone, or other electronic means before making any wager. The individual establishing an ADW account shall:
 - 1. Establish the account in the individual's name,
 - 2. Be at least 21 years old, and
 - 3. Not be prohibited from wagering by Arizona rules or statutes.
 - B. An ADW account is not transferable.
 - C. An ADWP shall obtain the following regarding an individual who wishes to establish an ADW account:
 - 1. Full legal name;
 - 2. Address of principal residence;
 - 3. Address to which communications are to be delivered if different from the principal residence address;
 - 4. Telephone number;
 - 5. Social Security number;
 - 6. Copy of evidence that the individual is at least 21 years old; and
 - 7. Whether the individual will make ADW deposits through the use of cash, personal check, credit or debit card, or electronic funds transfers.
 - D. An ADWP shall electronically verify an ADW-account applicant's name, principal residence address, date of birth, and Social Security number at the time application is made using a Department-approved national, independent, individual reference company or other independent technology approved by the Department.
 - E. An ADWP may refuse to establish an ADW account if it determines that any of the information supplied is untrue or incomplete and may at any other time, with reasonable cause, refuse to accept a wager or deposit.
 - F. An ADWP shall designate each ADW account with a unique account number. The ADWP may change an ADW account number if the ADWP provides notice to the account holder before the change is made.
 - G. An ADWP shall ensure that an ADW-account holder is able to access the account holder's account by means of personal identification or account password.
 - H. When an ADW account is established, the ADWP shall:
 - 1. Inform the account holder of the assigned account number; and
 - 2. Provide the account holder a copy of the ADWP's advance deposit wagering procedures, terms and conditions and other information pertaining to the operation of the ADW account including any rules the ADWP has made concerning deposits, withdrawals, average daily balance, user fees (including for EFT deposits), interest payments, and any other aspect of the operation of the account.
 - I. An ADWP shall notify an account holder before making any change to the rules governing the account and provide an opportunity for the account holder to close or cash-in the account. The ADWP may deem an account holder to have accepted the rules of account operation when the account holder opens or does not close the account.
 - J. An ADWP shall comply with Internal Revenue Service (IRS) requirements for reporting and withholding proceeds from advance deposit wagers by account holders. The ADWP shall send an account holder subject to IRS reporting or withholding a form W2-G summarizing the information for tax purposes following a winning wager being deposited into the account holder's account. Upon written request, the ADWP shall provide an account holder with summarized tax information on advance deposit wagering activities.
 - K. An account holder is deemed to be aware of the status of the account holder's account at all times. An ADWP shall not accept a wager that exceeds the available balance of an account. An account not updated when a transaction is completed shall be inoperable until the account balance is updated and the transaction is posted.
 - L. When an ADW account is entitled to a payout or refund, the ADWP shall credit the monies to the account. This will increase the balance in the account. The account holder shall verify that proper credits have been made and, if in doubt, notify the ADWP within the agreed upon time for consideration. The ADWP or the account holder may forward an unresolved dispute to the Department. The Department shall not consider a dispute unless it is submitted in writing and accompanied by supporting evidence.
 - M. Account Operation.
 - 1. An ADWP shall maintain complete records of every deposit, withdrawal, wager, and winning payout for each ADW account. The ADWP shall make these records available to the Department promptly upon request and retain the records for the time required under R19-2-502(A).

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2. An ADWP may allow an ADW account holder to make wagers on racing meetings or simulcasted races from the account by telephone, in person, or over the Internet through websites and on mobile devices, as authorized under A.R.S. § 5-1314(B). Additionally, only Arizona racetracks or additional wagering facilities granted permits by the Racing Division may be licensed as Limited Event Wagering Operators in compliance with A.R.S. Title 5, Chapter 11 and A.A.C. Title 19, Chapter 4, Article 1.
 3. Placing or accepting wagers on racing meetings or simulcasted races over the communications facility known as the Internet is authorized to the extent that such activity complies with A.R.S. § 5-1314(B). Transmittal of handicapping data, race results, or other information relating to pari-mutuel wagering over the Internet is permitted.
 4. An ADWP shall ensure that the ADW system provides for the account holder to review and finalize a wager before the wager is accepted by the ADW system. Neither the account holder nor the ADWP shall change a wager after the account holder has reviewed and finalized the wager except as allowed under R19-2-504(C).
- N. An ADWP may close an ADW account when the account holder attempts to operate with an insufficient balance or when the account is dormant for a period approved by the Department. When an ADWP closes an ADW account, the ADWP shall refund the remaining account balance to the account holder.

Historical Note

Adopted effective April 3, 1984 (Supp. 84-2). Repealed effective December 14, 1994 (Supp. 94-4). R19-2-410 recodified from R4-27-410 (Supp. 95-1). New Section adopted effective February 26, 1996, pursuant to an exemption from the rulemaking process (Supp. 96-1). Section R19-2-410 renumbered to R19-2-418; new Section R19-2-410 made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4). Amended by exempt rulemaking at 27 A.A.R. 1437, with an immediate effective date of August 20, 2021 (Supp. 21-3).

Section R19-2-411 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-411. Advance Deposit Wagering

- A. All Department rules governing pari-mutuel wagering govern advance deposit wagering. Advance deposit monies wagered are part of the pool of the sending track.
- B. An ADWP shall maintain sales transaction data from the ADWP to each host track as a separate account for audit purposes.
- C. An ADWP shall make sales transactions using currently approved technology.
- D. An ADWP shall pay to the Department an advance deposit wagering assessment of 0.6 percent from the gross revenues generated by advance deposit wagering.

Historical Note

Section made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-412 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant

to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-412. Teletrack Wagering

- A. All Department rules governing pari-mutuel wagering govern teletrack wagering. Teletrack monies wagered are part of the pool of the sending track for reporting purposes.
- B. An ADWP shall maintain sales transaction data from a teletrack facility to the sending track as a separate account for audit purposes.
- C. An ADWP shall make sales transaction data using currently approved technology and transmit the data separately from pari-mutuel data and the visual display of races.
- D. If there is an interruption of transmission of sales transaction or pari-mutuel output data to or from the teletrack facility, the designated representative of the Department may require that the amount of wagers that have been accepted be deducted from the sending track pool, the odds recalculated, and monies bet at the teletrack facility refunded, taking into consideration time, the extent of the breakdown, and the amount of monies wagered.

Historical Note

New Section R19-2-412 renumbered from R19-2-402 and amended by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-413 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-413. General Provisions Regarding Teletrack Facilities

- A. At the Director's discretion, a Department representative may be present during all operating hours at a teletrack facility.
- B. A teletrack wagering permittee shall, during all operating hours, have back-up or replacement tote equipment available so the down time in the event of equipment failure does not exceed 60 minutes. At teletrack sites with multiple teller equipment installed, back-up equipment may consist of the remaining operating teller machines if the remaining teller machines are sufficient to handle the reasonably anticipated volume of sales transactions without unreasonable delays or inconvenience to patrons.
- C. During a racing program, the teletrack wagering permittee shall report any problems or delays to the public.
- D. A teletrack wagering permittee shall ensure that security measures are adequate to control disturbances.
- E. A teletrack wagering permittee shall ensure that communications between the sending track and teletrack facility occur without delay. In a tote-to-tote situation, if the data transmission link between the tote systems fails, the teletrack wagering permittee shall decide the policy for paying off or refunding pari-mutuel tickets and all other communication failures at the teletrack site.
- F. A teletrack wagering permittee shall make photo finish pictures of the previous day's live races available for viewing upon request within 48 hours.

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- G.** If a video display of any portion of a racing program is provided at a teletrack location, the video display shall include the following, if possible:
1. All wagering information including pool totals, will pays, or odds as offered to the general public at the permittee racetrack location;
 2. Each race shown live, as it is run or received at the permittee premises;
 3. Race results;
 4. Prices or payoff;
 5. Minutes to post; and
 6. The race number and track for which the above information is displayed.
- H.** A teletrack wagering permittee shall make Arizona pari-mutuel rules available in the wagering area. This requirement may be met by publishing the Department's rules-page web address in the racing program and on the permittee's web site.
- I.** A teletrack wagering permittee shall make the results of each race, and the winnings from each race, available from tellers or results-posting terminals as soon as possible at each teletrack facility and shall make the results available to the wagering public for 24 hours on the race day following the day of the race.
- J.** A teletrack wagering permittee shall report to the Department any violation or suspected violation of law that occurs on or about the premises of the teletrack facility.
- K.** A teletrack wagering permittee shall make daily handle and attendance reports for each teletrack facility as prescribed by the Department.
- L.** Betting period:
1. A teletrack wagering permittee shall conduct wagering only during periods approved by the Director or Commission in respect to any race, racing card, pool, or feature pool.
 2. The Director may prescribe the closing time for pari-mutuel equipment at each facility based on the level of sophistication of the pari-mutuel equipment and transmission equipment.
- M.** A teletrack wagering permittee shall obtain the Director's written approval of the method used to transmit sales transaction and pari-mutuel output data. The Director shall base approval on determination that provisions to secure the system and transmissions are satisfactory.
- N.** A teletrack wagering permittee shall provide computer reports pertaining to pari-mutuel activity as required by the Director.
- Historical Note**
- Section made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).
- Section R19-2-414 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.*
- R19-2-414. Application for Original Teletrack Wagering Permit; Plan of Operation; Renewals of Teletrack Wagering Permit**
- A.** An applicant for a teletrack wagering permit shall submit an application and plan of operation to the Commission. The Commission shall issue a teletrack wagering permit for no more than three years.
- B.** An applicant shall include the following in the plan of operation:
1. A feasibility study that estimates both gross revenue from the teletrack wagering operation and costs to operate. The feasibility study shall include:
 - a. Types of wagering to be offered and hours during which pari-mutuel windows will be in operation,
 - b. Estimated attendance at all additional wagering facilities,
 - c. Level of anticipated wagering activity,
 - d. Source and amount of estimated revenues other than pari-mutuel wagering,
 - e. Cost of operating the teletrack wagering system,
 - f. Amount and source of revenues needed for financing the teletrack wagering operation,
 - g. Proof of financial stability and assets sufficient to cover projected costs, and
 - h. Estimate of the total amount of anticipated revenues to be paid to the state resulting from teletrack wagering operations;
 2. The following information regarding any group, concession, or contract related to the teletrack wagering operation whether within or outside of Arizona unless the information is already on record with the Department as part of the applicant's original application to operate a racing meet:
 - a. Copy of all contracts to provide service within Arizona;
 - b. Name and background of the individuals responsible for operating the teletrack wagering system;
 - c. Copies of proposed agreements for any transmission of audio-visual signals of racing events and the transmission of sales transaction and pari-mutuel output data; and
 - d. Other information that, in the Director's judgment, is or may be material, such as information pertaining to financial background and persons associated with the parties to the contract;
 3. The following information regarding security:
 - a. Security measures to be employed to protect the teletrack wagering facilities,
 - b. Security measures to be employed to protect the public, and
 - c. Security measures to be employed to protect transmission of sales transaction and pari-mutuel output data; and
 4. The following information regarding equipment, communication, and transmission:
 - a. Type of data processing, communication, and transmission equipment to be used;
 - b. Description of all computer services and all other methods used to transmit any data or signal; and
 - c. Description of any alternate or backup system in case of principal system failure of communications or data-processing equipment used for forwarding wagers.
- C.** Approval and amendments. A teletrack wagering permittee shall conduct a teletrack wagering operation only according to the provisions of an approved plan of operation. The teletrack wagering permittee shall obtain the Director's written approval for any change to the plan of operation. The teletrack wagering permittee shall:
1. Notify the Department of any anticipated change in the plan of operation;
 2. Report to the Department any changes in ownership or management groups,
 3. Provide the Department with a copy of all new contracts or amendments to existing ones, and

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4. Request the approval of the Director for any change in technology used to transmit sales transaction data.
- D. Renewal. A teletrack wagering permittee shall apply to the Commission for renewal of its teletrack wagering permit at the time the permittee makes application for a permit to operate a racing meet. The teletrack wagering permittee shall include in the renewal application the information required in subsections (B)(1) through (4).

Historical Note

New Section R19-2-414 renumbered from R19-2-404 and amended by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-415 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-415. Approval of Additional Wagering Facilities; Plan of Operation; Renewal or Approval of Additional Wagering Facilities

- A. A teletrack wagering permittee shall request approval from and submit a plan of operation to the Commission for each additional teletrack wagering facility. The Commission shall issue a permit for an additional wagering facility for no more than three years.
- B. The teletrack wagering permittee shall include the following in the plan of operation regarding the additional teletrack wagering facility:
1. A feasibility study that estimates both gross revenue from the teletrack facility and estimated costs to operate the facility. The feasibility study shall include:
 - a. Types of wagering to be offered and the hours during which pari-mutuel windows will be in operation,
 - b. Level of anticipated wagering activity,
 - c. Source and amount of revenues needed for financing the teletrack wagering operation,
 - d. Proof of financial stability and assets sufficient to cover projected costs, and
 - e. Estimate of the total amount of anticipated revenues to be paid to the state resulting from teletrack wagering operations;
 2. The following information regarding any group, concession, or contract related to the teletrack wagering operation whether within or outside of Arizona unless the information is already on record with the Department:
 - a. Listing and background of the management groups responsible for operation of the facility;
 - b. Name of all individuals who own at least 10 percent of the facility; and
 - c. Other information that, in the Director's judgment, is or may be material, such as information pertaining to financial background and persons associated with the parties to the contract;
 3. Measures to be employed by the teletrack wagering permittee to protect the facility, employees, public, and wagering dollars;
 4. Location of the teletrack wagering facility;
 5. Proof that approval for use of the facility to handle pari-mutuel wagering has been given by the governing body of the city or town or by the board of supervisors, if the facility is located in an unincorporated area; and

6. Building plans and specifications that demonstrate sufficient area for patrons to handicap the races and reasonable access by individuals with a disability.
- C. Approval and amendments. The requirements in R19-2-414(C) apply.
- D. Renewal. When a teletrack wagering permittee makes application to renew the teletrack wagering permit, the permittee shall provide the Department a list of its existing additional teletrack wagering facilities. When the Director approves renewal of the teletrack wagering permit, the Director may approve:
 1. Renewal of the existing additional teletrack wagering facilities, and
 2. The permittee's application to begin operation at a teletrack wagering facility previously approved by the Commission and currently used by another permittee.
- E. After the Commission approves an additional teletrack wagering facility, the permittee shall not open the additional facility for business for five working days or until all licensing requirements are satisfied. If the necessary licensing requirements are completed in less than five working days, the Director may waive the remaining days.

Historical Note

Section made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-416 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-416. Suspension of Teletrack Permit

- A. The Director or the Director's designee may suspend a teletrack wagering permit or a permit to operate an additional teletrack wagering facility if the permittee fails to conduct operations in accordance with the provisions of the approved plan of operation, A.R.S. Title 5, Chapter 1, this Chapter, or directives from the Director.
- B. If the Director finds that the public health, safety, or welfare imperatively requires emergency action, the Director shall order summary suspension of a teletrack wagering permit or any permit authorizing operation of an additional teletrack wagering facility, pending a hearing.

Historical Note

New Section R19-2-416 renumbered from R19-2-408 and amended by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-417 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-417. Licensing of Employees at Teletrack Facilities

- A. A teletrack wagering permittee shall ensure that no teletrack wagering occurs at a teletrack facility until all individuals required to be licensed under subsection (B) have been licensed.
- B. A teletrack wagering permittee shall ensure that the following individuals are licensed by the Department before participat-

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ing in teletrack wagering and as circumstances or personnel change during the course of the teletrack permit period:

1. All individuals employed by the permittee at any teletrack wagering facility,
2. All persons who own at least 10 percent of a teletrack wagering facility leased by the permittee,
3. Any individual employed by the teletrack wagering facility who has responsibility as manager of the facility during operating (racing) hours, and
4. Any other person designated by the Director.

Historical Note

New Section R19-2-417 renumbered from R19-2-409 and amended by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-418 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-418. Directives

Notwithstanding anything contained in this Article, decisions on matters concerning teletrack wagering facility operations may be made by the Director, within the scope of the Director's statutory authority. The Director's decisions shall be effective immediately upon written notification.

Historical Note

New Section R19-2-418 renumbered from R19-2-410 and amended by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-419 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-419. Simulcast Wagering

- A. The Department may authorize a racetrack permittee to conduct simulcasting as defined in A.R.S. § 5-101 and authorized under A.R.S. § 5-112 and the Interstate Horse Racing Act of 1978.
- B. A racetrack permittee that wishes to conduct simulcasting shall submit a request for sending or receiving of simulcasts in writing to the Director of the Department.
- C. For initial approval of horse simulcasts, the Department requires the following:
 1. A completed simulcast agreement between a racetrack permittee and out-of-state entity;
 2. Written approval of the out-of-state horsemen's group, if applicable;
 3. Written approval of the out-of-state racing commission; and
 4. Written approval of the local horsemen's group. For purposes of this Section, horsemen's group is the group that represents a majority of the horsemen racing at or contracted with the racetrack permittee.
- D. For initial approval of greyhound simulcasts, the Department requires the following:

1. A completed simulcast agreement between a racetrack permittee and out-of-state entity, and
 2. Written approval of the out-of-state racing commission.
- E. Withdrawal of any of the written approvals required under subsections (C) and (D) constitutes grounds for the Department to rescind authorization for simulcasting.
 - F. To renew approval for simulcasting, a racetrack permittee shall submit any changes to the previous contract or addendums and current signature pages. Alternatively, and at the Department's option, the Department may accept an updated list of simulcast import host signals to be received and export guest wagering locations to be hosted by the Arizona racetrack permittee.
 - G. Additional wagering facilities.
 1. A racetrack permittee may conduct simulcasting at the racetrack enclosure and at any additional wagering facility operated by the racetrack permittee if the additional wagering facility is included in the simulcast agreement.
 2. A racetrack permittee may send its simulcast signal to an out-of-state racetrack enclosure and any additional wagering facilities operated or used by the out-of-state entity if all locations receiving the simulcast signal are included in the simulcast agreement.
 - H. Duties of Arizona sending racetrack permittee.
 1. If video is to be transmitted, the sending racetrack permittee is responsible for the content of the simulcast video program and shall use all reasonable effort to present a simulcast that offers viewers an exemplary depiction of each performance.
 2. Unless otherwise permitted by the Department, every sent simulcast video program shall contain in its video content a digital signal of actual time of day, the name of the host facility from which the signal emanates, the number of the contest being displayed, minutes to post, and any other relevant information available to patrons at the sending facility.
 - I. Duties of Arizona receiving racetrack permittee.
 1. A receiving racetrack permittee conducting a commercial racing meet in this state may, with approval of the Department, conduct and operate a pari-mutuel wagering system on the results of contests being held or conducted and simulcast from the enclosures of one or more sending racetrack permittees outside this state.
 2. A receiving racetrack permittee shall provide:
 - a. If video will be displayed, adequate receiving equipment of acceptable broadcast quality for providing any sending-facility patron information;
 - b. Pari-mutuel terminals, pari-mutuel odds displays, modems, and switching units enabling pari-mutuel data transmissions and data communications between the sending and receiving racetrack permittees; and
 - c. In the case of separate pool simulcasting, a voice communication system between the receiving racetrack permittee and the sending racetrack permittee providing timely voice contact among Department designees, placing judges, and pari-mutuel departments.
 3. A receiving racetrack permittee shall conduct pari-mutuel wagering in compliance with this Chapter.
 4. The Department may appoint at least one designee to supervise all approved simulcast facilities and may require additional designees as is reasonably necessary to protect the public interest.
 - J. In accordance with R19-2-505, a racetrack permittee may make a written request to the Director for authorization to conduct advance performance wagering.

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Historical Note

Section made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

Section R19-2-420 was made under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(16). Exemption from the rulemaking process means that the agency did not submit these rules to the Secretary of State's Office for publication in the Register as proposed rules, the agency was not required to accept public comment, and the rules were not approved by either the Governor's Regulatory Review Council or the Attorney General.

R19-2-420. Interstate Common Pool Wagering**A. General provisions.**

1. All contracts governing participation by a racetrack permittee in interstate common pools shall be submitted to the Department. All parties to the contracts shall certify to the other parties that each will provide the others or their regulatory bodies full and prompt access to necessary requested records.
2. Individual wagering transactions are made at the point of sale in the state where placed. Pari-mutuel pools are combined solely for computing odds and calculating payoffs but will be held separate for auditing and all other purposes.
3. The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate common pool need not be identical to the information permitted or required to be displayed under these rules.
4. A racetrack permittee may participate in common pool wagering only on the same type of racing as authorized by the permit for live racing conducted by the racetrack permittee.

B. Participation in interstate common pools by receiving racetrack permittee.

1. With prior approval of the Department, pari-mutuel wagering pools may be combined with corresponding wagering pools at the sending facility outside of this state.
2. The Department may permit adjustment of the takeout from the pari-mutuel pool so the takeout rate in this jurisdiction is identical to that at the sending track (within the limits permitted by state law).
3. Where takeout rates in the merged pool are not identical, the net price calculation shall be the method by which the differing takeout rates are applied.
4. Rules of racing established for the contest in the sending track apply to the merged pool.
5. If, for any reason, it becomes impossible to merge successfully the bets placed into the interstate common pool, the racetrack permittee shall declare the accepted bets void and make refunds in accordance with applicable rules except that, with permission of the Department, the racetrack permittee may determine to make payoffs in accordance with payoff prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere or pay winning tickets at the payoff prices at the sending track. The permittee shall publish the chosen policy under this subsection in the daily racing program and on the permittee's web site and post the policy in all wagering locations.

C. Participation in merged pools by sending racetrack permittee.

1. With prior approval of the Department, a racetrack permittee conducting a live race meet and pari-mutuel wagering may determine that all or part of the racing pro-

gram be used for pari-mutuel wagering by sending all or part of the racing program to facilities outside this state and may also determine that pari-mutuel pools at the out-of-state facilities be combined with corresponding wagering pools established by the permittee as the sending track.

2. This Chapter applies to interstate common pools unless the Department specifically determines otherwise.
 3. A racetrack permittee shall ensure that any contract for interstate common pools entered contains a provision providing that if, for any reason, it becomes impossible to merge successfully the bets placed in another state into the interstate common pool formed by the racetrack permittee or if, for any reason, the Department's or the racetrack permittee's representative determines that attempting to effect transfer of pool data from the receiving facility may endanger the racetrack permittee's wagering pool, the racetrack permittee has no liability for any measures taken that may result in the receiving facility's wagers not being accepted into the pool.
 4. Amounts wagered in an interstate common pool other than amounts wagered within this state are not considered part of the racetrack permittee's pari-mutuel wagering pool for purposes of A.R.S. § 5-111. A racetrack permittee may charge a fee to a receiving facility or location outside this state for the privilege of conducting pari-mutuel wagering on a race and participating in the interstate common pool and for payment of costs incurred to transmit the broadcast of the race.
- D. Takeout rates in interstate common pools.** With prior approval of the Department, a racetrack permittee wishing to participate in an interstate common pool may change its takeout rate (within the limits permitted by state law) to achieve a common pool takeout rate with all other participants in the interstate common pool.

Historical Note

Section made by exempt rulemaking at 20 A.A.R. 2874, effective October 10, 2014 (Supp. 14-4).

ARTICLE 5. PARI-MUTUEL WAGERING

The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 41-1005(A)(18). Exemption from A.R.S. Title 41, Chapter 6 means that the Arizona Racing Commission did not submit these rules to the Governor's Regulatory Review Council for Review; the Commission did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Commission was not required to hold public hearings on these rules; and the Attorney General did not certify these rules.

R19-2-501. General

Each permittee shall conduct wagering in accordance with applicable laws and these rules. Such wagering shall employ a pari-mutuel system approved by the Department. The totalisator shall be tested prior to and during the meeting as required by the Department.

Historical Note

Adopted effective October 21, 1993, under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 41-1005(A)(18) (Supp. 93-4). R19-2-501 recodified from R4-27-501 (Supp. 95-1).

The following Section was adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 41-1005(A)(18). Exemption from A.R.S. Title 41, Chapter 6 means that the Arizona Racing

5-1302. Department of gaming; powers; duties

- A. The department shall enforce this chapter and supervise compliance with laws and rules relating to regulating and controlling event wagering in this state.
- B. The department may adopt rules in accordance with this chapter and title 41, chapter 6.
- C. The department shall evaluate all applicants to determine suitability for issuing all event wagering operator licenses, limited event wagering operator licenses, supplier licenses and management services provider licenses and license renewals and shall charge and collect all fees pursuant to this chapter.
- D. The department may deny, revoke or suspend licenses or renewals or deny an applicant's request to withdraw a license application.
- E. The department shall conduct background checks of event wagering operators, limited event wagering operators, management services providers and event wagering suppliers and may monitor and conduct periodic audits of event wagering operations and providers.
- F. Hearings shall be conducted pursuant to title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, any party aggrieved by a final order or decision of the department may seek judicial review pursuant to title 12, chapter 7, article 6.
- G. The department shall oversee event wagering and develop standards and procedures and engage in other duties as the director of the department prescribes to further the purposes of this chapter, including establishing and enforcing standards and procedures for:
1. Collecting, depositing and disbursing all applicable license fees and payments as required by this chapter.
 2. Operating event wagering and maintaining, testing, inspecting, approving and auditing event wagering accounts, platforms, hardware, software and data, including player, financial, accounting and wagering data.
 3. Operating event wagering facilities, including location, security and surveillance, departmental access, inspections and approvals.
 4. Licensing and requirements for the use of geolocation services to reasonably ensure persons engaging in event wagering are located in this state or another departmentally authorized location allowed by this chapter at the time of event wagering.
 5. Approving other events on which wagers may be taken consistent with this chapter.
 6. Establishing mechanisms designed to detect and prevent the unauthorized use of player accounts and to detect and prevent fraud, money laundering and collusion, including a requirement that event wagering operations contract with a departmentally licensed integrity monitoring provider.
 7. Paying winning wagers, reporting taxes and collecting debt setoffs from a payout of winnings that triggers the licensee's obligation to file a form W-2G or a substantially equivalent form with the United States internal revenue service, including overdue child support payments, state tax debt and debts as established by the department of economic security.
- H. The department may adopt rules authorizing event wagering operators to offset loss and manage risk, directly or with a third party approved by the department, through the use of a liquidity pool in this state or another jurisdiction, if the event wagering operator or its management services provider is licensed by such jurisdiction to operate an event wagering or sports betting business. An event wagering operator's use of a liquidity pool does not eliminate its duty to ensure that it has sufficient monies available to pay bettors.

5-1314. Event wagering authorized

A. Notwithstanding any other law relating to wagering except for title 5, chapter 1 and title 13, chapter 33, the operation of event wagering is lawful only if the event wagering is conducted in accordance with this chapter and any other relevant laws and rules.

B. Notwithstanding section 5-112, wagers on racing meetings or simulcasted races may be made, offered or received through the means that other wagers allowed by this chapter are made, offered or received unless otherwise prohibited by federal law.

C. Each event wagering operator shall adopt and adhere to a written, comprehensive policy outlining the house rules governing the acceptance of wagers and payouts. The policy and rules must be approved by the department before the event wagering operator accepts wagers. The policy and rules must be readily available to a bettor at any event wagering facility location and on any event wagering platform.

D. The department shall adopt rules regarding:

1. The manner in which an event wagering operator accepts wagers from and issues payouts to bettors, including payouts in excess of \$10,000.

2. Reporting requirements necessary to comply with the bank secrecy act (P.L. 91-508; 84 Stat. 1114) and patriot act (P.L. 107-56; 115 Stat. 272) and for any other applicable laws and rules governing reporting suspicious wagers.

E. Each wager placed in accordance with this chapter is deemed to be an enforceable contract under law.

F. If the governing body of a sport or sports league, organization or association or other authorized entity that maintains official league data opts to provide official league data for the purposes of event wagering, an event wagering operator shall exclusively use official league data for purposes of tier two sports wagers unless the event wagering operator can demonstrate to the department that the governing body of a sport or sports league, organization or association or other authorized entity cannot provide a feed of official league data for tier two sports wagers in accordance with commercially reasonable terms, as determined by the department.

House Engrossed

fantasy sports betting; event wagering.

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 234
HOUSE BILL 2772

AN ACT

AMENDING SECTION 5-554, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 5-605; AMENDING TITLE 5, ARIZONA REVISED STATUTES, BY ADDING CHAPTERS 10 AND 11; AMENDING SECTIONS 13-3301 AND 13-3305, ARIZONA REVISED STATUTES; RELATING TO AMUSEMENTS AND SPORTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 5-554, Arizona Revised Statutes, is amended to
3 read:
4 5-554. Commission; director; powers and duties; definitions
5 A. The commission shall meet with the director not less than once
6 each quarter to make recommendations and set policy, receive reports from
7 the director and transact other business properly brought before the
8 commission.
9 B. The commission shall oversee a state lottery to produce the
10 maximum amount of net revenue consonant with the dignity of the state. To
11 achieve these ends, the commission shall authorize the director to adopt
12 rules in accordance with title 41, chapter 6. Rules adopted by the
13 director may include the following:
14 1. Subject to the approval of the commission, the types of lottery
15 games and the types of game play-styles to be conducted.
16 2. The method of selecting the winning tickets or shares for
17 noncomputerized online games, except that ~~no~~ A method may NOT be used
18 that, in whole or in part, depends on the results of a dog race, a horse
19 race, ANY GAMING ACTIVITY CONDUCTED PURSUANT TO THE 2021 TRIBAL-STATE
20 GAMING COMPACT AMENDMENTS or any ~~sporting~~ SPORTS event OR OTHER EVENT.
21 3. The manner of payment of prizes to the holders of winning
22 tickets or shares, including providing for payment by the purchase of
23 annuities in the case of prizes payable in installments, except that the
24 commission staff shall examine claims and may not pay any prize based on
25 altered, stolen or counterfeit tickets or based on any tickets that fail
26 to meet established validation requirements, including rules stated on the
27 ticket or in the published game rules, and confidential validation tests
28 applied consistently by the commission staff. No particular prize in a
29 lottery game may be paid more than once, and in the event of a binding
30 determination that more than one person is entitled to a particular prize,
31 the sole remedy of the claimants is the award to each of them of an equal
32 portion of the single prize.
33 4. The method to be used in selling tickets or shares, except that
34 no elected official's name may be printed on the tickets or shares. The
35 overall estimated odds of winning some prize or some cash prize, as
36 appropriate, in a given game shall be printed on each ticket or share.
37 5. The licensing of agents to sell tickets or shares, except that a
38 person who is under eighteen years of age shall not be licensed as an
39 agent.
40 6. The manner and amount of compensation to be paid licensed sales
41 agents necessary to provide for the adequate availability of tickets or
42 shares to prospective buyers and for the convenience of the public,
43 including provision for variable compensation based on sales volume.

1 7. Matters necessary or desirable for the efficient and economical
2 operation and administration of the lottery and for the convenience of the
3 purchasers of tickets or shares and the holders of winning tickets or
4 shares.

5 8. THE LICENSING OF AUTHORIZED KENO LOCATIONS, INCLUDING THE
6 PERSONS THAT CONTROL THE BUSINESS OR OTHER ACTIVITY CONDUCTED AT AN
7 AUTHORIZED KENO LOCATION.

8 C. The commission shall authorize the director to issue orders and
9 shall approve orders issued by the director for the necessary operation of
10 the lottery. Orders issued under this subsection may include the
11 following:

12 1. The prices of tickets or shares in lottery games.

13 2. The themes, game play-styles, and names of lottery games and
14 definitions of symbols and other characters used in lottery games, except
15 that each ticket or share in a lottery game shall bear a unique
16 distinguishable serial number.

17 3. The sale of tickets or shares at a discount for promotional
18 purposes.

19 4. The prize structure of lottery games, including the number and
20 size of prizes available. Available prizes may include free tickets in
21 lottery games and merchandise prizes.

22 5. The frequency of drawings, if any, or other selections of
23 winning tickets or shares, except that:

24 (a) All drawings shall be open to the public.

25 (b) The actual selection of winning tickets or shares may not be
26 performed by an employee or member of the commission.

27 (c) Noncomputerized online game drawings shall be witnessed by an
28 independent observer.

29 6. Requirements for eligibility for participation in grand drawings
30 or other runoff drawings, including requirements for the submission of
31 evidence of eligibility within a shorter period than that provided for
32 claims by section 5-568.

33 7. Incentive and bonus programs designed to increase sales of
34 lottery tickets or shares and to produce the maximum amount of net revenue
35 for this state.

36 8. The method used for the validation of a ticket, which may be by
37 physical or electronic presentation of a ticket.

38 D. Notwithstanding title 41, chapter 6 and subsection B of this
39 section, the director, subject to the approval of the commission, may
40 establish a policy, procedure or practice that relates to an existing
41 online game or a new online game that is the same type and has the same
42 type of game play-style as an online game currently being conducted by the
43 lottery or may modify an existing rule for an existing online game or a
44 new online game that is the same type and has the same type of game
45 play-style as an online game currently being conducted by the lottery,

1 including establishing or modifying the matrix for an online game by
2 giving notice of the establishment or modification at least thirty days
3 before the effective date of the establishment or modification.

4 E. The commission shall maintain and make the following information
5 available for public inspection at its offices during regular business
6 hours:

7 1. A detailed listing of the estimated number of prizes of each
8 particular denomination expected to be awarded in any instant game
9 currently on sale.

10 2. After the end of the claim period prescribed by section 5-568, a
11 listing of the total number of tickets or shares sold and the number of
12 prizes of each particular denomination awarded in each lottery game.

13 3. Definitions of all play symbols and other characters used in
14 each lottery game and instructions on how to play and how to win each
15 lottery game.

16 F. Any information that is maintained by the commission and that
17 would assist a person in locating or identifying a winning ticket or share
18 or that would otherwise compromise the integrity of any lottery game is
19 deemed confidential and is not subject to public inspection.

20 G. The commission, in addition to other games authorized by this
21 article, may establish multijurisdictional lottery games to be conducted
22 concurrently with other lottery games authorized under subsection B of
23 this section. The monies for prizes, for operating expenses and for
24 payment to the state general fund shall be accounted for separately as
25 nearly as practicable in the lottery commission's general accounting
26 system. The monies shall be derived from the revenues of
27 multijurisdictional lottery games.

28 H. The commission, in addition to other games authorized by this
29 article, shall establish special instant ticket games with play areas
30 protected by paper tabs designated for use by charitable organizations.
31 The monies for prizes and for operating expenses shall be accounted for
32 separately as nearly as practicable in the lottery commission's general
33 accounting system. Monies saved from the revenues of the special games,
34 by reason of operating efficiencies, shall become other revenue of the
35 lottery commission and revert to the state general fund, except that the
36 commission shall transfer the proceeds from any games that are sold from a
37 vending machine in an age-restricted area to the state treasurer for
38 deposit in the following amounts:

39 1. Nine hundred thousand dollars each fiscal year in the internet
40 crimes against children enforcement fund established by section 41-199.

41 2. One hundred thousand dollars each fiscal year in the victims'
42 rights enforcement fund established by section 41-1727.

43 3. Any monies in excess of the amounts listed in paragraphs 1 and 2
44 of this subsection, in the state lottery fund established by section
45 5-571.

1 I. The commission or director shall not establish or operate any
2 online or electronic keno game or any game played on the internet, EXCEPT
3 FOR THE ELECTRONIC KENO GAME AND THE MOBILE DRAW GAME AUTHORIZED IN
4 SUBSECTION J OF THIS SECTION.

5 J. FROM AND AFTER THE DATE ON WHICH THE CONDITIONS PRESCRIBED IN
6 SECTIONS 5-1213 AND 5-1321 ARE MET, THE COMMISSION OR DIRECTOR, IN
7 ADDITION TO ANY OTHER GAME AUTHORIZED IN THIS SECTION, MAY ESTABLISH AND
8 OPERATE A SINGLE ELECTRONIC KENO GAME AND A SINGLE MOBILE DRAW GAME ON A
9 CENTRALIZED COMPUTER SYSTEM CONTROLLED BY THE LOTTERY THAT ALLOWS A PLAYER
10 TO PLACE WAGERS, VIEW THE OUTCOME OF A GAME AND RECEIVE WINNINGS OVER THE
11 INTERNET, INCLUDING ON PERSONAL ELECTRONIC DEVICES.

12 K. AN ELECTRONIC KENO GAME CONDUCTED PURSUANT TO SUBSECTION J OF
13 THIS SECTION MAY BE OPERATED ONLY WITHIN AN AUTHORIZED KENO LOCATION. IF
14 THE ELECTRONIC KENO GAME IS AUTHORIZED TO BE PLAYED ON PERSONAL ELECTRONIC
15 DEVICES, PLAYERS SHALL BE GEOGRAPHICALLY RESTRICTED BY MEANS OF GEOFENCING
16 TO AUTHORIZED KENO LOCATIONS. ELECTRONIC KENO GAME DRAWS MAY NOT BE
17 CONDUCTED MORE FREQUENTLY THAN ONCE EVERY FOUR MINUTES. THE NUMBER OF
18 AUTHORIZED KENO LOCATIONS MAY NOT EXCEED THE NUMBER PUBLISHED ANNUALLY BY
19 THE DIRECTOR, WHICH IS EQUAL TO THE TOTAL NUMBER OF ESTABLISHMENTS
20 LICENSED BY THE DEPARTMENT OF GAMING TO ALLOW WAGERING ON LIVE HORSE RACES
21 AND SIMULCAST WAGERING PURSUANT TO SECTION 5-107, PLUS THE TOTAL NUMBER OF
22 CLASS 14 LIQUOR LICENSES THAT THE DEPARTMENT OF LIQUOR LICENSES AND
23 CONTROL ISSUED TO FRATERNAL ORGANIZATIONS OR VETERANS' ORGANIZATIONS AS OF
24 JANUARY 1, 2021. THE TOTAL NUMBER OF AUTHORIZED KENO LOCATIONS SHALL BE
25 AUTOMATICALLY INCREASED BY TWO PERCENT EVERY TWO YEARS.

26 L. A MOBILE DRAW GAME CONDUCTED PURSUANT TO SUBSECTION J OF THIS
27 SECTION MAY OFFER PLAYERS MULTIPLE GAME PLAY STYLES AND WAGERING OPTIONS.
28 PLAYERS OF THE MOBILE DRAW GAME MAY NOT PLAY OR WIN A PRIZE MORE
29 FREQUENTLY THAN ONCE PER HOUR.

30 M. AN ELECTRONIC KENO GAME OR MOBILE DRAW GAME CONDUCTED PURSUANT
31 TO THIS SECTION MAY NOT PRESENT THE PLAYER WITH A USER INTERFACE DEPICTING
32 SPINNING REELS OR THAT REPLICATES A SLOT MACHINE, BLACKJACK, POKER,
33 ROULETTE, CRAPS OR ANY OTHER CASINO-STYLE GAME OTHER THAN TRADITIONAL KENO
34 OR A TRADITIONAL LOTTERY DRAW GAME.

35 ~~J.~~ N. EXCEPT AS PROVIDED IN SUBSECTIONS J, K, L AND M OF THIS
36 SECTION, the commission or director shall not establish or operate any
37 lottery game or any type of game play-style, either individually or in
38 combination, that uses gaming devices or video lottery terminals as those
39 terms are used in section 5-601.02, including monitor games that produce
40 or display outcomes or results more than once per hour.

41 ~~K.~~ O. The director shall print, in a prominent location on each
42 lottery ticket or share, a statement that help is available if a person
43 has a problem with gambling and a toll-free telephone number where problem
44 gambling assistance is available. The director shall require all licensed
45 agents to post a sign with the statement that help is available if a

1 person has a problem with gambling and the toll-free telephone number at
2 the point of sale as prescribed and supplied by the director.

3 ~~P.~~ P. For the purposes of this section:

4 1. "ADDITIONAL WAGERING FACILITY" HAS THE SAME MEANING PRESCRIBED
5 IN SECTION 5-101.

6 2. "AUTHORIZED KENO LOCATION" MEANS A PHYSICAL FACILITY LOCATED AT
7 LEAST FIVE MILES FROM AN INDIAN GAMING FACILITY THAT IS LICENSED BY THE
8 DIRECTOR IN THE SAME MANNER AS LICENSES ISSUED PURSUANT TO SECTION 5-562
9 BUT ONLY TO A FRATERNAL ORGANIZATION OR VETERANS' ORGANIZATION OR TO A
10 RACETRACK ENCLOSURE OR ADDITIONAL WAGERING FACILITY WHERE PARI-MUTUEL
11 WAGERING ON HORSE RACES IS CONDUCTED.

12 ~~3.~~ 3. "Charitable organization" means any nonprofit organization,
13 including not more than one auxiliary of that organization, that has
14 operated for charitable purposes in this state for at least two years
15 before submitting a license application under this article.

16 4. "ELECTRONIC KENO GAME" MEANS A HOUSE BANKING GAME IN WHICH:

17 (a) A PLAYER SELECTS FROM ONE TO TWENTY NUMBERS ON A CARD THAT
18 CONTAINS THE NUMBERS ONE THROUGH EIGHTY.

19 (b) THE LOTTERY RANDOMLY DRAWS TWENTY NUMBERS.

20 (c) PLAYERS WIN IF THE NUMBERS THEY SELECT CORRESPOND TO THE
21 NUMBERS DRAWN BY THE LOTTERY.

22 (d) THE LOTTERY PAYS ALL WINNERS, IF ANY, AND COLLECTS FROM ALL
23 LOSERS.

24 5. "FRATERNAL ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN
25 SECTION 5-401.

26 ~~6.~~ 6. "Game play-style" means the process or procedure that a
27 player must follow to determine if a lottery ticket or share is a winning
28 ticket or share.

29 ~~7.~~ 7. "Matrix" means the odds of winning a prize and the prize
30 payout amounts in a given game.

31 8. "MOBILE DRAW GAME" CONDUCTED PURSUANT TO SUBSECTION J OF THIS
32 SECTION, MEANS A LOTTERY DRAW GAME OFFERED TO PLAYERS OVER THE INTERNET,
33 INCLUDING ON MOBILE DEVICES, IN WHICH:

34 (a) A COMBINATION OF NUMBERS, SYMBOLS OR CHARACTERS IS SELECTED.

35 (b) A COMPUTER SYSTEM AUTHORIZED BY THE LOTTERY RANDOMLY SELECTS A
36 WINNING COMBINATION OF NUMBERS, SYMBOLS OR CHARACTERS.

37 (c) A COMPUTER SYSTEM VALIDATES ANY PRIZE AWARDED TO THE PLAYERS.

38 9. "OTHER EVENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 5-1301.

39 10. "SPORTS EVENT" HAS THE SAME MEANING PRESCRIBED IN SECTION
40 5-1301.

41 11. "VETERANS' ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN
42 SECTION 5-401.

1 Sec. 2. Title 5, chapter 6, article 1, Arizona Revised Statutes, is
2 amended by adding section 5-605, to read:

3 5-605. Tribal-state compacts; 2021 compact trust fund; annual
4 report; definition

5 A. THE 2021 COMPACT TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE
6 PURPOSES OF MITIGATING IMPACTS TO INDIAN TRIBES FROM GAMING AUTHORIZED BY
7 THE 2021 GAMING COMPACT AMENDMENT AND PROVIDING ECONOMIC BENEFITS TO
8 BENEFICIARY TRIBES, INCLUDING THOSE WITH AN EFFECTIVE GAMING COMPACT THAT
9 INCLUDES THE 2021 AMENDMENTS AND DO NOT ENGAGE IN GAMING. THE TRUST FUND
10 CONSISTS OF CONTRIBUTIONS FROM INDIAN TRIBES DESIGNATED IN THE 2021 GAMING
11 COMPACT AMENDMENTS. THE TRUST FUND SHALL NOT INCLUDE TRIBAL CONTRIBUTIONS
12 MADE PURSUANT TO SECTION 5-601.02, SUBSECTION H.

13 B. THE DEPARTMENT OF GAMING SHALL ADMINISTER THE 2021 COMPACT TRUST
14 FUND AS TRUSTEE IN ACCORDANCE WITH THE TERMS OF SECTION 12.1 OF THE 2021
15 GAMING COMPACT AMENDMENT. THE STATE TREASURER SHALL ACCEPT, SEPARATELY
16 ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY,
17 WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED BY SECTION 35-310 AND
18 WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY
19 EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR OF THE
20 DEPARTMENT OF GAMING, THE STATE TREASURER SHALL INVEST AND DIVEST ANY
21 TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS
22 35-313 AND 35-314.03, AND MONIES EARNED FROM THE INVESTMENT SHALL BE
23 CREDITED TO THE TRUST FUND.

24 C. THE BENEFICIARIES OF THE TRUST FUND ARE FEDERALLY RECOGNIZED
25 INDIAN TRIBES WITH A 2021 GAMING COMPACT AMENDMENT THAT ARE ELIGIBLE TO
26 RECEIVE PAYMENTS FROM THE TRUST FUND ACCORDING TO THE TERMS OF THE 2021
27 GAMING COMPACT AMENDMENT.

28 D. MONIES IN THE TRUST FUND SHALL BE DISBURSED EXCLUSIVELY FOR THE
29 PURPOSES PRESCRIBED IN THIS ARTICLE AND IN ACCORDANCE WITH THE 2021 GAMING
30 COMPACT AMENDMENT. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND
31 UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, SHALL BE CARRIED
32 FORWARD TO THE FOLLOWING YEAR AND SHALL NOT REVERT OR BE TRANSFERRED TO
33 ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN THE TRUST FUND
34 ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
35 APPROPRIATIONS.

36 E. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT OF GAMING
37 SHALL ISSUE A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE
38 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND EACH TRIBE THAT HAS EXECUTED A
39 2021 GAMING COMPACT AMENDMENT THAT DISCLOSES ALL MONIES DEPOSITED IN AND
40 DISBURSED FROM THE TRUST FUND DURING THE PRIOR FISCAL YEAR.

41 F. FOR THE PURPOSES OF THIS SECTION, "2021 GAMING COMPACT
42 AMENDMENT" MEANS A TRIBAL-STATE GAMING COMPACT AMENDMENT THAT BECOMES
43 EFFECTIVE AFTER JANUARY 1, 2021.

1 (e) A WINNING OUTCOME IS NOT BASED ON RANDOMIZED OR HISTORICAL
2 EVENTS OR ON THE SCORE, POINT SPREAD OR PERFORMANCE IN AN ATHLETIC EVENT
3 OF A SINGLE REAL-WORLD SPORTS TEAM, A SINGLE ATHLETE OR ANY COMBINATION OF
4 REAL-WORLD SPORTS TEAMS.

5 (f) THE FANTASY SPORTS CONTEST DOES NOT CONSTITUTE OR INVOLVE AND
6 IS NOT BASED ON ANY OF THE FOLLOWING:

7 (i) RACING THAT INVOLVES ANIMALS.

8 (ii) A GAME OR CONTEST ORDINARILY OFFERED BY A HORSE TRACK OR
9 CASINO FOR MONEY, CREDIT OR ANY REPRESENTATIVE OF VALUE, INCLUDING ANY
10 RACES, GAMES OR CONTESTS THAT INVOLVE HORSES OR THAT ARE PLAYED WITH CARDS
11 OR DICE.

12 (iii) A SLOT MACHINE OR OTHER MECHANICAL, ELECTROMECHANICAL OR
13 ELECTRONIC DEVICE, EQUIPMENT OR MACHINE.

14 (iv) POKER, BLACKJACK, FARO, MONTE, KENO, BINGO, FAN-TAN,
15 TWENTY-ONE, SEVEN AND A HALF, KLONDIKE, CRAPS, CHUCK-A-LUCK, CHINESE
16 CHUCK-A-LUCK, WHEEL OF FORTUNE, CHEMIN DE FER, BACCARAT, PAI GOW, BEAT THE
17 BANKER, PANGUINGUE, ROULETTE OR OTHER BANKING OR PERCENTAGE GAMES.

18 (v) ANY OTHER GAME OR DEVICE THAT IS AUTHORIZED OR THAT IS NOT
19 AUTHORIZED BY THIS STATE.

20 (vi) A HIGH SCHOOL OR YOUTH SPORTING EVENT OR ANY EVENT THAT IS NOT
21 AN ATHLETIC EVENT.

22 (vii) A CONTEST THAT INVOLVES OR RESULTS IN BETTING ON A RACE, A
23 GAME, A CONTEST OR A SPORT THAT CONSTITUTES EVENT WAGERING AS DEFINED IN
24 SECTION 5-1301.

25 7. "FANTASY SPORTS CONTEST ADJUSTED REVENUES" MEANS THE AMOUNT
26 EQUAL TO THE TOTAL OF ALL ENTRY FEES THAT A FANTASY SPORTS CONTEST
27 OPERATOR COLLECTS FROM ALL FANTASY SPORTS CONTEST PLAYERS MINUS THE TOTAL
28 OF ALL SUMS PAID OUT AS PRIZES OR AWARDS TO ALL FANTASY SPORTS CONTEST
29 PLAYERS, MULTIPLIED BY THE IN-STATE PERCENTAGE.

30 8. "FANTASY SPORTS CONTEST OPERATOR" OR "OPERATOR" MEANS A PERSON
31 THAT IS ENGAGED IN THE BUSINESS OF PROFESSIONALLY CONDUCTING PAID FANTASY
32 SPORTS CONTESTS FOR CASH OR OTHER PRIZES OR AWARDS FOR MEMBERS OF THE
33 GENERAL PUBLIC THAT REQUIRES CASH OR CASH EQUIVALENT AS AN ENTRY FEE TO BE
34 PAID BY A MEMBER OF THE GENERAL PUBLIC WHO PARTICIPATES IN A PAID FANTASY
35 SPORTS CONTEST.

36 9. "FANTASY SPORTS CONTEST PLATFORM" MEANS THE HARDWARE, SOFTWARE,
37 FIRMWARE, COMMUNICATIONS TECHNOLOGY OR OTHER EQUIPMENT, INCLUDING OPERATOR
38 PROCEDURES IMPLEMENTED TO ALLOW PLAYER PARTICIPATION IN DIGITAL OR ONLINE
39 FANTASY SPORTS CONTESTS, AND IF SUPPORTED, THE CORRESPONDING EQUIPMENT
40 RELATED TO THE DISPLAY OF THE OUTCOMES, AND OTHER SIMILAR INFORMATION
41 NECESSARY TO FACILITATE PLAYER PARTICIPATION IN WHICH A PLAYER IS PROVIDED
42 WITH THE MEANS TO ESTABLISH A PLAYER ACCOUNT AND THE FANTASY SPORTS
43 CONTEST OPERATOR IS PROVIDED WITH THE MEANS TO REVIEW PLAYER ACCOUNTS,
44 SUSPEND FANTASY SPORTS CONTESTS, GENERATE VARIOUS FINANCIAL TRANSACTION

1 AND ACCOUNT REPORTS, INPUT OUTCOMES FOR FANTASY SPORTS CONTESTS AND SET
2 ANY CONFIGURABLE PARAMETERS.

3 10. "FANTASY SPORTS CONTEST PLAYER" OR "PLAYER" MEANS AN INDIVIDUAL
4 WHO PARTICIPATES IN A FANTASY SPORTS CONTEST OFFERED BY A FANTASY SPORTS
5 CONTEST OPERATOR.

6 11. "FANTASY SPORTS CONTEST TEAM" MEANS THE SIMULATED TEAM COMPOSED
7 OF MULTIPLE INDIVIDUAL ATHLETES, EACH OF WHOM IS A MEMBER OF A REAL-WORLD
8 SPORTS TEAM THAT A FANTASY SPORTS CONTEST PLAYER SELECTS TO COMPETE IN A
9 FANTASY SPORTS CONTEST.

10 12. "HIGHLY EXPERIENCED PLAYER" MEANS A FANTASY SPORTS CONTEST
11 PLAYER WHO HAS DONE AT LEAST ONE OF THE FOLLOWING:

12 (a) ENTERED MORE THAN ONE THOUSAND FANTASY SPORTS CONTESTS OFFERED
13 BY A SINGLE FANTASY SPORTS CONTEST OPERATOR.

14 (b) WON MORE THAN THREE PRIZES OR AWARDS VALUED AT \$1,000 EACH OR
15 MORE FROM A SINGLE FANTASY SPORTS CONTEST OPERATOR.

16 13. "HOLDING COMPANY" MEANS A CORPORATION, FIRM, PARTNERSHIP,
17 LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, TRUST OR OTHER FORM OF
18 BUSINESS ORGANIZATION THAT IS NOT AN INDIVIDUAL AND THAT DIRECTLY OR
19 INDIRECTLY DOES EITHER OF THE FOLLOWING:

20 (a) HOLDS AN OWNERSHIP INTEREST OF TEN PERCENT OR MORE, AS
21 DETERMINED BY THE HOLDING COMPANY'S BOARD, IN A FANTASY SPORTS CONTEST
22 OPERATOR.

23 (b) HOLDS VOTING RIGHTS WITH THE POWER TO VOTE TEN PERCENT OR MORE
24 OF THE OUTSTANDING VOTING RIGHTS OF A FANTASY SPORTS CONTEST OPERATOR.

25 14. "IN-STATE PERCENTAGE" MEANS FOR EACH FANTASY SPORTS CONTEST,
26 THE PERCENTAGE, ROUNDED TO THE NEAREST TENTH OF A PERCENT, EQUAL TO THE
27 TOTAL ENTRY FEES COLLECTED FROM ALL IN-STATE PARTICIPANTS DIVIDED BY THE
28 TOTAL ENTRY FEES COLLECTED FROM ALL PARTICIPANTS IN THE FANTASY SPORTS
29 CONTEST, UNLESS OTHERWISE PRESCRIBED BY THE DEPARTMENT.

30 15. "KEY EMPLOYEE" MEANS AN EMPLOYEE OF A FANTASY SPORTS CONTEST
31 OPERATOR WHO HAS THE POWER TO EXERCISE SIGNIFICANT INFLUENCE OVER
32 DECISIONS CONCERNING THE FANTASY SPORTS CONTEST OPERATOR.

33 16. "LICENSE" MEANS AN APPROVAL THAT IS ISSUED BY THE DEPARTMENT TO
34 ANY PERSON OR ENTITY TO BE INVOLVED IN A FANTASY SPORTS OPERATION.

35 17. "MANAGEMENT COMPANY" MEANS A PERSON RETAINED BY A FANTASY
36 SPORTS CONTEST OPERATOR TO MANAGE A FANTASY SPORTS CONTEST PLATFORM AND
37 PROVIDE GENERAL ADMINISTRATION AND OTHER OPERATIONAL SERVICES.

38 18. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
39 ASSOCIATION, LIMITED LIABILITY COMPANY, FEDERALLY RECOGNIZED INDIAN TRIBE
40 OR OTHER LEGAL ENTITY.

41 19. "PLAYER ACCOUNT" MEANS AN ACCOUNT THAT IS ESTABLISHED BY A
42 PATRON FOR THE PURPOSE OF PARTICIPATING IN FANTASY SPORTS CONTESTS,
43 INCLUDING DEPOSITS, WITHDRAWALS, ENTRY FEES AND PAYOUTS.

44 20. "PRIZE OR AWARD" MEANS ANYTHING OF VALUE OR ANY AMOUNT OF CASH
45 OR CASH EQUIVALENTS.

1 21. "PROTECTED INFORMATION" MEANS INFORMATION RELATED TO PLAYING
2 FANTASY SPORTS CONTESTS BY A FANTASY SPORTS CONTEST PLAYER THAT IS NOT
3 READILY AVAILABLE TO THE GENERAL PUBLIC AND THAT IS OBTAINED AS A RESULT
4 OF A PERSON'S EMPLOYMENT IN RELATION TO A FANTASY SPORTS CONTEST.

5 22. "SCRIPT" MEANS A LIST OF COMMANDS THAT A FANTASY
6 CONTEST-RELATED COMPUTER PROGRAM CAN EXECUTE AND THAT IS CREATED BY A
7 FANTASY SPORTS CONTEST PLAYER OR BY A THIRD PARTY FOR A FANTASY SPORTS
8 CONTEST PLAYER TO AUTOMATE PROCESSES ON A FANTASY SPORTS CONTEST PLATFORM.

9 5-1202. Fantasy sports contests; exceptions; rules; licensure

10 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT
11 OFFER FANTASY SPORTS CONTESTS IN THIS STATE UNLESS THE PERSON IS LICENSED
12 BY THE DEPARTMENT AS A FANTASY SPORTS CONTEST OPERATOR.

13 B. AN INDIVIDUAL MAY OFFER ONE OR MORE FANTASY SPORTS CONTESTS IF
14 ALL OF THE FOLLOWING APPLY:

15 1. THE FANTASY SPORTS CONTESTS ARE NOT MADE AVAILABLE TO THE
16 GENERAL PUBLIC.

17 2. EACH OF THE FANTASY SPORTS CONTESTS IS LIMITED TO NOT MORE THAN
18 FIFTEEN TOTAL FANTASY SPORTS CONTEST PLAYERS.

19 3. THE INDIVIDUAL COLLECTS NOT MORE THAN \$10,000 IN TOTAL ENTRY
20 FEES FOR ALL FANTASY SPORTS CONTESTS OFFERED IN A CALENDAR YEAR, AT LEAST
21 NINETY-FIVE PERCENT OF WHICH ARE AWARDED TO THE FANTASY SPORTS CONTEST
22 PLAYERS.

23 C. AN INDIAN TRIBE THAT LAWFULLY CONDUCTS CLASS III GAMING PURSUANT
24 TO A TRIBAL-STATE GAMING COMPACT WITH THIS STATE, DIRECTLY OR THROUGH A
25 THIRD-PARTY OPERATOR, MAY OFFER AND CONDUCT FANTASY SPORTS CONTESTS
26 WITHOUT APPLYING FOR OR HOLDING A LICENSE PURSUANT TO THIS SECTION IF ALL
27 ACTIVITIES OF THE FANTASY SPORTS CONTEST OCCUR WITHIN THE BOUNDARY OF ITS
28 INDIAN LANDS AND THE INDIAN TRIBE COMPLIES WITH ANY REGULATIONS THAT ARE
29 INCLUDED IN THE COMPACT OR ITS APPENDICES REGARDING FANTASY SPORTS
30 CONTESTS.

31 D. TO ENSURE THE INTEGRITY OF FANTASY SPORTS CONTESTS, THE
32 DEPARTMENT HAS JURISDICTION OVER EACH PERSON INVOLVED IN CONDUCTING A
33 FANTASY SPORTS CONTEST. THE DEPARTMENT MAY ADOPT RULES RELATED TO
34 CONDUCTING FANTASY SPORTS CONTESTS, INCLUDING RULES PRESCRIBING PENALTIES
35 FOR VIOLATING THIS CHAPTER OR ANY RULES ADOPTED UNDER THIS CHAPTER.

36 E. EVERY APPLICANT FOR LICENSURE SHALL SUBMIT A COMPLETED
37 APPLICATION, ALONG WITH ANY REQUIRED INFORMATION, TO THE DEPARTMENT. THE
38 DEPARTMENT SHALL DETERMINE THE FORM AND CONTENT OF THE APPLICATION. EACH
39 APPLICATION SHALL BE ACCOMPANIED BY THE APPLICANT'S CURRENT PHOTOGRAPH AND
40 THE FEE REQUIRED BY THE DEPARTMENT. THE APPLICANT MUST ALSO SUBMIT A FULL
41 SET OF FINGERPRINTS TO THE DEPARTMENT FOR THE PURPOSE OF OBTAINING A STATE
42 AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC
43 LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT
44 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

1 F. THE INFORMATION REQUIRED BY THE DEPARTMENT SHALL INCLUDE
2 DOCUMENTATION OF ALL OF THE FOLLOWING:

3 1. THE NAME OF THE APPLICANT.
4 2. THE LOCATION OF THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS.
5 3. THE APPLICANT'S TELEPHONE NUMBER.
6 4. THE APPLICANT'S SOCIAL SECURITY NUMBER OR, IF APPLICABLE, THE
7 APPLICANT'S FEDERAL TAX IDENTIFICATION NUMBER.

8 5. THE NAME AND ADDRESS OF EACH INDIVIDUAL THAT HOLDS A TEN PERCENT
9 OR MORE OWNERSHIP INTEREST IN THE APPLICANT OR IN SHARES OF THE APPLICANT.

10 6. THE APPLICANT'S CRIMINAL RECORD, IF ANY, OR IF THE APPLICANT IS
11 A BUSINESS ENTITY, ON REQUEST, ANY CRIMINAL RECORD OF AN INDIVIDUAL WHO IS
12 A DIRECTOR, OFFICER OR KEY EMPLOYEE OF, OR ANY INDIVIDUAL WHO HAS A TEN
13 PERCENT OR MORE OWNERSHIP INTEREST IN, THE APPLICANT.

14 7. ANY OWNERSHIP INTEREST THAT A DIRECTOR, OFFICER, KEY EMPLOYEE OR
15 INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE APPLICANT HOLDS IN A PERSON
16 THAT IS OR WAS A FANTASY SPORTS CONTEST OPERATOR OR SIMILAR ENTITY IN ANY
17 JURISDICTION.

18 8. AN IDENTIFICATION OF ANY BUSINESS, INCLUDING, IF APPLICABLE, THE
19 STATE OF INCORPORATION OR REGISTRATION, IN WHICH AN APPLICANT, DIRECTOR,
20 OFFICER, KEY EMPLOYEE OR INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE
21 APPLICANT, HAS AN EQUITY INTEREST OF FIVE PERCENT OR MORE.

22 9. WHETHER AN APPLICANT, DIRECTOR, OFFICER, KEY EMPLOYEE OR
23 INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE APPLICANT HAS EVER APPLIED
24 FOR OR BEEN GRANTED ANY LICENSE, REGISTRATION OR CERTIFICATE ISSUED BY A
25 LICENSING AUTHORITY IN THIS STATE OR ANY OTHER JURISDICTION FOR A GAMING
26 ACTIVITY.

27 10. WHETHER AN APPLICANT, DIRECTOR, OFFICER, KEY EMPLOYEE OR
28 INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE APPLICANT HAS FILED OR BEEN
29 SERVED WITH A COMPLAINT OR OTHER NOTICE FILED BY A PUBLIC BODY REGARDING
30 THE DELINQUENCY IN PAYMENT OF OR DISPUTE OVER FILINGS CONCERNING THE
31 PAYMENT OF ANY TAX REQUIRED UNDER FEDERAL, STATE OR LOCAL LAW, INCLUDING
32 THE AMOUNT OF TAX, THE TYPE OF TAX, THE TAXING AGENCY AND THE TIME PERIODS
33 INVOLVED.

34 11. A DESCRIPTION OF ANY PHYSICAL FACILITY OPERATED BY THE
35 APPLICANT IN THIS STATE, THE EMPLOYEES WHO WORK AT THE FACILITY AND THE
36 NATURE OF THE BUSINESS CONDUCTED AT THE FACILITY.

37 12. INFORMATION SUFFICIENT TO SHOW, AS DETERMINED BY THE
38 DEPARTMENT, THAT THE APPLICANT CAN MEET THE REQUIREMENTS OF PROCEDURES
39 SUBMITTED BY THE APPLICANT UNDER SECTION 5-1203 AND UNDER ANY RULES
40 ADOPTED UNDER THIS CHAPTER.

41 G. THE DEPARTMENT MAY REQUIRE LICENSURE OF A HOLDING COMPANY, A
42 MANAGEMENT COMPANY OR ANY OTHER PERSON IT CONSIDERS SUFFICIENTLY CONNECTED
43 TO THE FANTASY SPORTS CONTEST OPERATOR IF THAT LICENSURE IS NECESSARY TO
44 PRESERVE THE INTEGRITY OF FANTASY SPORTS CONTESTS AND PROTECT FANTASY
45 SPORTS CONTEST PLAYERS.

1 H. A LICENSE ISSUED UNDER THIS SECTION IS VALID FOR TWO YEARS. THE
2 DEPARTMENT SHALL RENEW A LICENSE BIENNIALY IF THE APPLICANT DEMONSTRATES
3 CONTINUED ELIGIBILITY FOR LICENSURE UNDER THIS CHAPTER AND PAYS THE
4 RENEWAL FEE. NOTWITHSTANDING THIS SUBSECTION, THE DEPARTMENT MAY
5 INVESTIGATE A LICENSEE AT ANY TIME THE DEPARTMENT DETERMINES IT IS
6 NECESSARY TO ENSURE THAT THE LICENSEE REMAINS IN COMPLIANCE WITH THIS
7 CHAPTER AND THE RULES ADOPTED PURSUANT TO THIS CHAPTER.

8 I. THE DEPARTMENT SHALL ESTABLISH THE INITIAL LICENSE FEE AND THE
9 LICENSE RENEWAL FEE. THE DEPARTMENT MAY ASSESS INVESTIGATIVE COSTS IF THE
10 COST OF A LICENSURE INVESTIGATION EXCEEDS THE AMOUNT OF THE INITIAL
11 LICENSE OR RENEWAL FEE.

12 J. ON RECEIPT OF A COMPLETED APPLICATION AND THE REQUIRED FEE, THE
13 DEPARTMENT SHALL CONDUCT THE NECESSARY BACKGROUND INVESTIGATION TO
14 DETERMINE IF THE APPLICANT MEETS THE QUALIFICATIONS FOR LICENSURE. ON
15 COMPLETION OF THE NECESSARY BACKGROUND INVESTIGATION, THE DEPARTMENT SHALL
16 EITHER ISSUE A LICENSE OR DENY THE APPLICATION. IF THE APPLICATION FOR
17 LICENSURE IS DENIED, A STATEMENT SETTING FORTH THE GROUNDS FOR DENIAL
18 SHALL BE FORWARDED TO THE APPLICANT TOGETHER WITH ALL OTHER DOCUMENTS
19 RELIED ON BY THE DEPARTMENT, TO THE EXTENT ALLOWED BY LAW.

20 5-1203. Prohibited employees; procedures and controls

21 A. THE FANTASY SPORTS CONTEST OPERATOR MAY NOT EMPLOY AN INDIVIDUAL
22 AND, IF ALREADY EMPLOYED, SHALL TERMINATE AN EMPLOYEE WHO IS IDENTIFIED
23 THROUGH REGULATIONS ISSUED BY THE DEPARTMENT IF THE INDIVIDUAL MEETS ANY
24 OF THE FOLLOWING CRITERIA:

25 1. HAS BEEN CONVICTED OF ANY GAMING OFFENSE.

26 2. HAS BEEN CONVICTED OF A FELONY IN THE SEVEN YEARS BEFORE
27 SUBMISSION OF THE EMPLOYMENT APPLICATION UNLESS THAT FELONY HAS BEEN SET
28 ASIDE.

29 3. HAS EVER BEEN CONVICTED OF A FELONY RELATED TO EXTORTION,
30 BURGLARY, LARCENY, BRIBERY, EMBEZZLEMENT, ROBBERY, RACKETEERING, MONEY
31 LAUNDERING, FORGERY, FRAUD, MURDER, VOLUNTARY MANSLAUGHTER OR A SEXUAL
32 OFFENSE THAT REQUIRES THE INDIVIDUAL TO REGISTER PURSUANT TO SECTION
33 13-3821.

34 4. HAS KNOWINGLY AND WILFULLY PROVIDED MATERIALLY IMPORTANT FALSE
35 STATEMENTS OR INFORMATION OR OMITTED MATERIALLY IMPORTANT INFORMATION ON
36 THE INDIVIDUAL'S EMPLOYMENT APPLICATION OR BACKGROUND QUESTIONNAIRE.

37 5. IS AN INDIVIDUAL WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF
38 ANY, OR REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC
39 INTEREST OR TO THE EFFECTIVE REGULATION AND CONTROL OF GAMING OR CREATE OR
40 ENHANCE THE DANGERS OF UNSUITABLE, UNFAIR OR ILLEGAL PRACTICES, METHODS
41 AND ACTIVITIES IN CONDUCTING GAMING OR CARRYING ON THE BUSINESS AND
42 FINANCIAL ARRANGEMENTS INCIDENTAL TO GAMING.

1 B. AS A CONDITION OF LICENSURE, A FANTASY SPORTS CONTEST OPERATOR
2 MUST SUBMIT TO AND RECEIVE APPROVAL FROM THE DEPARTMENT FOR COMMERCIALY
3 REASONABLE PROCEDURES AND INTERNAL CONTROLS INTENDED TO DO ALL OF THE
4 FOLLOWING:

5 1. PREVENT THE FANTASY SPORTS CONTEST OPERATOR OR ITS OWNERS,
6 DIRECTORS, OFFICERS AND EMPLOYEES AND ANY RELATIVE OF ANY OF THESE
7 INDIVIDUALS LIVING IN THE SAME HOUSEHOLD FROM PARTICIPATING IN A FANTASY
8 SPORTS CONTEST OFFERED TO THE PUBLIC.

9 2. PREVENT THE EMPLOYEES OR AGENTS OF THE FANTASY SPORTS CONTEST
10 OPERATOR FROM SHARING PROTECTED INFORMATION WITH THIRD PARTIES UNLESS THE
11 PROTECTED INFORMATION IS OTHERWISE MADE PUBLICLY AVAILABLE.

12 3. PREVENT PARTICIPANTS AND OFFICIALS IN AN ATHLETIC EVENT FROM
13 PARTICIPATING IN A FANTASY SPORTS CONTEST THAT IS BASED ON THE ATHLETIC
14 EVENT.

15 4. ESTABLISH THE NUMBER OF ENTRIES A SINGLE FANTASY SPORTS CONTEST
16 PLAYER MAY ENTER IN A SINGLE FANTASY SPORTS CONTEST AND TAKE REASONABLE
17 STEPS TO PREVENT FANTASY SPORTS CONTEST PLAYERS FROM SUBMITTING MORE THAN
18 THE ALLOWABLE NUMBER OF ENTRIES.

19 5. IDENTIFY EACH HIGHLY EXPERIENCED PLAYER BY A SYMBOL ATTACHED TO
20 THE HIGHLY EXPERIENCED PLAYER'S USERNAME.

21 6. OFFER SOME FANTASY SPORTS CONTESTS THAT ARE OPEN ONLY TO PLAYERS
22 OTHER THAN HIGHLY EXPERIENCED PLAYERS.

23 7. EITHER OF THE FOLLOWING:

24 (a) SEGREGATE THE DEPOSITS IN THE FANTASY SPORTS CONTEST PLAYERS'
25 ACCOUNTS FROM OPERATIONAL MONEY.

26 (b) MAINTAIN A RESERVE IN THE FORM OF CASH, CASH EQUIVALENTS,
27 PAYMENT PROCESSOR RESERVES, PAYMENT PROCESSOR RECEIVABLES, AN IRREVOCABLE
28 LETTER OF CREDIT, A BOND OR A COMBINATION OF THESE, THE AGGREGATE AMOUNT
29 OF WHICH EXCEEDS THE TOTAL DOLLAR VALUE AMOUNT OF DEPOSITS IN THE FANTASY
30 SPORTS CONTEST PLAYERS' ACCOUNTS. THE RESERVE MAY NOT BE USED FOR
31 OPERATIONAL ACTIVITIES.

32 8. ENSURE COMPLIANCE WITH THE APPLICABLE STATE AND FEDERAL
33 REQUIREMENTS TO PROTECT THE PRIVACY AND ONLINE SECURITY OF A FANTASY
34 SPORTS CONTEST PLAYER AND THE FANTASY SPORTS CONTEST PLAYER'S ACCOUNT.

35 9. OTHERWISE ENSURE THE INTEGRITY OF FANTASY SPORTS CONTESTS.

36 C. A LICENSED FANTASY SPORTS CONTEST OPERATOR SHALL COMPLY WITH THE
37 PROCEDURES AND INTERNAL CONTROLS THAT ARE SUBMITTED TO AND APPROVED BY THE
38 DEPARTMENT UNDER SUBSECTION B OF THIS SECTION. A LICENSED FANTASY SPORTS
39 CONTEST OPERATOR MAY MAKE TECHNICAL ADJUSTMENTS TO ITS PROCEDURES AND
40 INTERNAL CONTROLS IF THE ADJUSTMENTS ARE NOT MATERIAL AND IT NOTIFIES THE
41 DEPARTMENT WITHIN TWENTY-ONE DAYS OF THE CHANGES BECOMING EFFECTIVE AND
42 CONTINUES TO MEET OR EXCEED THE STANDARDS REQUIRED BY THIS CHAPTER AND ANY
43 RULES ADOPTED BY THE DEPARTMENT.

1 D. PROCEDURES SUBMITTED TO THE DEPARTMENT UNDER SUBSECTION B OF
2 THIS SECTION ARE CONFIDENTIAL AND PRIVILEGED AND ARE NOT SUBJECT TO
3 DISCLOSURE UNDER TITLE 39, CHAPTER 1, ARTICLE 2.

4 5-1204. Financial responsibility

5 ON OR BEFORE JULY 1 OF EACH YEAR, A LICENSED FANTASY SPORTS CONTEST
6 OPERATOR SHALL CONTRACT WITH A CERTIFIED PUBLIC ACCOUNTANT TO PERFORM AN
7 INDEPENDENT AUDIT IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
8 PRINCIPLES OF THE FINANCIAL CONDITION OF THE LICENSED FANTASY SPORTS
9 CONTEST OPERATOR'S TOTAL OPERATION FOR THE PREVIOUS FISCAL YEAR AND TO
10 ENSURE COMPLIANCE WITH THIS CHAPTER AND FOR ANY OTHER PURPOSE AS
11 PRESCRIBED BY RULE. NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE END
12 OF THE FANTASY SPORTS CONTEST OPERATOR'S FISCAL YEAR, A LICENSED FANTASY
13 SPORTS CONTEST OPERATOR SHALL SUBMIT THE AUDIT RESULTS UNDER THIS SECTION
14 TO THE DEPARTMENT. THE RESULTS OF AN AUDIT SUBMITTED TO THE DEPARTMENT
15 UNDER THIS SECTION ARE CONFIDENTIAL AND PRIVILEGED AND ARE NOT SUBJECT TO
16 DISCLOSURE AS PROVIDED IN TITLE 39, CHAPTER 1, ARTICLE 2.

17 5-1205. Prohibitions; exception

18 A. A FANTASY SPORTS CONTEST OPERATOR SHALL PROHIBIT AN INDIVIDUAL
19 WHO IS UNDER TWENTY-ONE YEARS OF AGE FROM PARTICIPATING IN A FANTASY
20 SPORTS CONTEST.

21 B. A LICENSED FANTASY SPORTS CONTEST OPERATOR MAY NOT DO ANY OF THE
22 FOLLOWING:

23 1. ALLOW THE USE OF A SCRIPT THAT PROVIDES A FANTASY SPORTS CONTEST
24 PLAYER WITH AN UNFAIR COMPETITIVE ADVANTAGE. A SCRIPT MADE READILY
25 AVAILABLE TO ALL FANTASY SPORTS CONTEST PLAYERS DOES NOT PROVIDE A FANTASY
26 SPORTS CONTEST PLAYER WITH AN UNFAIR COMPETITIVE ADVANTAGE AND MAY NOT BE
27 DETERMINED OTHERWISE.

28 2. USE FALSE, DECEPTIVE OR MISLEADING ADVERTISING OR ADVERTISING
29 THAT IS NOT BASED ON FACT.

30 3. TARGET, IN ADVERTISING OR PROMOTIONS, EITHER OF THE FOLLOWING:

31 (a) INDIVIDUALS WHO HAVE RESTRICTED THEMSELVES FROM ENTERING A
32 FANTASY SPORTS CONTEST UNDER THE PROCEDURES ESTABLISHED BY THE DEPARTMENT
33 PURSUANT TO SECTION 5-1206.

34 (b) INDIVIDUALS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.

35 C. A FANTASY SPORTS CONTEST MAY NOT BE OFFERED ON, AT OR FROM ANY
36 OF THE FOLLOWING:

37 1. A KIOSK OR MACHINE OPEN TO PUBLIC USE AND PHYSICALLY LOCATED IN
38 A RETAIL BUSINESS LOCATION, BAR, RESTAURANT OR OTHER COMMERCIAL
39 ESTABLISHMENT.

40 2. A KIOSK OR MACHINE OPEN TO PUBLIC USE AND PHYSICALLY LOCATED IN
41 A PLACE OF PUBLIC ACCOMMODATION, EXCEPT THAT A FRATERNAL ORGANIZATION OR
42 VETERANS' ORGANIZATION AS DEFINED IN SECTION 5-401 OR A LICENSED RACETRACK
43 MAY OPERATE UP TO TWO KIOSKS FOR THE SOLE PURPOSE OF OFFERING FANTASY
44 SPORTS.

1 D. THIS SECTION DOES NOT APPLY TO A FEDERALLY RECOGNIZED INDIAN
2 TRIBE OPERATING UNDER ITS TRIBAL-STATE GAMING COMPACT AND ANY AMENDMENTS.

3 5-1206. Problem gambling; self-exclusion list; program;
4 liabilities

5 A. A FANTASY SPORTS CONTEST OPERATOR SHALL DEVELOP A PROCEDURE TO
6 INFORM FANTASY SPORTS CONTEST PLAYERS THAT HELP IS AVAILABLE IF AN
7 INDIVIDUAL HAS A PROBLEM WITH GAMBLING AND, AT A MINIMUM, PROVIDE THE
8 STATEWIDE TOLL-FREE HELPLINE TELEPHONE NUMBER, TEXT MESSAGE AND WEBSITE
9 INFORMATION ESTABLISHED BY THE DEPARTMENT.

10 B. THE DEPARTMENT AND THE FANTASY SPORTS CONTEST OPERATOR SHALL
11 COMPLY WITH THE FOLLOWING REQUIREMENTS TO ALLOW PROBLEM GAMBLERS TO
12 VOLUNTARILY EXCLUDE THEMSELVES FROM FANTASY SPORTS CONTESTS STATEWIDE:

13 1. THE DEPARTMENT SHALL ESTABLISH A LIST OF PERSONS WHO
14 ACKNOWLEDGE, IN A MANNER TO BE ESTABLISHED BY RULE, THAT THEY HAVE A
15 COMPULSIVE PLAY PROBLEM AND VOLUNTARILY SEEK TO EXCLUDE THEMSELVES FROM
16 FANTASY SPORTS CONTESTS STATEWIDE. THE DEPARTMENT SHALL ESTABLISH
17 PROCEDURES FOR THE PLACEMENT ON AND REMOVAL FROM THE LIST OF SELF-EXCLUDED
18 PERSONS. ONLY A PERSON SEEKING VOLUNTARY SELF-EXCLUSION SHALL BE ALLOWED
19 TO INCLUDE THE PERSON'S NAME ON THE SELF-EXCLUSION LIST OF THE DEPARTMENT.

20 2. THE FANTASY SPORTS CONTEST OPERATOR SHALL ESTABLISH PROCEDURES
21 FOR ADVISING PERSONS WHO INQUIRE ABOUT SELF-EXCLUSION AND OFFER
22 SELF-EXCLUSION APPLICATION FORMS PROVIDED BY THE DEPARTMENT TO THOSE
23 PERSONS WHEN REQUESTED.

24 3. THE DEPARTMENT SHALL COMPILE IDENTIFYING INFORMATION CONCERNING
25 SELF-EXCLUDED PERSONS. SUCH INFORMATION SHALL CONTAIN, AT A MINIMUM, THE
26 FULL NAME AND ANY ALIASES OF THE PERSON, A PHOTOGRAPH OF THE PERSON, THE
27 SOCIAL SECURITY OR DRIVER'S LICENSE NUMBER OF THE PERSON AND THE CURRENT
28 PHYSICAL AND ELECTRONIC CONTACT INFORMATION, INCLUDING MAILING ADDRESS, OF
29 THE PERSON.

30 4. THE DEPARTMENT, ON A WEEKLY BASIS, SHALL PROVIDE THE COMPILED
31 INFORMATION TO FANTASY SPORTS CONTEST OPERATORS. FANTASY SPORTS CONTEST
32 OPERATORS SHALL TREAT THE INFORMATION RECEIVED FROM THE DEPARTMENT UNDER
33 THIS SECTION AS CONFIDENTIAL, AND THE INFORMATION MAY NOT BE DISCLOSED
34 EXCEPT TO VENDORS APPROVED BY THE DEPARTMENT FOR PURPOSES OF COMPLYING
35 WITH THIS SECTION, APPROPRIATE LAW ENFORCEMENT AGENCIES IF NEEDED IN
36 CONDUCTING AN OFFICIAL INVESTIGATION, OR UNLESS ORDERED BY A COURT OF
37 COMPETENT JURISDICTION.

38 5. A FANTASY SPORTS CONTEST OPERATOR SHALL CHECK THE MOST RECENT
39 SELF-EXCLUDED PERSONS LIST PROVIDED BY THE DEPARTMENT BEFORE CREATING A
40 PLAYER ACCOUNT FOR ANY SELF-EXCLUDED PERSON. A FANTASY SPORTS CONTEST
41 OPERATOR SHALL REVOKE A PLAYER ACCOUNT AND REMOVE ALL SELF-EXCLUDED
42 PERSONS FROM ALL MARKETING LISTS OF THE FANTASY SPORTS CONTEST OPERATOR.

43 6. A FANTASY SPORTS CONTEST OPERATOR SHALL TAKE REASONABLE STEPS TO
44 ENSURE THAT PERSONS ON THE DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS ARE
45 DENIED ACCESS TO ALL FANTASY SPORTS CONTESTS.

- 1 7. A FANTASY SPORTS CONTEST OPERATOR SHALL TAKE REASONABLE STEPS TO
2 IDENTIFY SELF-EXCLUDED PERSONS.
- 3 8. IF A SELF-EXCLUDED PERSON PARTICIPATES IN A FANTASY SPORTS
4 CONTEST, THE FANTASY SPORTS CONTEST OPERATOR SHALL REPORT TO THE
5 DEPARTMENT, AT A MINIMUM, THE NAME OF THE SELF-EXCLUDED PERSON, THE DATE
6 OF PARTICIPATION, THE AMOUNT OR VALUE OF ANY MONIES, PRIZES OR AWARDS
7 FORFEITED, IF ANY, AND ANY OTHER ACTION TAKEN. THE REPORT SHALL BE
8 PROVIDED TO THE DEPARTMENT WITHIN TWENTY-FOUR HOURS OF DISCOVERY.
- 9 C. A FANTASY SPORTS CONTEST OPERATOR MAY NOT PAY ANY PRIZE OR AWARD
10 TO A PERSON WHO IS ON THE DEPARTMENT'S SELF-EXCLUSION LIST. ANY PRIZE OR
11 AWARD WON BY A PERSON ON THE SELF-EXCLUSION LIST SHALL BE FORFEITED AND
12 SHALL BE DONATED BY THE FANTASY SPORTS CONTEST OPERATOR TO THE
13 DEPARTMENT'S DIVISION OF PROBLEM GAMBLING ON A QUARTERLY BASIS BY THE
14 TWENTY-FIFTH DAY OF THE FOLLOWING MONTH.
- 15 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE
16 DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS IS NOT OPEN TO PUBLIC
17 INSPECTION.
- 18 E. A FANTASY SPORTS CONTEST OPERATOR SHALL DEVELOP AND MAINTAIN A
19 PROGRAM TO MITIGATE COMPULSIVE PLAY AND CURTAIL COMPULSIVE PLAY, WHICH MAY
20 BE IN CONJUNCTION WITH THE DEPARTMENT.
- 21 5-1207. Department of gaming; authority
- 22 THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS CHAPTER AS
23 PROVIDED IN TITLE 41, CHAPTER 6, INCLUDING RULES THAT DO ALL OF THE
24 FOLLOWING:
- 25 1. REQUIRE A FANTASY SPORTS CONTEST OPERATOR TO IMPLEMENT
26 COMMERCIALY REASONABLE PROCEDURES TO PROHIBIT ACCESS TO BOTH OF THE
27 FOLLOWING:
- 28 (a) INDIVIDUALS WHO REQUEST TO RESTRICT THEMSELVES FROM PLAYING
29 FANTASY SPORTS CONTESTS.
- 30 (b) INDIVIDUALS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.
- 31 2. PRESCRIBE REQUIREMENTS RELATED TO BEGINNING PLAYERS AND HIGHLY
32 EXPERIENCED PLAYERS.
- 33 3. SUSPEND THE ACCOUNT OF A FANTASY SPORTS CONTEST PLAYER WHO
34 VIOLATES THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.
- 35 4. PROVIDE A FANTASY SPORTS CONTEST PLAYER WITH ACCESS TO
36 INFORMATION ON PLAYING RESPONSIBLY AND HOW TO ASK FOR ASSISTANCE FOR
37 COMPULSIVE PLAY BEHAVIOR.
- 38 5. REQUIRE AN APPLICANT FOR A FANTASY SPORTS CONTEST OPERATOR
39 LICENSE TO DESIGNATE AT LEAST ONE KEY EMPLOYEE AS A CONDITION OF OBTAINING
40 A LICENSE.
- 41 6. INCLUDE ANY OTHER RULE THE DEPARTMENT DETERMINES IS NECESSARY TO
42 ENSURE THE INTEGRITY OF FANTASY SPORTS CONTESTS.

1 5-1208. Requirements

2 A. AFTER A FANTASY SPORTS CONTEST OPERATOR IS LICENSED, THE FANTASY
3 SPORTS CONTEST OPERATOR SHALL REPORT ANY CHANGE TO THE INFORMATION
4 REGARDING OWNERSHIP INCLUDED IN ITS APPLICATION WITH THE DEPARTMENT WITHIN
5 THIRTY DAYS AFTER THE CHANGE IS EFFECTIVE. THE FANTASY SPORTS CONTEST
6 OPERATOR'S LICENSE SHALL REMAIN VALID UNLESS THE DEPARTMENT DETERMINES
7 THAT THE FANTASY SPORTS CONTEST OPERATOR IS NO LONGER QUALIFIED TO
8 MAINTAIN THE LICENSE DUE TO THE CHANGE.

9 B. A LICENSED FANTASY SPORTS CONTEST OPERATOR SHALL RETAIN AND
10 MAINTAIN IN A PLACE SECURE FROM THEFT, LOSS OR DESTRUCTION ALL OF THE
11 RECORDS REQUIRED TO BE MAINTAINED UNDER THIS CHAPTER AND THE RULES ADOPTED
12 UNDER THIS CHAPTER FOR AT LEAST THREE YEARS AFTER THE DATE THE RECORD IS
13 CREATED.

14 C. A LICENSED FANTASY SPORTS CONTEST OPERATOR SHALL ORGANIZE ALL
15 RECORDS UNDER SUBSECTIONS A AND B OF THIS SECTION IN A MANNER THAT ENABLES
16 THE LICENSED FANTASY SPORTS CONTEST OPERATOR TO PROVIDE THE DEPARTMENT
17 WITH THE RECORDS.

18 D. INFORMATION OBTAINED UNDER THIS SECTION IS CONFIDENTIAL AND
19 PRIVILEGED AND IS NOT SUBJECT TO DISCLOSURE AS PROVIDED IN TITLE 39,
20 CHAPTER 1, ARTICLE 2.

21 E. IF A FANTASY SPORTS CONTEST OPERATOR IS REQUIRED TO FILE A FORM
22 1099-MISC OR OTHER SUBSTANTIALLY EQUIVALENT FORM WITH THE UNITED STATES
23 INTERNAL REVENUE SERVICE FOR A PERSON WHO IS IDENTIFIED BY THE ARIZONA
24 ADMINISTRATIVE OFFICE OF THE COURTS, THE DEPARTMENT OF ECONOMIC SECURITY
25 DIVISION OF CHILD SUPPORT ENFORCEMENT, THE DEPARTMENT OF ECONOMIC SECURITY
26 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE OVERPAYMENT OR
27 THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION AS OWING AN
28 OBLIGATION, THE FANTASY SPORTS CONTEST OPERATOR SHALL WITHHOLD FROM THE
29 PERSON'S ACCOUNT THE AMOUNT OF OBLIGATIONS OWED AT THE TIME THE FORM
30 1099-MISC OR A SUBSTANTIALLY EQUIVALENT FORM IS ISSUED, IF THE FANTASY
31 SPORTS OPERATOR HAS BEEN NOTIFIED BY THIS STATE OF THE OBLIGATION. AT
32 THAT TIME, THE FANTASY SPORTS CONTEST OPERATOR SHALL TRANSMIT THE AMOUNT
33 WITHHELD FOR OBLIGATIONS TO THE DEPARTMENT OF GAMING AND SHALL ALSO
34 TRANSMIT ANY INFORMATION REQUESTED BY THE DEPARTMENT OF GAMING. THE
35 DEPARTMENT OF GAMING SHALL PROVIDE INFORMATION TO THE FANTASY SPORTS
36 CONTEST OPERATOR OF PERSONS WITH OUTSTANDING OBLIGATIONS. IF THE
37 IDENTIFIED PERSON IS ALSO SELF-EXCLUDED, TAX LIABILITIES AND SETOFF
38 OBLIGATIONS SHALL BE SATISFIED BEFORE ANY MONIES ARE DONATED TO THE
39 DEPARTMENT OF GAMING DIVISION OF PROBLEM GAMBLING PURSUANT TO SECTION
40 5-1206. IF THE IDENTIFIED PERSON HAS MULTIPLE LIABILITIES, THOSE
41 LIABILITIES SHALL BE SATISFIED IN THE FOLLOWING ORDER:

- 42 1. CHILD SUPPORT ENFORCEMENT.
- 43 2. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE
44 OVERPAYMENT.
- 45 3. THE COURTS.

1 4. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.
2 5-1209. Revocation, suspension or denial of license; grounds;
3 definitions

4 A. THE DEPARTMENT MAY REVOKE, SUSPEND OR DENY A LICENSE IF AN
5 APPLICANT OR LICENSEE MEETS ANY OF THE FOLLOWING CRITERIA:

6 1. VIOLATES, FAILS OR REFUSES TO COMPLY WITH THE PROVISIONS,
7 REQUIREMENTS, CONDITIONS, LIMITATIONS OR DUTIES IMPOSED BY LAW OR RULE, OR
8 IF ANY SUCH VIOLATION OCCURS ON ANY FANTASY SPORTS CONTEST PLATFORM
9 OPERATED BY ANY SUCH PERSON OR OVER WHICH THE PERSON HAS SUBSTANTIAL
10 CONTROL.

11 2. KNOWINGLY CAUSES, AIDS, ABETS OR CONSPIRES WITH ANOTHER TO CAUSE
12 ANY PERSON TO VIOLATE ANY OF THE LAWS OF THIS STATE OR THE RULES OF THE
13 DEPARTMENT.

14 3. OBTAINS A LICENSE BY FRAUD, MISREPRESENTATION, CONCEALMENT OR
15 THROUGH INADVERTENCE OR MISTAKE.

16 4. IS CONVICTED OR FORFEITED BOND ON A CHARGE OF OR PLEADS GUILTY
17 TO:

18 (a) FORGERY, LARCENY, EXTORTION OR CONSPIRACY TO DEFRAUD.

19 (b) WILFUL FAILURE TO MAKE REQUIRED PAYMENT OR REPORTS TO ANY
20 TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY, FILING FALSE REPORTS WITH
21 ANY TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY OR ANY SIMILAR OFFENSE OR
22 OFFENSES.

23 (c) BRIBING OR OTHERWISE UNLAWFULLY INFLUENCING A PUBLIC OFFICIAL
24 OF THIS STATE OR ANY OTHER STATE OR JURISDICTION.

25 (d) ANY CRIME, WHETHER A FELONY OR MISDEMEANOR, INVOLVING ANY
26 GAMING ACTIVITY, PHYSICAL HARM TO AN INDIVIDUAL OR MORAL TURPITUDE.

27 5. MAKES A MISREPRESENTATION OF OR FAILS TO DISCLOSE A MATERIAL
28 FACT TO THE DEPARTMENT.

29 6. FAILS TO PROVE, BY CLEAR AND CONVINCING EVIDENCE, THAT THE
30 PERSON IS QUALIFIED FOR LICENSURE.

31 7. IS SUBJECT TO CURRENT PROSECUTION OR PENDING CHARGES OR A
32 CONVICTION THAT IS UNDER APPEAL FOR ANY OF THE OFFENSES INCLUDED IN THIS
33 SUBSECTION. AT THE REQUEST OF AN APPLICANT FOR AN ORIGINAL LICENSE, THE
34 DEPARTMENT MAY DEFER DECISION ON THE APPLICATION DURING THE PENDENCY OF
35 THE PROSECUTION OR APPEAL.

36 8. HAS HAD A GAMING LICENSE ISSUED BY ANY JURISDICTION IN THE
37 UNITED STATES REVOKED OR DENIED.

38 9. DEMONSTRATES A WILFUL DISREGARD FOR COMPLIANCE WITH GAMING
39 REGULATORY AUTHORITY IN ANY JURISDICTION, INCLUDING SUSPENSION, REVOCATION
40 OR DENIAL OF AN APPLICATION FOR A LICENSE OR FORFEITURE OF A LICENSE.

41 10. HAS PURSUED OR IS PURSUING ECONOMIC GAIN IN AN OCCUPATIONAL
42 MANNER OR CONTEXT IN VIOLATION OF THE CRIMINAL LAWS OF ANY STATE IF THE
43 PURSUIT CREATES PROBABLE CAUSE TO BELIEVE THAT THE PERSON'S PARTICIPATION
44 IN GAMING OR RELATED ACTIVITIES WOULD BE DETRIMENTAL TO THE PROPER
45 OPERATION OF AUTHORIZED GAMING OR A RELATED ACTIVITY IN THIS STATE.

1 11. IS A CAREER OFFENDER OR A MEMBER OF A CAREER OFFENDER
2 ORGANIZATION OR AN ASSOCIATE OF A CAREER OFFENDER OR CAREER OFFENDER
3 ORGANIZATION THEREBY ESTABLISHING PROBABLE CAUSE TO BELIEVE THAT THE
4 ASSOCIATION IS OF SUCH A NATURE AS TO BE DETRIMENTAL TO THE PROPER
5 OPERATION OF AUTHORIZED GAMING OR RELATED ACTIVITIES IN THIS STATE.

6 12. IS A PERSON WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF ANY,
7 REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC INTEREST
8 OF THIS STATE OR TO THE EFFECTIVE REGULATION AND CONTROL OF FANTASY SPORTS
9 CONTESTS, OR CREATES OR ENHANCES THE DANGERS OF UNSUITABLE, UNFAIR OR
10 ILLEGAL PRACTICES, METHODS AND ACTIVITIES IN THE CONDUCT OF FANTASY SPORTS
11 CONTESTS, OR THE CARRYING ON OF THE BUSINESS AND FINANCIAL ARRANGEMENTS
12 INCIDENTAL THERETO.

13 13. FAILS TO PROVIDE ANY INFORMATION REQUESTED BY THE DEPARTMENT
14 WITHIN SEVEN DAYS OF THE REQUEST FOR THE INFORMATION.

15 B. THE DEPARTMENT, PURSUANT TO THE LAWS OF THIS STATE, MAY
16 SUMMARILY SUSPEND A LICENSE ISSUED PURSUANT TO THIS CHAPTER IF THE
17 CONTINUED LICENSURE OF A PERSON CONSTITUTES AN IMMEDIATE THREAT TO THE
18 PUBLIC HEALTH, SAFETY OR WELFARE.

19 C. ANY APPLICANT FOR LICENSURE AGREES BY MAKING SUCH APPLICATION TO
20 BE SUBJECT TO STATE JURISDICTION TO THE EXTENT NECESSARY TO DETERMINE THE
21 APPLICANT'S QUALIFICATION TO HOLD SUCH LICENSE, INCLUDING ALL NECESSARY
22 ADMINISTRATIVE PROCEDURES, HEARINGS AND APPEALS PURSUANT TO TITLE 41,
23 CHAPTER 6 AND THE DEPARTMENT'S RULES.

24 D. AN APPLICANT FOR LICENSURE MAY NOT WITHDRAW AN APPLICATION
25 WITHOUT THE DEPARTMENT'S WRITTEN PERMISSION. THE DEPARTMENT MAY NOT
26 UNREASONABLY WITHHOLD PERMISSION TO WITHDRAW AN APPLICATION.

27 E. FOR THE PURPOSES OF THIS SECTION:

28 1. "CAREER OFFENDER" MEANS ANY INDIVIDUAL WHO BEHAVES IN AN
29 OCCUPATIONAL MANNER OR CONTEXT FOR THE PURPOSES OF ECONOMIC GAIN BY
30 VIOLATING FEDERAL LAW OR THE LAWS AND PUBLIC POLICY OF THIS STATE.

31 2. "CAREER OFFENDER ORGANIZATION" MEANS ANY GROUP OF INDIVIDUALS
32 WHO OPERATE TOGETHER AS CAREER OFFENDERS.

33 3. "OCCUPATIONAL MANNER OR CONTEXT" MEANS THE SYSTEMATIC PLANNING,
34 ADMINISTRATION, MANAGEMENT OR EXECUTION OF AN ACTIVITY FOR FINANCIAL GAIN.

35 5-1210. Violations; classification; penalties

36 A. A PERSON MAY NOT DO ANY OF THE FOLLOWING:

37 1. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, OFFER A FANTASY
38 SPORTS CONTEST IN THIS STATE UNLESS THE PERSON IS LICENSED BY THE
39 DEPARTMENT.

40 2. KNOWINGLY MAKE A FALSE STATEMENT ON AN APPLICATION FOR A LICENSE
41 UNDER THIS CHAPTER.

42 3. KNOWINGLY PROVIDE FALSE TESTIMONY TO THE DEPARTMENT OR ANY
43 AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT.

1 B. THE DEPARTMENT MAY NOT ISSUE A LICENSE UNDER THIS CHAPTER TO A
2 PERSON THAT VIOLATES SUBSECTION A OF THIS SECTION.

3 C. A PERSON THAT VIOLATES SUBSECTION A, PARAGRAPH 1 OF THIS SECTION
4 IS GUILTY OF A CRIME AS FOLLOWS:

5 1. FOR THE FIRST OR SECOND VIOLATION, THE PERSON IS GUILTY OF A
6 CLASS 3 MISDEMEANOR.

7 2. FOR A THIRD OR SUBSEQUENT VIOLATION, THE PERSON IS GUILTY OF A
8 CLASS 1 MISDEMEANOR.

9 D. THE DEPARTMENT MAY ISSUE A CEASE AND DESIST ORDER AND OBTAIN
10 INJUNCTIVE RELIEF AGAINST A PERSON THAT VIOLATES THIS CHAPTER.

11 E. THE DEPARTMENT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN
12 \$10,000 FOR A VIOLATION OF THIS CHAPTER, A RULE ADOPTED UNDER THIS CHAPTER
13 OR AN ORDER OF THE DEPARTMENT. A CIVIL PENALTY IMPOSED UNDER THIS SECTION
14 IS PAYABLE TO THIS STATE AND MAY BE COLLECTED IN A CIVIL ACTION BROUGHT BY
15 THE DEPARTMENT.

16 F. THE DEPARTMENT MAY SUSPEND, REVOKE OR RESTRICT THE LICENSE OF A
17 FANTASY SPORTS CONTEST OPERATOR THAT VIOLATES THIS CHAPTER, A RULE ADOPTED
18 UNDER THIS CHAPTER OR AN ORDER OF THE DEPARTMENT.

19 5-1211. Fees

20 A. THE DEPARTMENT SHALL ESTABLISH A FEE FOR THE PRIVILEGE OF
21 OPERATING FANTASY SPORTS CONTESTS. IN DETERMINING THE FEE, THE DEPARTMENT
22 SHALL CONSIDER THE HIGHEST PERCENTAGE OF REVENUE SHARE THAT AN INDIAN
23 TRIBE PAYS TO THIS STATE PURSUANT TO THE TRIBAL-STATE GAMING COMPACTS AND
24 ANY AMENDMENTS. A FANTASY SPORTS CONTEST OPERATOR SHALL REPORT TO THE
25 DEPARTMENT AND PAY THE FEE FROM ITS MONTHLY FANTASY SPORTS CONTEST
26 ADJUSTED REVENUES, ON A FORM AND IN THE MANNER PRESCRIBED BY THE
27 DEPARTMENT. THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL WHO OFFERS A
28 FANTASY SPORTS CONTEST UNDER SECTION 5-1202, SUBSECTION B.

29 B. THE FEE ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION IS
30 DUE AND PAYABLE TO THE DEPARTMENT BY THE TWENTY-FIFTH DAY OF EACH MONTH
31 AND SHALL BE BASED ON MONTHLY FANTASY SPORTS CONTEST ADJUSTED REVENUE
32 DERIVED DURING THE PREVIOUS MONTH.

33 C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
34 35-147, THE FEES COLLECTED PURSUANT TO THIS SECTION IN THE FANTASY SPORTS
35 CONTEST FUND ESTABLISHED BY SECTION 5-1212.

36 D. A LICENSED FANTASY SPORTS CONTEST OPERATOR WHO FAILS TO REMIT TO
37 THE DEPARTMENT THE FEES REQUIRED UNDER THIS SECTION IS LIABLE, IN ADDITION
38 TO ANY SANCTION OR PENALTY IMPOSED UNDER THIS CHAPTER, FOR THE PAYMENT OF
39 A PENALTY OF FIVE PERCENT PER MONTH UP TO A MAXIMUM OF TWENTY-FIVE PERCENT
40 OF THE AMOUNTS ULTIMATELY FOUND TO BE DUE, TO BE RECOVERED BY THE
41 DEPARTMENT. PENALTIES IMPOSED AND COLLECTED BY THE DEPARTMENT UNDER THIS
42 SUBSECTION MUST BE DEPOSITED IN THE FANTASY SPORTS CONTEST FUND
43 ESTABLISHED BY SECTION 5-1212.

1 EVENT WAGERING FOR THE PURPOSES OF THIS PARAGRAPH. AN EVENT WAGERING
2 OPERATOR MAY DEDUCT UP TO TWENTY PERCENT OF AN EVENT WAGERING OPERATOR'S
3 GROSS WAGERING RECEIPTS DURING ANY PERIOD THAT THE OPERATOR CONDUCTS EVENT
4 WAGERING BEFORE JANUARY 1 OF THE FIRST YEAR OF EVENT WAGERING OPERATIONS.

5 2. "DEPARTMENT" MEANS THE DEPARTMENT OF GAMING.

6 3. "E-SPORT" MEANS AN ORGANIZED, MULTIPLAYER VIDEO GAME
7 COMPETITION, PARTICULARLY BETWEEN PROFESSIONAL PLAYERS, INDIVIDUALLY OR AS
8 TEAMS.

9 4. "EVENT WAGERING":

10 (a) MEANS ACCEPTING WAGERS ON SPORTS EVENTS OR OTHER EVENTS,
11 PORTIONS OF SPORTS EVENTS OR OTHER EVENTS, THE INDIVIDUAL PERFORMANCE
12 STATISTICS OF ATHLETES IN A SPORTS EVENT OR COMBINATION OF SPORTS EVENTS
13 OR THE INDIVIDUAL PERFORMANCE OF INDIVIDUALS IN OTHER EVENTS OR A
14 COMBINATION OF OTHER EVENTS BY ANY SYSTEM OR METHOD OF WAGERING, INCLUDING
15 IN PERSON OR OVER THE INTERNET THROUGH WEBSITES AND ON MOBILE DEVICES.

16 (b) DOES NOT INCLUDE A FANTASY SPORTS CONTEST AS DEFINED IN SECTION
17 5-1201.

18 5. "EVENT WAGERING EMPLOYEE" MEANS AN EMPLOYEE OF AN EVENT WAGERING
19 OPERATOR, SPORTS FACILITY, MANAGEMENT SERVICES PROVIDER OR LIMITED EVENT
20 WAGERING OPERATOR WHO IS DIRECTLY INVOLVED IN THE MANAGEMENT OR CONTROL OF
21 THE CONDUCT OF EVENT WAGERING UNDER THIS CHAPTER IN THIS STATE.

22 6. "EVENT WAGERING FACILITY" MEANS A FACILITY AT WHICH EVENT
23 WAGERING IS CONDUCTED UNDER THIS CHAPTER.

24 7. "EVENT WAGERING OPERATOR" MEANS EITHER:

25 (a) AN OWNER OR OPERATOR OF AN ARIZONA PROFESSIONAL SPORTS TEAM OR
26 FRANCHISE, AN OPERATOR OF A SPORTS FACILITY IN THIS STATE THAT HOSTS AN
27 ANNUAL TOURNAMENT ON THE PGA TOUR OR A PROMOTER OF A NATIONAL ASSOCIATION
28 FOR STOCK CAR AUTO RACING NATIONAL TOURING RACE IN THIS STATE, OR THE
29 DESIGNEE OF SUCH AN OWNER, OPERATOR OR PROMOTER, WHO IS LICENSED TO OFFER
30 EVENT WAGERING UNDER THIS CHAPTER. IF AN OWNER, OPERATOR OR PROMOTER THAT
31 QUALIFIED FOR AN EVENT WAGERING OPERATOR LICENSE APPOINTS A DESIGNEE, THE
32 DESIGNEE WILL BE CONSIDERED THE EVENT WAGERING OPERATOR AND THE LICENSEE
33 WITH RESPECT TO THE APPLICABLE LICENSE FOR THE PURPOSES OF THIS CHAPTER.

34 (b) AN ARIZONA INDIAN TRIBE OR AN ENTITY FULLY OWNED BY AN ARIZONA
35 INDIAN TRIBE, OR ITS DESIGNEE, LICENSED TO OPERATE ONLY MOBILE EVENT
36 WAGERING OUTSIDE THE BOUNDARIES OF ITS INDIAN LANDS AND THROUGHOUT THIS
37 STATE IF IT HAS SIGNED THE MOST RECENT TRIBAL-STATE GAMING COMPACT AND ANY
38 APPLICABLE APPENDICES OR AMENDMENTS. IF AN INDIAN TRIBE THAT QUALIFIED
39 FOR AN EVENT WAGERING OPERATOR LICENSE APPOINTS A DESIGNEE, THE DESIGNEE
40 WILL BE CONSIDERED THE EVENT WAGERING OPERATOR AND THE LICENSEE WITH
41 RESPECT TO THE APPLICABLE LICENSE FOR THE PURPOSES OF THIS CHAPTER.

42 8. "LIMITED EVENT WAGERING OPERATOR" MEANS A RACETRACK ENCLOSURE OR
43 ADDITIONAL WAGERING FACILITY THAT HOLDS A PERMIT ISSUED BY THE DIVISION OF
44 RACING TO OFFER WAGERS ON HORSERACING AND THAT IS LICENSED UNDER THIS
45 CHAPTER.

1 9. "OFFICIAL LEAGUE DATA" MEANS STATISTICS, RESULTS, OUTCOMES AND
2 OTHER DATA RELATED TO A SPORTS EVENT OR OTHER EVENT OBTAINED PURSUANT TO
3 AN AGREEMENT WITH THE RELEVANT SPORTS GOVERNING BODY OR AN ENTITY
4 EXPRESSLY AUTHORIZED BY THE SPORTS GOVERNING BODY TO PROVIDE SUCH
5 INFORMATION TO LICENSEES THAT AUTHORIZES THE USE OF SUCH DATA FOR
6 DETERMINING THE OUTCOME OF SPORTS WAGERS ON SPORTS EVENTS OR OTHER EVENTS.

7 10. "LICENSEE" MEANS A PERSON THAT HOLDS AN EVENT WAGERING OPERATOR
8 LICENSE, LIMITED EVENT WAGERING LICENSE, SUPPLIER LICENSE OR MANAGEMENT
9 SERVICES PROVIDER LICENSE.

10 11. "MANAGEMENT SERVICES PROVIDER" MEANS A PERSON THAT OPERATES,
11 MANAGES OR CONTROLS EVENT WAGERING AUTHORIZED BY THIS CHAPTER ON BEHALF OF
12 AN EVENT WAGERING OPERATOR OR LIMITED EVENT WAGERING OPERATOR, INCLUDING
13 DEVELOPING OR OPERATING EVENT WAGERING PLATFORMS AND PROVIDING ODDS, LINES
14 AND GLOBAL RISK MANAGEMENT, AND MAY PROVIDE SERVICES TO MORE THAN ONE
15 LICENSED EVENT WAGERING OPERATOR OR LICENSED LIMITED EVENT WAGERING
16 OPERATOR.

17 12. "OTHER EVENT" MEANS A COMPETITION OF RELATIVE SKILL OR AN EVENT
18 AUTHORIZED BY THE DEPARTMENT UNDER THIS CHAPTER.

19 13. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, COMMITTEE,
20 ASSOCIATION, CORPORATION, INDIAN TRIBE OR AN ENTITY FULLY OWNED BY AN
21 INDIAN TRIBE, OR ANY OTHER ORGANIZATION OR GROUP OF PERSONS.

22 14. "PROFESSIONAL SPORT" MEANS A SPORT CONDUCTED AT THE HIGHEST
23 LEVEL LEAGUE OR ORGANIZATIONAL PLAY FOR ITS RESPECTIVE SPORT AND INCLUDES
24 BASEBALL, BASKETBALL, FOOTBALL, GOLF, HOCKEY, SOCCER AND MOTORSPORTS.

25 15. "PROHIBITED CONDUCT" INCLUDES ANY STATEMENT, ACTION OR OTHER
26 COMMUNICATION INTENDED TO UNLAWFULLY INFLUENCE, MANIPULATE OR CONTROL A
27 BETTING OUTCOME OF A SPORTS EVENT OR OTHER EVENT OF ANY INDIVIDUAL
28 OCCURRENCE OR PERFORMANCE IN A SPORTS EVENT OR OTHER EVENT IN EXCHANGE FOR
29 FINANCIAL GAIN OR TO AVOID FINANCIAL OR PHYSICAL HARM.

30 16. "PROHIBITED PARTICIPANT" MEANS:

31 (a) ANY INDIVIDUAL WHOSE PARTICIPATION MAY UNDERMINE THE INTEGRITY
32 OF THE WAGERING, THE SPORTS EVENT OR THE OTHER EVENT.

33 (b) ANY INDIVIDUAL WHO IS PROHIBITED FROM PLACING A WAGER AS AN
34 AGENT, PROXY OR BECAUSE OF SELF-EXCLUSION.

35 (c) ANY INDIVIDUAL WHO IS AN ATHLETE, COACH, REFEREE, PLAYER,
36 TRAINER OR PERSONNEL OF A SPORTS ORGANIZATION IN ANY SPORTS EVENT OR OTHER
37 EVENT OVERSEEN BY THAT INDIVIDUAL'S SPORTS ORGANIZATION WHO, BASED ON
38 INFORMATION THAT IS NOT PUBLICLY AVAILABLE, HAS THE ABILITY TO DETERMINE
39 OR TO UNLAWFULLY INFLUENCE THE OUTCOME OF A WAGER.

40 (d) AN INDIVIDUAL WHO HOLDS A POSITION OF AUTHORITY OR INFLUENCE
41 SUFFICIENT TO EXERT INFLUENCE OVER THE PARTICIPANTS IN A SPORTING CONTEST,
42 INCLUDING COACHES, MANAGERS, HANDLERS AND ATHLETIC TRAINERS, SUCH THAT
43 THEIR ACTIONS CAN AFFECT THE OUTCOME OF A WAGER.

44 (e) AN INDIVIDUAL WITH ACCESS TO EXCLUSIVE INFORMATION ON ANY
45 SPORTS EVENT OR OTHER EVENT OVERSEEN BY THAT INDIVIDUAL'S SPORTS GOVERNING

1 BODY THAT IS NOT PUBLICLY AVAILABLE INFORMATION OR ANY INDIVIDUAL
2 IDENTIFIED BY ANY LISTS PROVIDED BY THE SPORTS GOVERNING BODY TO THE
3 DEPARTMENT.

4 17. "SPORTS EVENT" MEANS A PROFESSIONAL SPORT OR ATHLETIC EVENT, A
5 COLLEGIATE SPORT OR ATHLETIC EVENT, A MOTOR RACE EVENT, AN E-SPORT EVENT
6 OR AN OLYMPIC EVENT.

7 18. "SPORTS FACILITY" MEANS A FACILITY THAT IS OWNED BY A
8 COMMERCIAL, STATE OR LOCAL GOVERNMENT OR QUASI-GOVERNMENTAL ENTITY THAT
9 HOSTS PROFESSIONAL SPORTS EVENTS AND THAT HOLDS A SEATING CAPACITY OF MORE
10 THAN TEN THOUSAND PERSONS AT ITS PRIMARY FACILITY, ONE LOCATION IN THIS
11 STATE THAT HOSTS AN ANNUAL GOLF TOURNAMENT ON THE PGA TOUR AND ONE
12 LOCATION THAT HOLDS AN OUTDOOR MOTORSPORTS FACILITY THAT HOSTS A NATIONAL
13 ASSOCIATION FOR STOCK CAR AUTO RACING NATIONAL TOURING RACE.

14 19. "SPORTS GOVERNING BODY" MEANS AN ORGANIZATION HEADQUARTERED IN
15 THE UNITED STATES THAT PRESCRIBES FINAL RULES AND ENFORCES CODES OF
16 CONDUCT WITH RESPECT TO A SPORTS EVENT AND PARTICIPANTS IN A SPORTS EVENT.

17 20. "TIER ONE SPORTS WAGER" MEANS A SPORTS WAGER THAT IS DETERMINED
18 SOLELY BY THE FINAL SCORE OR FINAL OUTCOME OF THE SPORTS EVENT AND THAT IS
19 PLACED BEFORE THE SPORTS EVENT HAS BEGUN.

20 21. "TIER TWO SPORTS WAGER" MEANS A SPORTS WAGER THAT IS NOT A TIER
21 ONE SPORTS WAGER.

22 22. "SUPPLIER" MEANS A PERSON THAT MANUFACTURES, DISTRIBUTES OR
23 SUPPLIES EVENT WAGERING EQUIPMENT OR SOFTWARE, INCLUDING EVENT WAGERING
24 SYSTEMS.

25 23. "WAGER":

26 (a) MEANS A SUM OF MONEY OR THING OF VALUE RISKED ON AN UNCERTAIN
27 OCCURRENCE.

28 (b) INCLUDES TIER ONE AND TIER TWO SPORTS WAGERS, SINGLE-GAME BETS,
29 TEASER BETS, PARLAYS, OVER-UNDER BETS, MONEYLINE BETS, POOLS, EXCHANGE
30 WAGERING, IN-GAME WAGERING, IN-PLAY BETS, PROPOSITION BETS, STRAIGHT BETS
31 AND OTHER WAGERS APPROVED BY THE DEPARTMENT.

32 5-1302. Department of gaming; powers; duties

33 A. THE DEPARTMENT SHALL ENFORCE THIS CHAPTER AND SUPERVISE
34 COMPLIANCE WITH LAWS AND RULES RELATING TO REGULATING AND CONTROLLING
35 EVENT WAGERING IN THIS STATE.

36 B. THE DEPARTMENT MAY ADOPT RULES IN ACCORDANCE WITH THIS CHAPTER
37 AND TITLE 41, CHAPTER 6.

38 C. THE DEPARTMENT SHALL EVALUATE ALL APPLICANTS TO DETERMINE
39 SUITABILITY FOR ISSUING ALL EVENT WAGERING OPERATOR LICENSES, LIMITED
40 EVENT WAGERING OPERATOR LICENSES, SUPPLIER LICENSES AND MANAGEMENT
41 SERVICES PROVIDER LICENSES AND LICENSE RENEWALS AND SHALL CHARGE AND
42 COLLECT ALL FEES PURSUANT TO THIS CHAPTER.

43 D. THE DEPARTMENT MAY DENY, REVOKE OR SUSPEND LICENSES OR RENEWALS
44 OR DENY AN APPLICANT'S REQUEST TO WITHDRAW A LICENSE APPLICATION.

1 E. THE DEPARTMENT SHALL CONDUCT BACKGROUND CHECKS OF EVENT WAGERING
2 OPERATORS, LIMITED EVENT WAGERING OPERATORS, MANAGEMENT SERVICES PROVIDERS
3 AND EVENT WAGERING SUPPLIERS AND MAY MONITOR AND CONDUCT PERIODIC AUDITS
4 OF EVENT WAGERING OPERATIONS AND PROVIDERS.

5 F. HEARINGS SHALL BE CONDUCTED PURSUANT TO TITLE 41, CHAPTER 6,
6 ARTICLE 10. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, ANY
7 PARTY AGGRIEVED BY A FINAL ORDER OR DECISION OF THE DEPARTMENT MAY SEEK
8 JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

9 G. THE DEPARTMENT SHALL OVERSEE EVENT WAGERING AND DEVELOP
10 STANDARDS AND PROCEDURES AND ENGAGE IN OTHER DUTIES AS THE DIRECTOR OF THE
11 DEPARTMENT PRESCRIBES TO FURTHER THE PURPOSES OF THIS CHAPTER, INCLUDING
12 ESTABLISHING AND ENFORCING STANDARDS AND PROCEDURES FOR:

13 1. COLLECTING, DEPOSITING AND DISBURSING ALL APPLICABLE LICENSE
14 FEES AND PAYMENTS AS REQUIRED BY THIS CHAPTER.

15 2. OPERATING EVENT WAGERING AND MAINTAINING, TESTING, INSPECTING,
16 APPROVING AND AUDITING EVENT WAGERING ACCOUNTS, PLATFORMS, HARDWARE,
17 SOFTWARE AND DATA, INCLUDING PLAYER, FINANCIAL, ACCOUNTING AND WAGERING
18 DATA.

19 3. OPERATING EVENT WAGERING FACILITIES, INCLUDING LOCATION,
20 SECURITY AND SURVEILLANCE, DEPARTMENTAL ACCESS, INSPECTIONS AND APPROVALS.

21 4. LICENSING AND REQUIREMENTS FOR THE USE OF GEOLOCATION SERVICES
22 TO REASONABLY ENSURE PERSONS ENGAGING IN EVENT WAGERING ARE LOCATED IN
23 THIS STATE OR ANOTHER DEPARTMENTALLY AUTHORIZED LOCATION ALLOWED BY THIS
24 CHAPTER AT THE TIME OF EVENT WAGERING.

25 5. APPROVING OTHER EVENTS ON WHICH WAGERS MAY BE TAKEN CONSISTENT
26 WITH THIS CHAPTER.

27 6. ESTABLISHING MECHANISMS DESIGNED TO DETECT AND PREVENT THE
28 UNAUTHORIZED USE OF PLAYER ACCOUNTS AND TO DETECT AND PREVENT FRAUD, MONEY
29 LAUNDERING AND COLLUSION, INCLUDING A REQUIREMENT THAT EVENT WAGERING
30 OPERATIONS CONTRACT WITH A DEPARTMENTALLY LICENSED INTEGRITY MONITORING
31 PROVIDER.

32 7. PAYING WINNING WAGERS, REPORTING TAXES AND COLLECTING DEBT
33 SETOFFS FROM A PAYOUT OF WINNINGS THAT TRIGGERS THE LICENSEE'S OBLIGATION
34 TO FILE A FORM W-2G OR A SUBSTANTIALLY EQUIVALENT FORM WITH THE UNITED
35 STATES INTERNAL REVENUE SERVICE, INCLUDING OVERDUE CHILD SUPPORT PAYMENTS,
36 STATE TAX DEBT AND DEBTS AS ESTABLISHED BY THE DEPARTMENT OF ECONOMIC
37 SECURITY.

38 H. THE DEPARTMENT MAY ADOPT RULES AUTHORIZING EVENT WAGERING
39 OPERATORS TO OFFSET LOSS AND MANAGE RISK, DIRECTLY OR WITH A THIRD PARTY
40 APPROVED BY THE DEPARTMENT, THROUGH THE USE OF A LIQUIDITY POOL IN THIS
41 STATE OR ANOTHER JURISDICTION, IF THE EVENT WAGERING OPERATOR OR ITS
42 MANAGEMENT SERVICES PROVIDER IS LICENSED BY SUCH JURISDICTION TO OPERATE
43 AN EVENT WAGERING OR SPORTS BETTING BUSINESS. AN EVENT WAGERING
44 OPERATOR'S USE OF A LIQUIDITY POOL DOES NOT ELIMINATE ITS DUTY TO ENSURE
45 THAT IT HAS SUFFICIENT MONIES AVAILABLE TO PAY BETTORS.

1 5-1303. Event wagering; license required; exception

2 A. EVENT WAGERING MAY BE CONDUCTED ONLY TO THE EXTENT THAT IT IS
3 CONDUCTED IN ACCORDANCE WITH THIS CHAPTER. A PERSON MAY NOT OFFER ANY
4 ACTIVITY IN CONNECTION WITH EVENT WAGERING IN THIS STATE UNLESS ALL
5 NECESSARY LICENSES HAVE BEEN OBTAINED IN ACCORDANCE WITH FEDERAL AND STATE
6 LAW AND ANY APPLICABLE RULES OF THE DEPARTMENT.

7 B. A WAGER PLACED BY A PARTICIPANT IN THIS STATE AND RECEIVED BY AN
8 EVENT WAGERING OPERATOR OR ITS MANAGEMENT SERVICES PROVIDER IN THIS STATE
9 IS CONSIDERED TO BE GAMBLING OR GAMING THAT IS CONDUCTED IN THIS STATE.

10 C. A LAW THAT IS INCONSISTENT WITH THIS CHAPTER DOES NOT APPLY TO
11 EVENT WAGERING AS PROVIDED FOR BY THIS CHAPTER.

12 D. THIS CHAPTER DOES NOT APPLY TO EVENT WAGERING CONDUCTED
13 EXCLUSIVELY ON INDIAN LANDS AS THAT TERM IS DEFINED IN THE INDIAN GAMING
14 REGULATORY ACT (P.L. 100-497; 102 STAT. 2467) BY AN INDIAN TRIBE OPERATED
15 IN ACCORDANCE WITH A TRIBAL-STATE GAMING COMPACT AND ANY AMENDMENTS. FOR
16 PURPOSES OF THIS CHAPTER, EVENT WAGERING IS CONDUCTED EXCLUSIVELY ON
17 INDIAN LANDS ONLY IF THE INDIVIDUAL WHO PLACES THE WAGER IS PHYSICALLY
18 PRESENT ON INDIAN LANDS WHEN THE WAGER IS INITIATED, RECEIVED OR OTHERWISE
19 MADE ON EQUIPMENT THAT IS PHYSICALLY LOCATED ON INDIAN LANDS, AND THE
20 WAGER IS INITIATED, RECEIVED OR OTHERWISE MADE IN CONFORMITY WITH THE SAFE
21 HARBOR REQUIREMENTS AS PROVIDED IN 31 UNITED STATES CODE SECTION
22 5362(10)(C). AN EVENT WAGERING OPERATOR MAY NOT ACCEPT ANY WAGER IF THE
23 INDIVIDUAL WHO PLACES THE WAGER IS PHYSICALLY PRESENT ON INDIAN LANDS WHEN
24 THE WAGER IS INITIATED.

25 E. A PERSON MAY NOT PROVIDE OR MAKE AVAILABLE EVENT WAGERING
26 DEVICES IN A PLACE OF PUBLIC ACCOMMODATION IN THIS STATE, INCLUDING A CLUB
27 OR OTHER ASSOCIATION, TO ENABLE INDIVIDUALS TO PLACE WAGERS EXCEPT AS
28 PROVIDED BY THIS CHAPTER. THIS SUBSECTION DOES NOT APPLY TO AN EVENT
29 WAGERING OPERATOR AGGREGATING, PROVIDING OR MAKING AVAILABLE EVENT
30 WAGERING DEVICES WITHIN ITS OWN EVENT WAGERING FACILITY.

31 F. FOR PURPOSES OF THIS CHAPTER, THE INTERMEDIATE ROUTING OF
32 ELECTRONIC DATA IN CONNECTION WITH EVENT WAGERING, INCLUDING ROUTING
33 ACROSS STATE LINES, DOES NOT DETERMINE THE LOCATION OR LOCATIONS IN WHICH
34 THE WAGER IS INITIATED, RECEIVED OR OTHERWISE MADE.

35 G. AN EVENT WAGERING OPERATOR MAY USE MORE THAN ONE EVENT WAGERING
36 PLATFORM TO OFFER, CONDUCT OR OPERATE EVENT WAGERING. ONLY AN EVENT
37 WAGERING OPERATOR OR ITS MANAGEMENT SERVICES PROVIDER MAY PROCESS, ACCEPT,
38 OFFER OR SOLICIT WAGERS. THE EVENT WAGERING OPERATOR MUST CLEARLY DISPLAY
39 ITS OWN BRAND OR THAT OF AN AFFILIATE ON THE EVENT WAGERING PLATFORM THAT
40 IT USES. THE EVENT WAGERING OPERATOR, IN ITS SOLE DISCRETION, MAY ALSO
41 ELECT TO HAVE THE BRAND OF THE MANAGEMENT SERVICES PROVIDER THAT IT USES
42 BE THE NAME AND LOGOS OF THE EVENT WAGERING PLATFORM PROVIDER IF THE EVENT
43 WAGERING PLATFORM ALSO CLEARLY DISPLAYS THE EVENT WAGERING OPERATOR'S OWN
44 TRADEMARKS AND LOGOS OR THOSE OF AN AFFILIATE.

1 H. AN OWNER, OPERATOR, PROMOTER OR INDIAN TRIBE THAT QUALIFIES FOR
2 AN EVENT WAGERING OPERATOR LICENSE AND APPOINTS A DESIGNEE TO BE LICENSED
3 AS AN EVENT WAGERING OPERATOR IS NOT RESPONSIBLE FOR THE CONDUCT OF ITS
4 DESIGNEE.

5 5-1304. Licensure; application

6 A. THE DEPARTMENT MAY ISSUE NOT MORE THAN TEN EVENT WAGERING
7 OPERATOR LICENSES TO APPLICANTS OTHER THAN AN INDIAN TRIBE. THE
8 DEPARTMENT MAY ISSUE NOT MORE THAN TEN EVENT WAGERING OPERATOR LICENSES TO
9 INDIAN TRIBES IN THIS STATE IF THE INDIAN TRIBE RECEIVING A LICENSE HAS
10 SIGNED THE MOST RECENT TRIBAL-STATE GAMING COMPACT AND ANY APPLICABLE
11 APPENDICES OR AMENDMENTS. THE DEPARTMENT SHALL ISSUE EVENT WAGERING
12 OPERATOR LICENSES ONLY TO APPLICANTS THAT ARE EITHER OF THE FOLLOWING IN
13 COMPLIANCE WITH THIS CHAPTER:

14 1. AN OWNER OF AN ARIZONA PROFESSIONAL SPORTS TEAM OR FRANCHISE,
15 OPERATOR OF A SPORTS FACILITY THAT HOSTS AN ANNUAL TOURNAMENT ON THE PGA
16 TOUR, PROMOTER OF A NATIONAL ASSOCIATION FOR STOCK CAR AUTO RACING
17 NATIONAL TOURING RACE CONDUCTED IN THIS STATE OR THE OWNER'S, OPERATOR'S
18 OR PROMOTER'S DESIGNEE, CONTRACTED TO OPERATE EVENT WAGERING FOR BOTH
19 RETAIL EVENT WAGERING AT A SPORTS FACILITY OR ITS COMPLEX AS PRESCRIBED IN
20 SUBSECTION D OF THIS SECTION AND MOBILE EVENT WAGERING THROUGHOUT THE
21 STATE. IF A DESIGNEE IS USED, THE DESIGNEE SHALL BE CONSIDERED THE
22 APPLICANT AND BE SUBJECT TO ANY REQUIREMENTS OF THE APPLICATION PROCESS
23 RATHER THAN THE OWNER, OPERATOR OR PROMOTER.

24 2. AN INDIAN TRIBE, OR AN ENTITY FULLY OWNED BY AN INDIAN TRIBE, OR
25 ITS DESIGNEE CONTRACTED TO OPERATE ONLY MOBILE EVENT WAGERING OUTSIDE THE
26 BOUNDARIES OF ITS INDIAN LANDS AND THROUGHOUT THE STATE IF IT HAS SIGNED
27 THE MOST RECENT TRIBAL-STATE GAMING COMPACT AND ANY APPLICABLE APPENDICES
28 OR AMENDMENTS.

29 B. AN APPLICANT FOR AN EVENT WAGERING LICENSE SHALL SUBMIT AN
30 APPLICATION IN A FORM PRESCRIBED BY THE DEPARTMENT, INCLUDING ALL OF THE
31 FOLLOWING:

32 1. THE IDENTIFICATION OF THE APPLICANT'S PRINCIPAL OWNERS THAT OWN
33 MORE THAN FIVE PERCENT OF THE COMPANY, THE PARTNERS, THE MEMBERS OF ITS
34 BOARD OF DIRECTORS AND THE OFFICERS, THE IDENTIFICATION OF ANY HOLDING
35 COMPANY, INCLUDING ITS PRINCIPALS, ENGAGED BY THE APPLICANT TO ASSIST IN
36 THE MANAGEMENT OR OPERATION OF EVENT WAGERING, IF APPLICABLE, AND
37 INFORMATION TO VERIFY THAT THE APPLICANT IS QUALIFIED TO HOLD A LICENSE
38 UNDER SUBSECTION A OF THIS SECTION.

39 2. A FULL SET OF FINGERPRINTS FOR THE PURPOSE OF OBTAINING A STATE
40 AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC
41 LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT
42 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION. THE FINGERPRINTS SHALL BE
43 FURNISHED BY THE APPLICANT'S OFFICERS AND DIRECTORS, IF A CORPORATION,
44 MEMBERS, IF A LIMITED LIABILITY COMPANY, AND PARTNERS, IF A PARTNERSHIP.
45 AN APPLICANT CONVICTED OF A DISQUALIFYING OFFENSE MAY NOT BE LICENSED.

1 3. INFORMATION, DOCUMENTATION AND ASSURANCES AS MAY BE REASONABLY
2 REQUIRED TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THE APPLICANT'S
3 GOOD CHARACTER, HONESTY AND INTEGRITY, INCLUDING INFORMATION THAT PERTAINS
4 TO FAMILY CONNECTIONS, CRIMINAL AND ARREST RECORDS, BUSINESS ACTIVITIES,
5 FINANCIAL AFFAIRS AND BUSINESS, PROFESSIONAL AND PERSONAL ASSOCIATES
6 COVERING AT LEAST THE TEN-YEAR PERIOD IMMEDIATELY PRECEDING THE FILING OF
7 THE APPLICATION.

8 4. A NOTICE AND DESCRIPTION OF CIVIL JUDGMENTS OBTAINED AGAINST THE
9 APPLICANT PERTAINING TO ANTITRUST OR SECURITY REGULATION LAWS OF THE
10 FEDERAL GOVERNMENT, OF THIS STATE OR OF ANY OTHER STATE, JURISDICTION,
11 PROVINCE OR COUNTRY.

12 5. IF THE APPLICANT HAS CONDUCTED GAMING OPERATIONS IN A
13 JURISDICTION THAT ALLOWS SUCH ACTIVITY, LETTERS OF COMPLIANCE FROM THE
14 REGULATORY BODY THAT REGULATES EVENT WAGERING, SPORTS WAGERING OR ANY
15 OTHER GAMING ACTIVITY THAT THE APPLICANT IS LICENSED FOR, CONDUCTS OR
16 OPERATES UNDER JURISDICTION OF THE REGULATORY BODY.

17 6. INFORMATION, DOCUMENTATION AND ASSURANCES CONCERNING FINANCIAL
18 BACKGROUND AND RESOURCES OF THE APPLICANT OR ITS MANAGEMENT SERVICES
19 PROVIDER AS MAY BE REQUIRED TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE
20 THE FINANCIAL STABILITY, INTEGRITY AND RESPONSIBILITY OF THE APPLICANT OR
21 ITS MANAGEMENT SERVICES PROVIDER, INCLUDING BANK REFERENCES, BUSINESS AND
22 PERSONAL INCOME AND DISBURSEMENT SCHEDULES, TAX RETURNS AND OTHER REPORTS
23 FILED WITH GOVERNMENTAL AGENCIES, AND BUSINESS AND PERSONAL ACCOUNTING AND
24 CHECK RECORDS AND LEDGERS. EACH APPLICANT OR ITS MANAGEMENT SERVICES
25 PROVIDER, IN WRITING, SHALL AUTHORIZE THE EXAMINATION OF ALL BANK ACCOUNTS
26 AND RECORDS AS MAY BE DEEMED NECESSARY BY THE DEPARTMENT. THE DEPARTMENT
27 MAY CONSIDER ANY RELEVANT EVIDENCE OF FINANCIAL STABILITY. THE APPLICANT
28 IS PRESUMED TO BE FINANCIALLY STABLE IF THE APPLICANT OR ITS MANAGEMENT
29 SERVICES PROVIDER ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT IT
30 MEETS EACH OF THE FOLLOWING STANDARDS:

31 (a) THE ABILITY TO ENSURE THE FINANCIAL INTEGRITY OF EVENT WAGERING
32 OPERATIONS BY MAINTAINING A BANKROLL OR EQUIVALENT PROVISIONS ADEQUATE TO
33 PAY WINNING WAGERS TO BETTORS WHEN DUE. AN APPLICANT IS PRESUMED TO HAVE
34 MET THIS STANDARD IF THE APPLICANT OR ITS MANAGEMENT SERVICES PROVIDER
35 MAINTAINS, ON A DAILY BASIS, A BANKROLL OR EQUIVALENT PROVISIONS IN AN
36 AMOUNT THAT IS AT LEAST EQUAL TO THE AVERAGE DAILY MINIMUM BANKROLL OR
37 EQUIVALENT PROVISIONS, CALCULATED ON A MONTHLY BASIS, FOR THE
38 CORRESPONDING MONTH IN THE PREVIOUS YEAR.

39 (b) THE ABILITY TO MEET ONGOING OPERATING EXPENSES THAT ARE
40 ESSENTIAL TO MAINTAINING CONTINUOUS AND STABLE EVENT WAGERING OPERATIONS.

41 (c) THE ABILITY TO PAY, AS AND WHEN DUE, ALL STATE AND FEDERAL
42 TAXES.

43 7. INFORMATION TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THAT
44 THE APPLICANT OR ITS MANAGEMENT SERVICES PROVIDER HAS SUFFICIENT BUSINESS

1 ABILITY AND GAMING EXPERIENCE AS TO ESTABLISH THE LIKELIHOOD OF CREATING
2 AND MAINTAINING A SUCCESSFUL AND STABLE EVENT WAGERING OPERATION.

3 8. INFORMATION REGARDING THE FINANCIAL STANDING OF THE APPLICANT,
4 INCLUDING EACH PERSON OR ENTITY THAT HAS PROVIDED LOANS OR FINANCING TO
5 THE APPLICANT OR ITS MANAGEMENT SERVICES PROVIDER.

6 9. INFORMATION ON THE AMOUNT OF ADJUSTED GROSS EVENT WAGERING
7 RECEIPTS AND ASSOCIATED ADJUSTED GROSS RECEIPTS THAT THE APPLICANT EXPECTS
8 TO GENERATE.

9 10. A NONREFUNDABLE APPLICATION FEE OR ANNUAL LICENSING FEE AS
10 PRESCRIBED BY SECTION 5-1310.

11 11. ANY ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT TO
12 DETERMINE THE FINANCIAL AND OPERATIONAL ABILITY TO FULFILL ITS OBLIGATIONS
13 AS AN EVENT WAGERING OPERATOR.

14 C. ANY APPLICANT FOR LICENSURE AGREES TO BE SUBJECT TO STATE
15 JURISDICTION TO THE EXTENT NECESSARY TO DETERMINE THE APPLICANT'S
16 QUALIFICATION TO HOLD A LICENSE, INCLUDING ALL NECESSARY ADMINISTRATIVE
17 PROCEDURES, HEARINGS AND APPEALS AS PROVIDED IN TITLE 41, CHAPTER 6 AND
18 DEPARTMENT RULES.

19 D. A LICENSE ISSUED BY THE DEPARTMENT PURSUANT TO THIS SECTION
20 AUTHORIZES AN EVENT WAGERING OPERATOR IDENTIFIED IN SUBSECTION A,
21 PARAGRAPH 2 OF THIS SECTION TO OPERATE ONLY MOBILE EVENT WAGERING OR AN
22 EVENT WAGERING OPERATOR IDENTIFIED IN SUBSECTION A, PARAGRAPH 1 OF THIS
23 SECTION TO OFFER BOTH:

24 1. EVENT WAGERING IN THIS STATE THROUGH AN EVENT WAGERING FACILITY
25 WITHIN A FIVE-BLOCK RADIUS OF THE EVENT WAGERING OPERATOR'S SPORTS
26 FACILITY OR, IN THE CASE OF A DESIGNEE, THE SPORTS FACILITY OR THE
27 DESIGNATING OWNER, OPERATOR OR PROMOTER OF A PROFESSIONAL SPORTS TEAM,
28 EVENT OR FRANCHISE. AN EVENT WAGERING FACILITY WITHIN ONE MILE OF A
29 TRIBAL GAMING FACILITY MUST BE:

30 (a) WITHIN A SPORTS COMPLEX THAT INCLUDES RETAIL CENTERS THAT ARE
31 ADJACENT TO THE SPORTS FACILITY.

32 (b) NOT MORE THAN ONE-FOURTH OF A MILE FROM A SPORTS FACILITY
33 WITHIN THE SPORTS COMPLEX.

34 2. EVENT WAGERING THROUGH A MOBILE PLATFORM AS SPECIFIED BY THE
35 DEPARTMENT. A LICENSED EVENT WAGERING OPERATOR OR ITS DESIGNATED
36 MANAGEMENT SERVICES PROVIDER MAY OFFER EVENT WAGERING THROUGH AN EVENT
37 WAGERING PLATFORM AS SPECIFIED BY THE DEPARTMENT.

38 E. A LICENSE ISSUED UNDER THIS SECTION IS VALID FOR FIVE YEARS IF
39 THE LICENSEE SUBMITS AN ANNUAL LICENSE FEE, MAINTAINS THE QUALIFICATIONS
40 TO OBTAIN A LICENSE UNDER THIS SECTION AND SUBSTANTIALLY COMPLIES WITH
41 THIS CHAPTER AND OTHER LAWS AND RULES RELATING TO EVENT WAGERING. A
42 LICENSEE MAY RENEW ITS LICENSE BY SUBMITTING AN APPLICATION IN A FORM
43 PRESCRIBED BY DEPARTMENT RULE AND THE APPLICATION FEE. A LICENSE MAY NOT
44 BE RENEWED IF IT IS DETERMINED BY THE DEPARTMENT THAT THE EVENT WAGERING
45 OPERATOR HAS NOT SUBSTANTIALLY COMPLIED WITH THIS CHAPTER OR ANY OTHER LAW

1 REGULATING ITS EVENT WAGERING OPERATIONS OR OTHER OPERATIONS LICENSED BY
2 THE DEPARTMENT. A LICENSEE SHALL SUBMIT THE NONREFUNDABLE ANNUAL LICENSE
3 AND APPLICATION FEES PRESCRIBED IN SECTION 5-1310 WITH ITS APPLICATION FOR
4 THE RENEWAL OF ITS LICENSE.

5 F. A PERSON MAY NOT APPLY FOR OR OBTAIN MORE THAN ONE EVENT
6 WAGERING OPERATOR LICENSE. A MANAGEMENT SERVICES PROVIDER MAY OFFER
7 SERVICES TO MORE THAN ONE EVENT WAGERING OPERATOR.

8 5-1305. License review; approval; fees; material change;
9 exemption; display; transferability

10 A. ON RECEIPT OF A COMPLETED APPLICATION AND THE REQUIRED FEE, THE
11 DEPARTMENT SHALL CONDUCT THE NECESSARY BACKGROUND INVESTIGATION TO ENSURE
12 THE APPLICANT IS QUALIFIED FOR LICENSURE. ON COMPLETION OF THE NECESSARY
13 BACKGROUND INVESTIGATION, THE DEPARTMENT SHALL EITHER ISSUE A LICENSE OR
14 DENY THE APPLICATION. IF THE APPLICATION IS DENIED, THE DEPARTMENT SHALL
15 FORWARD A STATEMENT SETTING FORTH THE GROUNDS FOR DENIAL TO THE APPLICANT
16 TOGETHER WITH ALL OTHER DOCUMENTS ON WHICH THE DEPARTMENT RELIED, TO THE
17 EXTENT ALLOWED BY LAW.

18 B. THE DEPARTMENT MAY CONDUCT ADDITIONAL BACKGROUND INVESTIGATIONS
19 OF ANY PERSON REQUIRED TO BE LICENSED AT ANY TIME WHILE THE LICENSE
20 REMAINS VALID. THE ISSUANCE OF A LICENSE DOES NOT CREATE OR IMPLY A RIGHT
21 OF EMPLOYMENT OR CONTINUED EMPLOYMENT. THE EVENT WAGERING OPERATOR OR
22 LIMITED EVENT WAGERING OPERATOR MAY NOT EMPLOY AND, IF ALREADY EMPLOYED,
23 SHALL TERMINATE AN EVENT WAGERING EMPLOYEE IF IT IS DETERMINED THAT THE
24 PERSON MEETS ANY OF THE FOLLOWING CRITERIA:

25 1. HAS BEEN CONVICTED OF ANY GAMING OFFENSE.

26 2. HAS BEEN CONVICTED OF A FELONY IN THE SEVEN YEARS BEFORE
27 SUBMITTING AN APPLICATION UNLESS THAT FELONY HAS BEEN SET ASIDE.

28 3. HAS EVER BEEN CONVICTED OF A FELONY RELATED TO EXTORTION,
29 BURGLARY, LARCENY, BRIBERY, EMBEZZLEMENT, ROBBERY, RACKETEERING, MONEY
30 LAUNDERING, FORGERY, FRAUD, MURDER, VOLUNTARY MANSLAUGHTER, A SEXUAL
31 OFFENSE THAT REQUIRES THE INDIVIDUAL TO REGISTER PURSUANT TO SECTION
32 13-3821 OR KIDNAPPING.

33 4. KNOWINGLY AND WILFULLY PROVIDES MATERIALLY IMPORTANT FALSE
34 STATEMENTS OR INFORMATION OR OMITTS MATERIALLY IMPORTANT INFORMATION ON THE
35 PERSON'S EMPLOYMENT APPLICATION OR BACKGROUND QUESTIONNAIRE.

36 5. IS A PERSON WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF ANY, OR
37 REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC INTEREST
38 OR TO THE EFFECTIVE REGULATION AND CONTROL OF GAMING OR CREATE OR ENHANCE
39 THE DANGERS OF UNSUITABLE, UNFAIR OR ILLEGAL PRACTICES, METHODS AND
40 ACTIVITIES IN THE CONDUCT OF GAMING OR THE CARRYING ON OF THE BUSINESS AND
41 FINANCIAL ARRANGEMENTS INCIDENTAL THERETO.

42 C. NOT LATER THAN SIXTY DAYS AFTER THE DEPARTMENT RECEIVES A
43 COMPLETE APPLICATION, THE DEPARTMENT SHALL ISSUE A LICENSE TO THE
44 APPLICANT UNLESS THE BACKGROUND INVESTIGATION THE DEPARTMENT CONDUCTS
45 DISCLOSES THAT THE APPLICANT HAS A CRIMINAL HISTORY OR UNLESS OTHER

1 GROUNDS SUFFICIENT TO DISQUALIFY THE APPLICANT ARE APPARENT ON THE FACE OF
2 THE APPLICATION. IF MORE THAN TEN APPLICATIONS ARE RECEIVED FOR A
3 PARTICULAR LICENSE TYPE, THE DEPARTMENT SHALL ADOPT A PROCESS FOR ENSURING
4 AN EQUAL OPPORTUNITY FOR ALL QUALIFIED APPLICANTS TO OBTAIN A
5 LICENSE. THE DEPARTMENT SHALL REVIEW AND APPROVE OR DENY AN APPLICATION
6 FOR A LICENSE AS PROVIDED IN TITLE 41, CHAPTER 6, ARTICLE 10.

7 D. FOR EACH APPLICATION FOR LICENSURE OR RENEWAL OF A LICENSE THAT
8 IS APPROVED UNDER THIS SECTION, THE AMOUNT OF THE APPLICATION FEE MUST BE
9 CREDITED TOWARD THE LICENSEE'S LICENSE FEE AND THE LICENSEE SHALL REMIT
10 THE BALANCE OF THE INITIAL LICENSE FEE TO THE DEPARTMENT ON APPROVAL OF A
11 LICENSE. THE FEES COLLECTED FROM LICENSEES UNDER THIS SECTION SHALL BE
12 DEPOSITED IN THE EVENT WAGERING FUND ESTABLISHED BY SECTION 5-1318 AND
13 USED BY THE DEPARTMENT TO PAY THE ACTUAL OPERATING AND ADMINISTRATIVE
14 EXPENSES INCURRED FOR EVENT WAGERING.

15 E. EACH PERSON LICENSED UNDER THIS CHAPTER SHALL GIVE THE
16 DEPARTMENT WRITTEN NOTICE WITHIN THIRTY DAYS AFTER A MATERIAL CHANGE IS
17 MADE TO INFORMATION PROVIDED IN THE LICENSEE'S APPLICATION FOR A LICENSE
18 OR RENEWAL.

19 F. INDIAN TRIBES WITHIN THIS STATE OPERATING EVENT WAGERING
20 EXCLUSIVELY ON INDIAN LANDS ARE EXEMPT FROM THE LICENSURE REQUIREMENTS OF
21 THIS SECTION. EVENT WAGERING ON INDIAN LANDS IS GOVERNED BY THE
22 TRIBAL-STATE GAMING COMPACT, ITS APPENDICES, ANY AMENDMENTS AND THE INDIAN
23 GAMING REGULATORY ACT (P.L. 100-497; 102 STAT. 2467).

24 G. EACH LICENSEE SHALL DISPLAY ITS LICENSE CONSPICUOUSLY IN THE
25 LICENSEE'S PLACE OF BUSINESS OR HAVE THE LICENSE AVAILABLE FOR INSPECTION
26 BY AN AGENT OF THE DEPARTMENT OR A LAW ENFORCEMENT AGENCY. EACH LICENSEE
27 THAT OPERATES AN EVENT WAGERING PLATFORM SHALL CONSPICUOUSLY DISPLAY A
28 NOTICE OF THE LICENSE ON ITS PLATFORM'S LANDING PAGE.

29 H. THE DEPARTMENT SHALL KEEP ALL INFORMATION, RECORDS, INTERVIEWS,
30 REPORTS, STATEMENTS, MEMORANDA OR OTHER DATA SUPPLIED TO OR USED BY THE
31 DEPARTMENT IN THE COURSE OF ITS REVIEW OR INVESTIGATION OF AN APPLICATION
32 FOR AN EVENT WAGERING OPERATOR LICENSE OR RENEWAL OF A LICENSE
33 CONFIDENTIAL. THE MATERIALS DESCRIBED IN THIS SUBSECTION ARE EXEMPT FROM
34 DISCLOSURE PURSUANT TO TITLE 39, CHAPTER 1, ARTICLE 2.

35 I. A LICENSE ISSUED UNDER THIS CHAPTER MAY NOT BE TRANSFERRED TO
36 ANOTHER PERSON OR ENTITY WITHOUT PRIOR APPROVAL OF THE DEPARTMENT. THE
37 DEPARTMENT SHALL WORK WITH APPLICANTS AND LICENSEES TO ENSURE THERE IS NO
38 GAP IN THE VALIDITY OF THE LICENSE.

39 5-1306. License revocation; suspension; denial; grounds;
40 definitions

41 A. THE DEPARTMENT MAY REVOKE, SUSPEND OR DENY A LICENSE WHEN AN
42 APPLICANT OR LICENSEE MEETS ANY OF THE FOLLOWING CRITERIA:

43 1. VIOLATES, FAILS OR REFUSES TO COMPLY WITH THE PROVISIONS,
44 REQUIREMENTS, CONDITIONS, LIMITATIONS OR DUTIES IMPOSED BY THIS CHAPTER
45 AND OTHER LAWS AND RULES, OR IF ANY SUCH VIOLATION HAS OCCURRED ON ANY

- 1 EVENT WAGERING SYSTEM OPERATED BY ANY SUCH PERSON OR OVER WHICH THE PERSON
2 HAS SUBSTANTIAL CONTROL.
- 3 2. KNOWINGLY CAUSES, AIDS, ABETS OR CONSPIRES WITH ANOTHER TO CAUSE
4 ANY PERSON TO VIOLATE ANY OF THE LAWS OF THIS STATE OR THE RULES OF THE
5 DEPARTMENT.
- 6 3. OBTAINS A LICENSE BY FRAUD, MISREPRESENTATION, CONCEALMENT OR
7 THROUGH INADVERTENCE OR MISTAKE.
- 8 4. IS CONVICTED OR FORFEITED BOND ON A CHARGE OF OR PLEADS GUILTY
9 TO:
 - 10 (a) FORGERY, LARCENY, EXTORTION OR CONSPIRACY TO DEFRAUD.
 - 11 (b) WILFUL FAILURE TO MAKE REQUIRED PAYMENT OR REPORTS TO ANY
12 TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY, FILING FALSE REPORTS WITH
13 ANY TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY OR ANY SIMILAR OFFENSE OR
14 OFFENSES.
 - 15 (c) BRIBING OR OTHERWISE UNLAWFULLY INFLUENCING A PUBLIC OFFICIAL
16 OF THIS STATE OR ANY OTHER STATE OR JURISDICTION.
 - 17 (d) ANY CRIME, WHETHER A FELONY OR MISDEMEANOR, INVOLVING ANY
18 GAMING ACTIVITY, PHYSICAL HARM TO AN INDIVIDUAL OR MORAL TURPITUDE.
- 19 5. MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL FACT TO THE
20 DEPARTMENT.
- 21 6. FAILS TO PROVE, BY CLEAR AND CONVINCING EVIDENCE, THAT THE
22 PERSON IS QUALIFIED FOR LICENSURE.
- 23 7. IS SUBJECT TO CURRENT PROSECUTION OR PENDING CHARGES OR A
24 CONVICTION THAT IS UNDER APPEAL FOR ANY OF THE OFFENSES INCLUDED IN THIS
25 SUBSECTION. AT THE REQUEST OF AN APPLICANT FOR AN ORIGINAL LICENSE, THE
26 DEPARTMENT MAY DEFER DECISION ON THE APPLICATION DURING THE PENDENCY OF
27 THE PROSECUTION OR APPEAL.
- 28 8. HAS HAD A GAMING LICENSE ISSUED BY ANY JURISDICTION IN THE
29 UNITED STATES REVOKED OR DENIED.
- 30 9. DEMONSTRATES A WILFUL DISREGARD FOR COMPLIANCE WITH GAMING
31 REGULATORY AUTHORITY IN ANY JURISDICTION, INCLUDING SUSPENSION, REVOCATION
32 OR DENIAL OF AN APPLICATION FOR A LICENSE OR FORFEITURE OF A LICENSE.
- 33 10. HAS PURSUED OR IS PURSUING ECONOMIC GAIN IN AN OCCUPATIONAL
34 MANNER OR CONTEXT IN VIOLATION OF THE CRIMINAL LAWS OF ANY STATE IF THE
35 PURSUIT CREATES PROBABLE CAUSE TO BELIEVE THAT THE PERSON'S PARTICIPATION
36 IN GAMING OR RELATED ACTIVITIES WOULD BE DETRIMENTAL TO THE PROPER
37 OPERATION OF AN AUTHORIZED GAMING OR RELATED ACTIVITY IN THIS STATE.
- 38 11. IS A CAREER OFFENDER OR A MEMBER OF A CAREER OFFENDER
39 ORGANIZATION OR AN ASSOCIATE OF A CAREER OFFENDER OR CAREER OFFENDER
40 ORGANIZATION THEREBY ESTABLISHING PROBABLE CAUSE TO BELIEVE THAT THE
41 ASSOCIATION IS OF SUCH A NATURE AS TO BE DETRIMENTAL TO THE PROPER
42 OPERATION OF THE AUTHORIZED GAMING OR RELATED ACTIVITIES IN THIS STATE.
- 43 12. IS A PERSON WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF ANY,
44 REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC INTEREST
45 OF THIS STATE OR TO THE EFFECTIVE REGULATION AND CONTROL OF EVENT

1 WAGERING, CREATES OR ENHANCES THE DANGERS OF UNSUITABLE, UNFAIR OR ILLEGAL
2 PRACTICES, METHODS AND ACTIVITIES IN THE CONDUCT OF EVENT WAGERING OR THE
3 CARRYING ON OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL THERETO.

4 13. FAILS TO PROVIDE ANY INFORMATION REQUESTED BY THE DEPARTMENT
5 WITHIN SEVEN DAYS AFTER THE REQUEST FOR THE INFORMATION, EXCEPT FOR GOOD
6 CAUSE AS DETERMINED BY THE DEPARTMENT.

7 B. ANY APPLICANT FOR LICENSURE OR HOLDER OF A LICENSE SHALL BE
8 ENTITLED TO A FULL HEARING ON ANY FINAL ACTION BY THE DEPARTMENT THAT MAY
9 RESULT IN THE REVOCATION, SUSPENSION OR DENIAL OF LICENSURE. THE HEARING
10 SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROCEDURES AS PROVIDED IN TITLE
11 41, CHAPTER 6 AND THE DEPARTMENT'S RULES.

12 C. THE DEPARTMENT MAY SUMMARILY SUSPEND ANY LICENSE IF THE
13 CONTINUED LICENSING OF THE PERSON CONSTITUTES AN IMMEDIATE THREAT TO THE
14 PUBLIC HEALTH, SAFETY OR WELFARE.

15 D. FOR THE PURPOSES OF THIS SECTION:

16 1. "CAREER OFFENDER" MEANS ANY INDIVIDUAL WHO BEHAVES IN AN
17 OCCUPATIONAL MANNER OR CONTEXT FOR THE PURPOSES OF ECONOMIC GAIN BY
18 VIOLATING FEDERAL LAW OR THE LAWS AND PUBLIC POLICY OF THIS STATE.

19 2. "CAREER OFFENDER ORGANIZATION" MEANS ANY GROUP OF INDIVIDUALS
20 WHO OPERATE TOGETHER AS CAREER OFFENDERS.

21 3. "OCCUPATIONAL MANNER OR CONTEXT" MEANS THE SYSTEMATIC PLANNING,
22 ADMINISTRATION, MANAGEMENT OR EXECUTION OF AN ACTIVITY FOR FINANCIAL GAIN.

23 5-1307. Limited event wagering operator licenses; definition

24 A. AN EVENT WAGERING OPERATOR MAY PARTNER WITH A RACETRACK
25 ENCLOSURE OR ADDITIONAL WAGERING FACILITY THAT HOLDS A PERMIT THAT IS
26 ISSUED BY THE DIVISION OF RACING TO OBTAIN A LIMITED EVENT WAGERING
27 LICENSE FOR EVENT WAGERING ONLY AT ONE SPECIFIC PHYSICAL LOCATION. ON
28 APPLICATION, THE DEPARTMENT MAY ISSUE A TOTAL OF UP TO TEN LIMITED EVENT
29 WAGERING LICENSES TO AUTHORIZE EVENT WAGERING AT TEN SPECIFIC PHYSICAL
30 LOCATIONS.

31 B. AN ENTITY SEEKING A LIMITED EVENT WAGERING LICENSE SHALL PROVIDE
32 THE FOLLOWING INFORMATION TO THE DEPARTMENT IN ITS APPLICATION:

33 1. A COPY OF ITS CURRENT APPROVAL BY THE DIVISION OF RACING TO
34 CONDUCT RACING MEETINGS OR APPROVAL AS AN ADDITIONAL WAGERING FACILITY.

35 2. A LETTER FROM AN EVENT WAGERING OPERATOR OF ITS PARTNERSHIP FOR
36 THE PURPOSES OF EVENT WAGERING.

37 3. AN ATTESTATION AND MAP DEMONSTRATING THAT THE SPECIFIC PHYSICAL
38 LOCATION OF THE EVENT WAGERING FACILITY IS LOCATED AT LEAST FIVE MILES
39 FROM:

40 (a) A TRIBAL GAMING FACILITY.

41 (b) THE SPECIFIC EVENT WAGERING FACILITY LOCATION OPERATED BY AN
42 EVENT WAGERING OPERATOR.

43 (c) THE SPECIFIC EVENT WAGERING FACILITY LOCATION OPERATED BY
44 ANOTHER LIMITED EVENT WAGERING OPERATOR.

1 C. THE DEPARTMENT SHALL ISSUE A LIMITED EVENT WAGERING LICENSE IF
2 THE FOLLOWING CONDITIONS ARE MET:
3 1. THE APPLICANT IS IN COMPLIANCE WITH ALL DIVISION OF RACING RULES
4 REGARDING ITS RACING OR ADDITIONAL WAGERING FACILITY OPERATIONS.
5 2. THE APPLICANT HAS A CURRENT LICENSE WITH THE DIVISION OF RACING.
6 3. THE APPLICANT IS NOT CURRENTLY THE SUBJECT OF AN INVESTIGATION
7 BY THE DIVISION OF RACING FOR A VIOLATION OF DIVISION RULES.
8 4. THE APPLICANT SUBMITS FEES AS REQUIRED BY THE DEPARTMENT.
9 D. A LIMITED EVENT WAGERING LICENSE ALLOWS THE LICENSEE TO CONDUCT
10 EVENT WAGERING ONLY IN ACCORDANCE WITH THIS CHAPTER AND ANY APPLICABLE
11 RULES ADOPTED BY THE DEPARTMENT.
12 E. A LIMITED EVENT WAGERING OPERATOR SHALL BE LICENSED BY THE
13 DEPARTMENT BEFORE THE COMMENCEMENT OF OPERATION AND EVERY TWO YEARS
14 THEREAFTER. THE LICENSE SHALL INCLUDE EACH PRINCIPAL, THE PRIMARY
15 MANAGEMENT OFFICIAL AND KEY EMPLOYEES.
16 F. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
17 35-147, THE FEES COLLECTED FROM LICENSES UNDER THIS SECTION IN THE EVENT
18 WAGERING FUND ESTABLISHED BY SECTION 5-1318.
19 G. FOR THE PURPOSES OF THIS SECTION, "ADDITIONAL WAGERING FACILITY"
20 HAS THE SAME MEANING PRESCRIBED IN SECTION 5-101.
21 5-1308. Supplier license
22 A. THE DEPARTMENT MAY ISSUE A SUPPLIER LICENSE TO A PERSON THAT
23 MANUFACTURES, DISTRIBUTES, SELLS OR LEASES EVENT WAGERING EQUIPMENT,
24 SYSTEMS OR OTHER GAMING ITEMS TO CONDUCT EVENT WAGERING AND OFFERS
25 SERVICES RELATED TO THE EQUIPMENT OR OTHER GAMING ITEMS AND DATA TO AN
26 EVENT WAGERING OPERATOR OR LIMITED EVENT WAGERING OPERATOR WHILE THE
27 LICENSE IS ACTIVE. THE DEPARTMENT MAY ACCEPT A LICENSE ISSUED BY ANOTHER
28 JURISDICTION THAT THE DEPARTMENT DETERMINES TO HAVE SIMILAR LICENSURE
29 REQUIREMENTS AS EVIDENCE THE APPLICANT MEETS SUPPLIER LICENSURE
30 REQUIREMENTS.
31 B. THE DEPARTMENT MAY ADOPT RULES THAT ESTABLISH ADDITIONAL
32 REQUIREMENTS FOR A SUPPLIER AND ANY SYSTEM OR OTHER EQUIPMENT USED FOR
33 EVENT WAGERING.
34 C. AN APPLICANT FOR A SUPPLIER LICENSE SHALL DEMONSTRATE THAT THE
35 EQUIPMENT, SYSTEM OR SERVICES THAT THE APPLICANT PLANS TO OFFER TO THE
36 EVENT WAGERING OPERATOR CONFORM TO STANDARDS ESTABLISHED BY THE DEPARTMENT
37 AND APPLICABLE STATE LAW. THE DEPARTMENT MAY ACCEPT APPROVAL BY ANOTHER
38 JURISDICTION THAT THE DEPARTMENT DETERMINES HAS SIMILAR EQUIPMENT
39 STANDARDS AS EVIDENCE THE APPLICANT MEETS THE STANDARDS ESTABLISHED BY THE
40 DEPARTMENT AND APPLICABLE STATE LAW.
41 D. AN APPLICANT SHALL PAY TO THE DEPARTMENT A NONREFUNDABLE LICENSE
42 AND APPLICATION FEE AS PRESCRIBED BY SECTION 5-1310. A LICENSE IS VALID
43 FOR TWO YEARS. THE DEPARTMENT SHALL GRANT A RENEWAL OF A SUPPLIER LICENSE
44 IF THE RENEWAL APPLICANT HAS CONTINUED TO COMPLY WITH ALL APPLICABLE
45 STATUTORY AND REGULATORY REQUIREMENTS, SUBMITS THE RENEWAL APPLICATION ON

1 A DEPARTMENT-ISSUED RENEWAL FORM AND PAYS THE RENEWAL FEE PRESCRIBED BY
2 SECTION 5-1310. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146
3 AND 35-147, THE FEES COLLECTED FROM LICENSEES UNDER THIS SUBSECTION IN THE
4 EVENT WAGERING FUND ESTABLISHED BY SECTION 5-1318.

5 E. A SUPPLIER SHALL SUBMIT TO THE DEPARTMENT A LIST OF ALL EVENT
6 WAGERING EQUIPMENT AND SERVICES SOLD, DELIVERED OR OFFERED TO AN EVENT
7 WAGERING OPERATOR IN THIS STATE, AS REQUIRED BY THE DEPARTMENT, ALL OF
8 WHICH MUST BE TESTED AND APPROVED BY AN INDEPENDENT TESTING LABORATORY
9 APPROVED BY THE DEPARTMENT. AN EVENT WAGERING OPERATOR OR LIMITED EVENT
10 WAGERING OPERATOR MAY CONTINUE TO USE SUPPLIES ACQUIRED FROM A LICENSED
11 SUPPLIER, EVEN IF A SUPPLIER'S LICENSE EXPIRES OR IS OTHERWISE CANCELED,
12 UNLESS THE DEPARTMENT FINDS A DEFECT IN THE SUPPLIES.

13 5-1309. Management services provider license

14 A. AN EVENT WAGERING OPERATOR MAY CONTRACT WITH AN ENTITY TO
15 CONDUCT EVENT WAGERING IN ACCORDANCE WITH THE RULES OF THE DEPARTMENT AND
16 THIS CHAPTER. THE ENTITY SHALL OBTAIN A LICENSE FROM THE DEPARTMENT AS A
17 MANAGEMENT SERVICES PROVIDER PURSUANT TO THIS CHAPTER AND ANY RULES
18 ADOPTED BY THE DEPARTMENT BEFORE THE EXECUTION OF ANY SUCH CONTRACT. A
19 MANAGEMENT SERVICES PROVIDER MAY PROVIDE SERVICES TO MORE THAN ONE EVENT
20 WAGERING OPERATOR OR LIMITED EVENT WAGERING OPERATOR UNDER ITS LICENSE.

21 B. EACH APPLICANT FOR A MANAGEMENT SERVICES PROVIDER LICENSE SHALL
22 MEET ALL REQUIREMENTS FOR LICENSURE AND PAY A NONREFUNDABLE LICENSE AND
23 APPLICATION FEE AS PRESCRIBED BY SECTION 5-1310. THE DEPARTMENT MAY ADOPT
24 RULES ESTABLISHING ADDITIONAL REQUIREMENTS FOR A MANAGEMENT SERVICES
25 PROVIDER. THE DEPARTMENT MAY ACCEPT A LICENSE ISSUED BY ANOTHER
26 JURISDICTION THAT THE DEPARTMENT DETERMINES TO HAVE SIMILAR LICENSURE
27 REQUIREMENTS AS EVIDENCE THE APPLICANT MEETS MANAGEMENT SERVICES PROVIDER
28 LICENSURE REQUIREMENTS. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO
29 SECTIONS 35-146 AND 35-147, THE FEES COLLECTED FROM LICENSEES UNDER THIS
30 SUBSECTION IN THE EVENT WAGERING FUND ESTABLISHED BY SECTION 5-1318.

31 C. MANAGEMENT SERVICES PROVIDER LICENSES SHALL BE RENEWED EVERY TWO
32 YEARS TO LICENSEES WHO CONTINUE TO BE IN COMPLIANCE WITH ALL REQUIREMENTS
33 AND WHO PAY THE RENEWAL FEE.

34 5-1310. License fees; bond

35 A. THE DEPARTMENT SHALL ESTABLISH AND COLLECT FEES FOR
36 APPLICATIONS, INITIAL LICENSES AND RENEWALS OF THE FOLLOWING:

- 37 1. EVENT WAGERING OPERATOR LICENSES.
- 38 2. LIMITED EVENT WAGERING OPERATOR LICENSES.
- 39 3. MANAGEMENT SERVICES PROVIDER LICENSES.
- 40 4. SUPPLIER LICENSES.

41 B. IF ACTUAL COSTS INCURRED BY THE DEPARTMENT TO INVESTIGATE THE
42 BACKGROUND OF AN APPLICANT EXCEED THE FEES PURSUANT TO SUBSECTION A OF
43 THIS SECTION, THOSE COSTS MAY BE ASSESSED TO THE APPLICANT DURING THE
44 INVESTIGATION PROCESS. PAYMENT IN FULL TO THE DEPARTMENT SHALL BE
45 REQUIRED BEFORE THE DEPARTMENT ISSUES A LICENSE. THE DEPARTMENT MAY

1 REQUIRE EVENT WAGERING OPERATORS, LIMITED EVENT WAGERING OPERATORS AND
2 SUPPLIERS APPLYING FOR LICENSURE TO POST A BOND SUFFICIENT TO COVER THE
3 ACTUAL COSTS THAT THE DEPARTMENT ANTICIPATES WILL BE INCURRED IN
4 CONDUCTING A BACKGROUND INVESTIGATION OF THE APPLICANT.

5 5-1311. License restrictions; prohibited licensees;
6 violation; classification

7 A. THE FOLLOWING PERSONS OR THEIR IMMEDIATE FAMILY MEMBERS MAY NOT
8 APPLY FOR OR OBTAIN A LICENSE UNDER THIS CHAPTER:

- 9 1. AN EMPLOYEE OF THE DEPARTMENT.
10 2. AN EMPLOYEE OF ANY PROFESSIONAL SPORTS TEAM.
11 3. A COACH OF OR PLAYER FOR A COLLEGIATE, PROFESSIONAL OR OLYMPIC
12 SPORTS TEAM OR SPORT.

13 4. AN INDIVIDUAL WHO HAS BEEN CONVICTED OF A CRIME RELATED TO
14 SPORTS OR EVENT WAGERING ON A SPORTS EVENT OR OTHER EVENT, CHEATING,
15 EXTORTION, BURGLARY, LARCENY, BRIBERY, EMBEZZLEMENT, ROBBERY,
16 RACKETEERING, MONEY LAUNDERING, FORGERY OR FRAUD.

17 5. AN INDIVIDUAL WHO HAS THE ABILITY TO DIRECTLY AFFECT THE OUTCOME
18 OF A SPORTS EVENT OR OTHER EVENT FOR WHICH WAGERS ARE ALLOWED.

19 6. ANY OTHER CATEGORY OF INDIVIDUALS THAT, IF LICENSED, WOULD
20 NEGATIVELY AFFECT THE INTEGRITY OF EVENT WAGERING IN THIS STATE.

21 B. A LICENSEE MAY NOT:

- 22 1. ALLOW A PERSON UNDER TWENTY-ONE YEARS OF AGE TO PLACE A WAGER.
23 2. OFFER, ACCEPT OR EXTEND CREDIT TO A BETTOR.
24 3. TARGET MINORS IN ADVERTISING OR PROMOTIONS.

25 4. OFFER OR ACCEPT A WAGER ON ANY EVENT, OUTCOME OR OCCURRENCE,
26 INCLUDING A HIGH SCHOOL SPORTS EVENT OFFERED, SPONSORED OR PLAYED IN
27 CONNECTION WITH A PUBLIC OR PRIVATE INSTITUTION THAT OFFERS EDUCATION AT
28 THE SECONDARY LEVEL, OTHER THAN A SPORTS EVENT OR OTHER EVENT.

29 5. ACCEPT A WAGER FROM A PERSON WHO IS ON THE DEPARTMENT'S LIST OF
30 SELF-EXCLUDED PERSONS CREATED AND MAINTAINED BY AN INDIAN TRIBE OR THE
31 DEPARTMENT.

32 6. ACCEPT A WAGER FROM A PROHIBITED PARTICIPANT.

33 C. A VIOLATION OF THIS SECTION IS:

- 34 1. FOR A FIRST OFFENSE, A CLASS 3 MISDEMEANOR.
35 2. FOR A SECOND OR SUBSEQUENT OFFENSE, A CLASS 1 MISDEMEANOR.

36 5-1312. Reporting

37 A. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT SHALL
38 PREPARE AND SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE
39 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND SHALL PROVIDE
40 A COPY TO THE SECRETARY OF STATE THAT CONTAINS THE FOLLOWING INFORMATION:

- 41 1. THE NUMBER OF ACTIVE LICENSEES BY TYPE.
42 2. THE AGGREGATE GROSS AND NET REVENUE OF ALL LICENSEES.
43 3. THE NUMBER OF INVESTIGATIONS CONDUCTED TO ENFORCE THIS CHAPTER.
44 4. THE FINANCIAL IMPACT ON THIS STATE OF THE EVENT WAGERING
45 INDUSTRY IN THIS STATE.

1 B. THE REPORT MAY BE INCLUDED WITH OTHER INFORMATION REQUIRED TO BE
2 SUBMITTED BY THE DEPARTMENT ANNUALLY. A REPORT SUBMITTED UNDER SUBSECTION
3 A OF THIS SECTION MAY BE SUBMITTED ELECTRONICALLY.

4 5-1313. Escrow account; insurance; cash-on-hand; financial
5 practices; audit; post-employment restrictions

6 A. THE DEPARTMENT SHALL ESTABLISH:

7 1. THE AMOUNT OF A BOND IN ESCROW AND THE AMOUNT OF CASH THAT MUST
8 BE KEPT ON HAND TO ENSURE THAT ADEQUATE RESERVES EXIST FOR PAYOUTS.

9 2. ANY INSURANCE REQUIREMENTS FOR A LICENSEE.

10 3. MINIMUM REQUIREMENTS BY WHICH EACH LICENSEE MUST EXERCISE
11 EFFECTIVE CONTROL OVER ITS INTERNAL FISCAL AFFAIRS, INCLUDING REQUIREMENTS
12 FOR ALL OF THE FOLLOWING:

13 (a) SAFEGUARDING ASSETS AND REVENUES, INCLUDING EVIDENCE OF
14 INDEBTEDNESS.

15 (b) MAINTAINING RELIABLE RECORDS RELATING TO ACCOUNTS,
16 TRANSACTIONS, PROFITS AND LOSSES, OPERATIONS AND EVENTS.

17 (c) RISK MANAGEMENT.

18 4. REQUIREMENTS FOR INTERNAL AND INDEPENDENT AUDITS OF LICENSEES.

19 5. THE MANNER IN WHICH PERIODIC FINANCIAL REPORTS MUST BE SUBMITTED
20 TO THE DEPARTMENT FROM EACH LICENSEE, INCLUDING THE FINANCIAL INFORMATION
21 TO BE INCLUDED IN THE REPORTS.

22 6. THE TYPE OF INFORMATION DEEMED CONFIDENTIAL FINANCIAL OR
23 PROPRIETARY INFORMATION THAT IS NOT SUBJECT TO ANY REPORTING REQUIREMENTS
24 UNDER THIS SUBSECTION.

25 7. POLICIES, PROCEDURES AND PROCESSES DESIGNED TO MITIGATE THE RISK
26 OF FRAUD, CHEATING OR MONEY LAUNDERING.

27 8. ANY POST-EMPLOYMENT RESTRICTIONS FOR DEPARTMENT EMPLOYEES
28 NECESSARY TO MAINTAIN THE INTEGRITY OF EVENT WAGERING IN THIS STATE.

29 B. THE LICENSEE MAY MAINTAIN THE BOND AT ANY BANK LAWFULLY
30 OPERATING IN THIS STATE OR ANOTHER ENTITY AS APPROVED BY THE DEPARTMENT,
31 AND THE LICENSEE MUST BE THE BENEFICIARY OF ANY INTEREST ACCRUED ON THE
32 BOND.

33 5-1314. Event wagering authorized

34 A. NOTWITHSTANDING ANY OTHER LAW RELATING TO WAGERING EXCEPT FOR
35 TITLE 5, CHAPTER 1 AND TITLE 13, CHAPTER 33, THE OPERATION OF EVENT
36 WAGERING IS LAWFUL ONLY IF THE EVENT WAGERING IS CONDUCTED IN ACCORDANCE
37 WITH THIS CHAPTER AND ANY OTHER RELEVANT LAWS AND RULES.

38 B. NOTWITHSTANDING SECTION 5-112, WAGERS ON RACING MEETINGS OR
39 SIMULCASTED RACES MAY BE MADE, OFFERED OR RECEIVED THROUGH THE MEANS THAT
40 OTHER WAGERS ALLOWED BY THIS CHAPTER ARE MADE, OFFERED OR RECEIVED UNLESS
41 OTHERWISE PROHIBITED BY FEDERAL LAW.

42 C. EACH EVENT WAGERING OPERATOR SHALL ADOPT AND ADHERE TO A
43 WRITTEN, COMPREHENSIVE POLICY OUTLINING THE HOUSE RULES GOVERNING THE
44 ACCEPTANCE OF WAGERS AND PAYOUTS. THE POLICY AND RULES MUST BE APPROVED
45 BY THE DEPARTMENT BEFORE THE EVENT WAGERING OPERATOR ACCEPTS WAGERS. THE

1 POLICY AND RULES MUST BE READILY AVAILABLE TO A BETTOR AT ANY EVENT
2 WAGERING FACILITY LOCATION AND ON ANY EVENT WAGERING PLATFORM.

3 D. THE DEPARTMENT SHALL ADOPT RULES REGARDING:

4 1. THE MANNER IN WHICH AN EVENT WAGERING OPERATOR ACCEPTS WAGERS
5 FROM AND ISSUES PAYOUTS TO BETTORS, INCLUDING PAYOUTS IN EXCESS OF
6 \$10,000.

7 2. REPORTING REQUIREMENTS NECESSARY TO COMPLY WITH THE BANK SECRECY
8 ACT (P.L. 91-508; 84 STAT. 1114) AND PATRIOT ACT (P.L. 107-56; 115 STAT.
9 272) AND FOR ANY OTHER APPLICABLE LAWS AND RULES GOVERNING REPORTING
10 SUSPICIOUS WAGERS.

11 E. EACH WAGER PLACED IN ACCORDANCE WITH THIS CHAPTER IS DEEMED TO
12 BE AN ENFORCEABLE CONTRACT UNDER LAW.

13 F. IF THE GOVERNING BODY OF A SPORT OR SPORTS LEAGUE, ORGANIZATION
14 OR ASSOCIATION OR OTHER AUTHORIZED ENTITY THAT MAINTAINS OFFICIAL LEAGUE
15 DATA OPTS TO PROVIDE OFFICIAL LEAGUE DATA FOR THE PURPOSES OF EVENT
16 WAGERING, AN EVENT WAGERING OPERATOR SHALL EXCLUSIVELY USE OFFICIAL LEAGUE
17 DATA FOR PURPOSES OF TIER TWO SPORTS WAGERS UNLESS THE EVENT WAGERING
18 OPERATOR CAN DEMONSTRATE TO THE DEPARTMENT THAT THE GOVERNING BODY OF A
19 SPORT OR SPORTS LEAGUE, ORGANIZATION OR ASSOCIATION OR OTHER AUTHORIZED
20 ENTITY CANNOT PROVIDE A FEED OF OFFICIAL LEAGUE DATA FOR TIER TWO SPORTS
21 WAGERS IN ACCORDANCE WITH COMMERCIALLY REASONABLE TERMS, AS DETERMINED BY
22 THE DEPARTMENT.

23 5-1315. Prohibited wagers

24 A. A PERSON MAY NOT WAGER ON ANY OF THE FOLLOWING:

25 1. INJURIES, PENALTIES AND OTHER TYPES OR FORMS OF EVENT WAGERING
26 UNDER THIS CHAPTER THAT ARE CONTRARY TO LAW.

27 2. INDIVIDUAL ACTIONS, EVENTS, OCCURRENCES OR NONOCCURRENCES TO BE
28 DETERMINED DURING A COLLEGIATE SPORTS EVENT, INCLUDING ON THE PERFORMANCE
29 OR NONPERFORMANCE OF A TEAM OR INDIVIDUAL PARTICIPANT DURING A COLLEGIATE
30 SPORTS EVENT. THIS PARAGRAPH DOES NOT PROHIBIT WAGERS ON THE OVERALL
31 OUTCOME OF A COLLEGIATE SPORTS EVENT OR SEASONAL AWARDS BASED ON A
32 PLAYER'S CUMULATIVE OVERALL PLAY.

33 B. AN EVENT WAGERING OPERATOR MAY OFFER ONLY PARLAY AND PROPOSITION
34 BETS OF THE TYPE OR CATEGORY AS PRESCRIBED BY THE DEPARTMENT. THE
35 DEPARTMENT SHALL PRESCRIBE THE TYPES AND CATEGORIES OF PARLAY AND
36 PROPOSITION BETS THAT MAY BE OFFERED IN THIS STATE, IF ANY.

37 C. AN EVENT WAGERING OPERATOR, PROFESSIONAL SPORTS TEAM, LEAGUE,
38 ASSOCIATION OR INSTITUTION OF HIGHER EDUCATION MAY SUBMIT TO THE
39 DEPARTMENT IN WRITING A REQUEST TO PROHIBIT A TYPE OR FORM OF EVENT
40 WAGERING, OR TO PROHIBIT A CATEGORY OF PERSONS FROM EVENT WAGERING, IF THE
41 EVENT WAGERING OPERATOR, TEAM, LEAGUE, ASSOCIATION OR INSTITUTION BELIEVES
42 THAT SUCH EVENT WAGERING BY TYPE, FORM OR CATEGORY IS CONTRARY TO PUBLIC
43 POLICY, UNFAIR TO CONSUMERS OR AFFECTS THE INTEGRITY OR PERCEIVED
44 INTEGRITY OF A PARTICULAR SPORT OR THE SPORTS BETTING INDUSTRY. SUCH A
45 REQUEST SHALL PROVIDE A REASONABLE AMOUNT OF TIME FOR THE DEPARTMENT TO

1 CONDUCT DUE DILIGENCE BEFORE DECISION-MAKING, ABSENT THE NEED TO PROCEED
2 ON AN EMERGENCY BASIS.

3 D. THE DEPARTMENT SHALL REVIEW A REQUEST MADE PURSUANT TO
4 SUBSECTION C OF THIS SECTION TO DETERMINE IF GOOD CAUSE EXISTS TO GRANT
5 THE REQUEST. IN MAKING A DETERMINATION UNDER THIS SECTION, THE DEPARTMENT
6 SHALL SEEK INPUT FROM LICENSEES UNLESS THE EMERGENCY NATURE OF THE MATTER
7 DOES NOT PROVIDE SUFFICIENT TIME FOR SUCH DUE DILIGENCE. THE DEPARTMENT
8 SHALL RESPOND TO THE REQUEST CONCERNING A PARTICULAR EVENT BEFORE THE
9 START OF THE EVENT, OR IF IT IS NOT FEASIBLE TO RESPOND BEFORE THE START
10 OF THE EVENT, AS SOON AS PRACTICABLE.

11 5-1316. Integrity; reporting prohibited or suspicious
12 conduct; investigations

13 A. ALL LICENSEES UNDER THIS CHAPTER SHALL IMMEDIATELY REPORT TO THE
14 DEPARTMENT AND THE RELEVANT SPORTS GOVERNING BODY THAT HAS REQUESTED TO
15 RECEIVE IT ANY INFORMATION RELATING TO ANY OF THE FOLLOWING:

16 1. ABNORMAL BETTING ACTIVITY OR PATTERNS THAT MAY INDICATE A
17 CONCERN WITH THE INTEGRITY OF A SPORTS EVENT OR EVENTS, OR ANY OTHER
18 CONDUCT THAT CORRUPTS A BETTING OUTCOME OF A SPORTS EVENT OR EVENTS FOR
19 PURPOSES OF FINANCIAL GAIN, INCLUDING MATCH FIXING.

20 2. ANY POTENTIAL BREACH OF A SPORTS GOVERNING BODY'S INTERNAL RULES
21 AND CODES OF CONDUCT PERTAINING TO EVENT WAGERING.

22 3. CONDUCT THAT CORRUPTS THE BETTING OUTCOME OF EVENT WAGERING FOR
23 PURPOSES OF FINANCIAL GAIN, INCLUDING MATCH FIXING.

24 4. SUSPICIOUS OR ILLEGAL EVENT WAGERING ACTIVITIES, INCLUDING
25 CHEATING, THE USE OF MONIES DERIVED FROM ILLEGAL ACTIVITY, WAGERS TO
26 CONCEAL OR LAUNDER MONIES DERIVED FROM ILLEGAL ACTIVITY, USING AGENTS TO
27 PLACE WAGERS OR USING FALSE IDENTIFICATION.

28 B. LICENSEES SHALL REPORT TO THE DEPARTMENT, IN REAL TIME AND AT
29 THE ACCOUNT LEVEL, INFORMATION REGARDING A BETTOR, THE AMOUNT AND TYPE OF
30 BET, THE TIME THE BET WAS PLACED, THE LOCATION OF THE BET, INCLUDING THE
31 INTERNET PROTOCOL ADDRESS IF APPLICABLE, THE OUTCOME OF THE BET AND
32 RECORDS RELATED TO SUBSECTION A OF THIS SECTION. INFORMATION REPORTED
33 UNDER THIS SUBSECTION MUST BE SUBMITTED IN THE FORM AND MANNER ESTABLISHED
34 BY THE DEPARTMENT.

35 C. IF A SPORTS GOVERNING BODY HAS NOTIFIED THE DEPARTMENT THAT
36 REAL-TIME INFORMATION SHARING FOR WAGERS PLACED ON ITS SPORTS EVENTS IS
37 NECESSARY AND DESIRABLE, LICENSEES SHALL SHARE THE SAME INFORMATION WITH
38 THE SPORTS GOVERNING BODY OR ITS DESIGNEE WITH RESPECT TO WAGERS ON ITS
39 SPORTS EVENTS. SUCH INFORMATION MAY BE PROVIDED IN ANONYMIZED FORM AND
40 MAY BE USED BY A SPORTS GOVERNING BODY SOLELY FOR INTEGRITY PURPOSES.

41 D. THE DEPARTMENT AND LICENSEES SHALL MAKE COMMERCIALY REASONABLE
42 EFFORTS TO COOPERATE WITH INVESTIGATIONS CONDUCTED BY SPORTS GOVERNING
43 BODIES, INCLUDING USING COMMERCIALY REASONABLE EFFORTS TO PROVIDE OR
44 FACILITATE THE PROVISION OF BETTING INFORMATION FOR THE PURPOSES OF
45 INVESTIGATIONS.

1 E. THE DEPARTMENT SHALL ESTABLISH A HOTLINE OR OTHER METHOD OF
2 COMMUNICATION THAT ALLOWS ANY PERSON TO CONFIDENTIALLY REPORT TO THE
3 DEPARTMENT INFORMATION ABOUT PROHIBITED CONDUCT.

4 F. THE DEPARTMENT SHALL INVESTIGATE ALLEGATIONS AND REFER TO
5 PROSECUTORIAL ENTITIES PROHIBITED CONDUCT UNDER THIS CHAPTER.

6 G. THE IDENTITY OF ANY REPORTING PERSON SHALL REMAIN CONFIDENTIAL
7 UNLESS THAT PERSON AUTHORIZES DISCLOSURE OF THE PERSON'S IDENTITY OR UNTIL
8 SUCH TIME AS THE ALLEGATION OF PROHIBITED CONDUCT IS REFERRED TO A
9 PROSECUTORIAL ENTITY.

10 H. IF THE DEPARTMENT RECEIVES A COMPLAINT OF PROHIBITED CONDUCT BY
11 AN ATHLETE, THE DEPARTMENT SHALL NOTIFY THE APPROPRIATE SPORTS GOVERNING
12 BODY TO REVIEW THE COMPLAINT FOR APPROPRIATE ACTION.

13 I. NOTWITHSTANDING ANY CONFIDENTIALITY PROVISIONS OF THIS CHAPTER,
14 THE DEPARTMENT MAY PROVIDE OR FACILITATE ACCESS TO INFORMATION REGARDING
15 ACCOUNT-LEVEL BETTING INFORMATION AND DATA FILES RELATING TO PERSONS
16 PLACING WAGERS ON NOTIFICATION BY A SPORTS GOVERNING BODY OF AN OFFICIAL
17 INVESTIGATION BEING CONDUCTED INTO A PERSON OR PERSONS WHO ARE PROHIBITED
18 BY THAT BODY FROM PARTICIPATING IN WAGERING OR WHO ARE BELIEVED TO HAVE
19 TAKEN ACTION THAT AFFECTS THE INTEGRITY OR PERCEIVED INTEGRITY OF THE
20 SPORT IT GOVERNS. ANY INFORMATION OBTAINED BY A SPORTS GOVERNING BODY
21 SHALL BE KEPT CONFIDENTIAL UNLESS THE INFORMATION HAS BEEN MADE PUBLIC
22 THROUGH A CRIMINAL PROCEEDING OR BY A COURT ORDER.

23 5-1317. Sports governing body agreements

24 THIS CHAPTER DOES NOT PROHIBIT A SPORTS GOVERNING BODY ON WHOSE
25 EVENTS THE DEPARTMENT HAS AUTHORIZED WAGERING FROM ENTERING INTO
26 AGREEMENTS WITH LICENSEES IN WHICH THE SPORTS GOVERNING BODY MAY SHARE IN
27 THE AMOUNT BET FROM SPORTS WAGERING ON THE EVENTS OF THE SPORTS GOVERNING
28 BODY. A SPORTS GOVERNING BODY IS NOT REQUIRED TO OBTAIN A LICENSE OR ANY
29 OTHER APPROVAL FROM THE DEPARTMENT TO LAWFULLY ACCEPT SUCH AMOUNTS.

30 5-1318. Fees; event wagering fund

31 A. THE DEPARTMENT SHALL ESTABLISH A FEE FOR THE PRIVILEGE OF
32 OPERATING EVENT WAGERING. IN DETERMINING THE FEE, THE DEPARTMENT SHALL
33 CONSIDER THE HIGHEST PERCENTAGE OF REVENUE SHARE THAT AN INDIAN TRIBE PAYS
34 TO THIS STATE PURSUANT TO THE TRIBAL-STATE GAMING COMPACT. THE EVENT
35 WAGERING OPERATOR OR DESIGNEE HAS THE OPTION TO CHOOSE EITHER THE CASH
36 ACCRUAL OR MODIFIED ACCRUAL BASIS METHOD OF ACCOUNTING FOR PURPOSES OF
37 CALCULATING THE AMOUNT OF THE FEE OWED BY THE EVENT WAGERING OPERATOR OR
38 DESIGNEE. THE FEES REQUIRED PURSUANT TO THIS SECTION ARE DUE AND PAYABLE
39 TO THE DEPARTMENT NOT LATER THAN THE TWENTY-FIFTH DAY OF THE MONTH
40 FOLLOWING THE CALENDAR MONTH IN WHICH THE ADJUSTED GROSS EVENT WAGERING
41 RECEIPTS WERE RECEIVED AND THE OBLIGATION WAS ACCRUED.

42 B. THE EVENT WAGERING FUND IS ESTABLISHED CONSISTING OF MONIES
43 DEPOSITED PURSUANT TO THIS CHAPTER OR FROM ANY OTHER SOURCE. THE
44 DEPARTMENT SHALL ADMINISTER THE FUND. EXCEPT AS OTHERWISE PROVIDED IN
45 THIS CHAPTER, THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146

1 AND 35-147, ALL MONIES COLLECTED UNDER THIS CHAPTER IN THE EVENT WAGERING
2 FUND. ON THE TWENTY-FIFTH OF EACH MONTH, ANY MONIES REMAINING IN THE
3 EVENT WAGERING FUND SHALL BE TRANSFERRED TO THE STATE GENERAL FUND. ON
4 NOTICE FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST AND DIVEST
5 MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM
6 INVESTMENT SHALL BE CREDITED TO THE FUND.

7 C. UNLESS OTHERWISE DETERMINED BY THE LEGISLATURE, THE DEPARTMENT
8 MAY SPEND NOT MORE THAN TEN PERCENT OF MONIES ON THE DEPARTMENT'S ANNUAL
9 COSTS OF REGULATING AND ENFORCING THIS CHAPTER, AND ANY REMAINING MONIES
10 IN THE FUND REVERT TO THE STATE GENERAL FUND.

11 5-1319. Financial responsibility

12 ON OR BEFORE JULY 1 OF EACH YEAR, A LICENSED EVENT WAGERING OPERATOR
13 AND MANAGEMENT SERVICES PROVIDER SHALL CONTRACT WITH A CERTIFIED PUBLIC
14 ACCOUNTANT TO PERFORM AN INDEPENDENT AUDIT, IN ACCORDANCE WITH GENERALLY
15 ACCEPTED ACCOUNTING PRINCIPLES PUBLISHED BY THE AMERICAN INSTITUTE OF
16 CERTIFIED PUBLIC ACCOUNTANTS, THE FINANCIAL CONDITION OF THE LICENSED
17 EVENT WAGERING OPERATOR'S OR MANAGEMENT SERVICES PROVIDER'S TOTAL
18 OPERATION FOR THE PREVIOUS FISCAL YEAR AND TO ENSURE COMPLIANCE WITH THIS
19 CHAPTER AND FOR ANY OTHER PURPOSE AS PRESCRIBED BY RULE. NOT LATER THAN
20 ONE HUNDRED EIGHTY DAYS AFTER THE END OF THE EVENT WAGERING OPERATOR'S OR
21 MANAGEMENT SERVICES PROVIDER'S FISCAL YEAR, A LICENSED EVENT WAGERING
22 OPERATOR OR MANAGEMENT SERVICE PROVIDER SHALL SUBMIT THE AUDIT RESULTS
23 UNDER THIS SECTION TO THE DEPARTMENT. THE RESULTS OF AN AUDIT SUBMITTED
24 TO THE DEPARTMENT UNDER THIS SECTION ARE CONFIDENTIAL AND PRIVILEGED AND
25 ARE NOT SUBJECT TO DISCLOSURE AS PROVIDED IN TITLE 39, CHAPTER 1,
26 ARTICLE 2.

27 5-1320. Problem gambling; self-exclusion list; program;
28 liabilities

29 A. A LICENSEE SHALL DEVELOP A PROCEDURE TO INFORM PLAYERS THAT HELP
30 IS AVAILABLE IF A PERSON HAS A PROBLEM WITH GAMBLING AND, AT A MINIMUM,
31 PROVIDE THE STATEWIDE TOLL-FREE HELPLINE TELEPHONE NUMBER, TEXT MESSAGE
32 AND WEBSITE INFORMATION ESTABLISHED BY THE DEPARTMENT.

33 B. THE DEPARTMENT AND LICENSEES SHALL COMPLY WITH THE FOLLOWING
34 REQUIREMENTS TO ALLOW PROBLEM GAMBLERS TO VOLUNTARILY EXCLUDE THEMSELVES
35 FROM EVENT WAGERING STATEWIDE:

36 1. THE DEPARTMENT SHALL ESTABLISH A LIST OF PERSONS WHO, BY
37 ACKNOWLEDGING IN A MANNER TO BE ESTABLISHED BY THE DEPARTMENT THAT THEY
38 ARE PROBLEM GAMBLERS, VOLUNTARILY SEEK TO EXCLUDE THEMSELVES FROM EVENT
39 WAGERING STATEWIDE. THE DEPARTMENT SHALL ESTABLISH PROCEDURES FOR THE
40 PLACEMENT ON AND REMOVAL FROM THE LIST OF SELF-EXCLUDED PERSONS. A PERSON
41 OTHER THAN THE PERSON SEEKING VOLUNTARY SELF-EXCLUSION MAY NOT INCLUDE
42 THAT PERSON'S NAME ON THE SELF-EXCLUSION LIST OF THE DEPARTMENT.

43 2. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
44 LIMITED EVENT WAGERING OPERATORS SHALL ESTABLISH PROCEDURES FOR ADVISING
45 PERSONS WHO INQUIRE ABOUT SELF-EXCLUSION AND OFFER SELF-EXCLUSION

1 APPLICATION FORMS PROVIDED BY THE DEPARTMENT TO THOSE PERSONS WHEN
2 REQUESTED.

3 3. THE DEPARTMENT SHALL COMPILE IDENTIFYING INFORMATION CONCERNING
4 SELF-EXCLUDED PERSONS. SUCH INFORMATION SHALL CONTAIN, AT A MINIMUM, THE
5 FULL NAME AND ANY ALIASES OF THE PERSON, A PHOTOGRAPH OF THE PERSON, THE
6 SOCIAL SECURITY OR DRIVER'S LICENSE NUMBER OF THE PERSON AND THE CURRENT
7 PHYSICAL AND ELECTRONIC CONTACT INFORMATION, INCLUDING MAILING ADDRESS, OF
8 THE PERSON.

9 4. THE DEPARTMENT SHALL PROVIDE THE COMPILED INFORMATION TO EVENT
10 WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND LIMITED EVENT
11 WAGERING OPERATORS ON A WEEKLY BASIS. EVENT WAGERING OPERATORS,
12 COMMERCIAL SPORTS LICENSE HOLDERS AND LIMITED EVENT WAGERING OPERATORS
13 SHALL TREAT THE INFORMATION RECEIVED FROM THE DEPARTMENT UNDER THIS
14 SECTION AS CONFIDENTIAL, AND THE INFORMATION SHALL NOT BE DISCLOSED EXCEPT
15 TO VENDORS APPROVED BY THE DEPARTMENT FOR PURPOSES OF COMPLYING WITH THIS
16 SECTION, APPROPRIATE LAW ENFORCEMENT AGENCIES IF NEEDED IN CONDUCTING AN
17 OFFICIAL INVESTIGATION OR UNLESS ORDERED BY A COURT OF COMPETENT
18 JURISDICTION.

19 5. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
20 LIMITED EVENT WAGERING OPERATORS SHALL CHECK THE MOST RECENT SELF-EXCLUDED
21 PERSONS LIST PROVIDED BY THE DEPARTMENT BEFORE CREATING A PLAYER ACCOUNT.
22 THE EVENT WAGERING OPERATOR, COMMERCIAL SPORTS LICENSE HOLDER OR LIMITED
23 EVENT WAGERING OPERATOR SHALL REVOKE A PLAYER ACCOUNT AND REMOVE ALL
24 SELF-EXCLUDED PERSONS FROM ALL MAILING LISTS OF THE EVENT WAGERING
25 OPERATOR, COMMERCIAL SPORTS LICENSE HOLDER OR LIMITED EVENT WAGERING
26 OPERATOR.

27 6. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
28 LIMITED EVENT WAGERING OPERATORS SHALL TAKE COMMERCIALY REASONABLE STEPS
29 TO ENSURE THAT PERSONS ON THE DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS
30 ARE DENIED ACCESS TO ALL EVENT WAGERING.

31 7. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
32 LIMITED EVENT WAGERING OPERATORS SHALL TAKE COMMERCIALY REASONABLE STEPS
33 TO IDENTIFY SELF-EXCLUDED PERSONS. IF A SELF-EXCLUDED PERSON PARTICIPATES
34 IN EVENT WAGERING, THE EVENT WAGERING OPERATOR, COMMERCIAL SPORTS LICENSE
35 HOLDER AND LIMITED EVENT WAGERING OPERATOR SHALL REPORT TO THE DEPARTMENT,
36 AT A MINIMUM, THE NAME OF THE SELF-EXCLUDED PERSON, THE DATE OF
37 PARTICIPATION, THE AMOUNT OR VALUE OF ANY MONIES, PRIZES OR AWARDS
38 FORFEITED, IF ANY, AND ANY OTHER ACTION TAKEN. THE REPORT SHALL BE
39 PROVIDED TO THE DEPARTMENT WITHIN TWENTY-FOUR HOURS OF DISCOVERY.

40 C. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
41 LIMITED EVENT WAGERING OPERATORS MAY NOT PAY ANY PRIZE OR AWARD TO A
42 PERSON WHO IS ON THE DEPARTMENT'S SELF-EXCLUSION LIST. ANY PRIZE OR AWARD
43 WON BY A PERSON ON THE SELF-EXCLUSION LIST SHALL BE FORFEITED AND SHALL BE
44 DONATED BY THE EVENT WAGERING OPERATOR, COMMERCIAL SPORTS LICENSE HOLDER
45 OR LIMITED EVENT WAGERING OPERATOR TO THE DEPARTMENT'S DIVISION OF PROBLEM

1 GAMBLING ON A QUARTERLY BASIS BY THE TWENTY-FIFTH DAY OF THE FOLLOWING
2 MONTH.

3 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE
4 DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS IS NOT OPEN TO PUBLIC
5 INSPECTION.

6 E. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
7 LIMITED EVENT WAGERING OPERATORS SHALL DEVELOP AND MAINTAIN A PROGRAM TO
8 MITIGATE PROBLEM GAMBLING AND CURTAIL COMPULSIVE GAMBLING, WHICH MAY BE IN
9 CONJUNCTION WITH THE DEPARTMENT.

10 F. BEFORE PAYING A PERSON A PAYOUT OF WINNINGS THAT TRIGGERS THE
11 LICENSEE'S OBLIGATION TO FILE A FORM W-2G OR A SUBSTANTIALLY EQUIVALENT
12 FORM WITH THE UNITED STATES INTERNAL REVENUE SERVICE, THE EVENT WAGERING
13 FACILITY OPERATOR SHALL CHECK TO DETERMINE IF THE PERSON IS IDENTIFIED AS
14 HAVING A PAST-DUE, SETOFF OBLIGATION IN THE INFORMATION PROVIDED TO THE
15 DEPARTMENT OF GAMING ON A WEEKLY BASIS BY THE ADMINISTRATIVE OFFICE OF THE
16 COURTS OR IN THE INFORMATION PROVIDED ON A MONTHLY BASIS BY THE DEPARTMENT
17 OF ECONOMIC SECURITY DIVISION OF CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF
18 ECONOMIC SECURITY SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE
19 OVERPAYMENT AND THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
20 ADMINISTRATION. THE DEPARTMENT OF GAMING SHALL PROVIDE TO THE EVENT
21 WAGERING FACILITY OPERATOR INFORMATION OF PERSONS WITH OUTSTANDING
22 OBLIGATIONS. SUBSEQUENT TO STATUTORY STATE AND FEDERAL TAX WITHHOLDING,
23 IF A PERSON RECEIVES A PAYOUT OF WINNINGS THAT TRIGGERS THE LICENSEE'S
24 OBLIGATION TO FILE A FORM W-2G OR A SUBSTANTIALLY EQUIVALENT FORM WITH THE
25 UNITED STATES INTERNAL REVENUE SERVICE AND IS IDENTIFIED, THE EVENT
26 WAGERING FACILITY OPERATOR SHALL WITHHOLD THE FULL AMOUNT OF THE WINNINGS
27 OR SUCH PORTION OF THE WINNINGS THAT SATISFIES THE PERSON'S PAST-DUE,
28 SETOFF OBLIGATION AND FORWARD THOSE MONIES TO THE IDENTIFYING AGENCY. THE
29 EVENT WAGERING FACILITY OPERATOR SHALL DISBURSE TO THE PERSON ONLY THAT
30 PORTION OF THE PRIZE, IF ANY, REMAINING AFTER THE PERSON'S IDENTIFIED
31 OBLIGATIONS HAVE BEEN SATISFIED. IF THE IDENTIFIED PERSON IS ALSO
32 SELF-EXCLUDED, TAX LIABILITIES AND SETOFF OBLIGATIONS ARE TO BE SATISFIED
33 BEFORE ANY MONIES ARE DONATED TO THE DEPARTMENT'S DIVISION OF PROBLEM
34 GAMBLING. IF THE IDENTIFIED PERSON HAS MULTIPLE LIABILITIES, THEY SHALL
35 BE SATISFIED IN THIS ORDER:

36 1. CHILD SUPPORT ENFORCEMENT.

37 2. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE
38 OVERPAYMENT.

39 3. THE COURTS.

40 4. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

41 G. THIS SECTION DOES NOT WAIVE AN INDIAN TRIBE'S SOVEREIGN IMMUNITY
42 FROM A SUIT BY A PERSON LISTED AND WHOSE WINNINGS ARE WITHHELD FOR AN
43 IDENTIFIED OBLIGATION.

1 5-1321. Conditional enactment; notice

2 A. THIS CHAPTER DOES NOT BECOME EFFECTIVE UNLESS AND BEFORE EACH
3 INDIAN TRIBE WITH A GAMING FACILITY IN PIMA COUNTY AND EACH INDIAN TRIBE
4 WITH A GAMING FACILITY IN THE PHOENIX METROPOLITAN AREA, AS DEFINED IN THE
5 2021 COMPACT AMENDMENT, HAS ENTERED INTO A 2021 GAMING COMPACT AMENDMENT
6 AND NOTICE OF THE UNITED STATES SECRETARY OF THE INTERIOR'S APPROVAL OR
7 APPROVAL BY OPERATION OF LAW HAS BEEN PUBLISHED IN THE FEDERAL REGISTER.

8 B. THE DEPARTMENT SHALL NOTIFY THE DIRECTOR OF THE ARIZONA
9 LEGISLATIVE COUNCIL IN WRITING OF THE DATE ON WHICH THE CONDITION WAS MET.

10 Sec. 5. Section 13-3301, Arizona Revised Statutes, is amended to
11 read:

12 13-3301. Definitions

13 In this chapter, unless the context otherwise requires:

14 1. "Amusement gambling" means gambling involving a device, game or
15 contest ~~which~~ THAT is played for entertainment if all of the following
16 apply:

17 (a) The player or players actively participate in the game or
18 contest or with the device.

19 (b) The outcome is not in the control to any material degree of any
20 person other than the player or players.

21 (c) The prizes are not offered as a lure to separate the player or
22 players from their money.

23 (d) Any of the following:

24 (i) No benefit is given to the player or players other than an
25 immediate and unrecorded right to replay, which is not exchangeable for
26 value.

27 (ii) The gambling is an athletic event and no person other than the
28 player or players derives a profit or chance of a profit from the money
29 paid to gamble by the player or players.

30 (iii) The gambling is an intellectual contest or event, the money
31 paid to gamble is part of an established purchase price for a product, no
32 increment has been added to the price in connection with the gambling
33 event and no drawing or lottery is held to determine the winner or
34 winners.

35 (iv) Skill and not chance is clearly the predominant factor in the
36 game and the odds of winning the game based ~~upon~~ ON chance cannot be
37 altered, provided the game complies with any licensing or regulatory
38 requirements by the jurisdiction in which it is operated, no benefit for a
39 single win is given to the player or players other than a merchandise
40 prize ~~which~~ THAT has a wholesale fair market value of less than ~~ten~~
41 ~~dollars~~ \$10 or coupons ~~which~~ THAT are redeemable only at the place of play
42 and only for a merchandise prize ~~which~~ THAT has a fair market value of
43 less than ~~ten dollars~~ \$10 and, regardless of the number of wins, no
44 aggregate of coupons may be redeemed for a merchandise prize with a

1 wholesale fair market value of greater than ~~five hundred fifty dollars~~
2 \$550.

3 2. "Conducted as a business" means gambling that is engaged in with
4 the object of gain, benefit or advantage, either direct or indirect,
5 realized or unrealized, but not ~~when~~ IF incidental to a bona fide social
6 relationship.

7 3. "Crane game" means an amusement machine ~~which~~ THAT is operated
8 by player controlled buttons, control sticks or other means, or a
9 combination of the buttons or controls, which is activated by coin
10 insertion into the machine and where the player attempts to successfully
11 retrieve prizes with a mechanical or electromechanical claw or device by
12 positioning the claw or device over a prize.

13 4. "EVENT WAGERING" HAS THE SAME MEANING PRESCRIBED IN SECTION
14 5-1301.

15 5. "FANTASY SPORTS CONTEST" HAS THE SAME MEANING PRESCRIBED IN
16 SECTION 5-1201.

17 ~~4.~~ 6. "Gambling", ~~or~~ "gamble" OR "WAGER" means one act of risking
18 or giving something of value for the opportunity to obtain a benefit from
19 a game or contest of chance or skill or a future contingent event but does
20 not include bona fide business transactions ~~which~~ THAT are valid under the
21 law of contracts including contracts for the purchase or sale at a future
22 date of securities or commodities, contracts of indemnity or guarantee,
23 ~~and~~ life, health or accident insurance AND FANTASY SPORTS CONTESTS AS
24 DEFINED IN SECTION 5-1201 AND CONDUCTED PURSUANT TO TITLE 5, CHAPTER 10.

25 ~~5.~~ 7. "Player" means a natural person who participates in
26 gambling.

27 ~~6.~~ 8. "Regulated gambling" means either:

28 (a) Gambling conducted in accordance with a tribal-state gaming
29 compact or otherwise in accordance with the requirements of the Indian
30 gaming regulatory act of 1988 (P.L. 100-497; 102 Stat. 2467; 25 United
31 States Code sections 2701 through 2721 and 18 United States Code sections
32 1166 through 1168); or

33 (b) Gambling to which all of the following apply:

34 (i) It is operated and controlled in accordance with a statute,
35 rule or order of this state or of the United States.

36 (ii) All federal, state or local taxes, fees and charges in lieu of
37 taxes have been paid by the authorized person or entity on any activity
38 arising out of or in connection with the gambling.

39 (iii) If conducted by an organization which is exempt from taxation
40 of income under section 501 of the internal revenue code, the
41 organization's records are open to public inspection.

42 (iv) ~~Beginning on June 1, 2003,~~ None of the players is under
43 twenty-one years of age.

44 (c) EVENT WAGERING THAT IS CONDUCTED PURSUANT TO TITLE 5,
45 CHAPTER 11.

1 ~~7.~~ 9. "Social gambling" means gambling that is not conducted as a
2 business and that involves players who compete on equal terms with each
3 other in a gamble if all of the following apply:

4 (a) No player receives, or becomes entitled to receive, any
5 benefit, directly or indirectly, other than the player's winnings from the
6 gamble.

7 (b) No other person receives or becomes entitled to receive any
8 benefit, directly or indirectly, from the gambling activity, including
9 benefits of proprietorship, management or unequal advantage or odds in a
10 series of gambles.

11 (c) ~~Until June 1, 2003, none of the players is below the age of~~
12 ~~majority. Beginning on June 1, 2003,~~ None of the players is under
13 twenty-one years of age.

14 (d) Players "compete on equal terms with each other in a gamble"
15 when no player enjoys an advantage over any other player in the gamble
16 under the conditions or rules of the game or contest.

17 Sec. 6. Section 13-3305, Arizona Revised Statutes, is amended to
18 read:

19 13-3305. Betting and wagering; classification

20 A. Subject to the exceptions ~~contained~~ PRESCRIBED in section 5-112
21 AND TITLE 5, CHAPTER 11, no person may engage for a fee, property, salary
22 or reward in the business of accepting, recording or registering any bet,
23 purported bet, wager or purported wager or engage for a fee, property,
24 salary or reward in the business of selling wagering pools or purported
25 wagering pools with respect to the result or purported result of any race,
26 sporting event, contest or other game of skill or chance or any other
27 unknown or contingent future event or occurrence whatsoever.

28 B. SUBJECT TO THE EXCEPTIONS PRESCRIBED IN TITLE 5, CHAPTER 11, a
29 person shall not directly or indirectly knowingly accept for a fee,
30 property, salary or reward anything of value from another to be
31 transmitted or delivered for wagering or betting on the results of a race,
32 sporting event, contest or other game of skill or chance or any other
33 unknown or contingent future event or occurrence whatsoever conducted
34 within or without this state or anything of value as reimbursement for the
35 prior making of such a wager or bet on behalf of another person.

36 C. A person who violates this section is guilty of a class 1
37 misdemeanor.

38 Sec. 7. Exemption from rulemaking

39 For the purposes of this act, the department of gaming is exempt
40 from the rulemaking requirements of title 41, chapter 6, Arizona Revised
41 Statutes, for one year after the effective date of this act. The
42 department of gaming shall initiate rulemaking and adopt rules to
43 effectuate this act within sixty days after the effective date of this
44 act.

1 Sec. 8. Legislative intent

2 The legislature recognizes the promotion of public safety is an
3 important consideration for sports leagues, teams, players and fans at
4 large. All persons who present sporting contests or other events where
5 wagers are allowed are encouraged to take reasonable measures to ensure
6 the safety and security of all involved or attending such events. Persons
7 who present sporting contests or other events where wagers are allowed are
8 encouraged to establish codes of conduct that forbid all persons
9 associated with the sporting contest from engaging in violent and unlawful
10 behavior and to hire, train and equip safety and security personnel to
11 enforce those codes of conduct. Persons who present sporting contests or
12 other events where wagers are allowed are further encouraged to provide
13 public notice of those codes of conduct.

14 Sec. 9. Emergency

15 This act is an emergency measure that is necessary to preserve the
16 public peace, health or safety and is operative immediately as provided by
17 law.

APPROVED BY THE GOVERNOR APRIL 15, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 15, 2021.

ARIZONA DEPARTMENT OF GAMING

Title 19, Chapter 4, Articles 1



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - ONE-YEAR REVIEW REPORT

MEETING DATE:

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

FROM: Council Staff

DATE: 10/13/2022

SUBJECT: ARIZONA DEPARTMENT OF GAMING
Title 19, Chapter 4, Article 1, Event Wagering

Summary

This One-Year Review Report (1YRR) from the Arizona Department of Gaming (Department) relates to Title 19, Chapter 4, Article 1 regarding Event Wagering. Amendments to these rules were adopted in an exempt rulemaking pursuant to A.R.S. §§ 5-1201 through 5-1213 and Sec. 7 of HB2772 which granted the Department a one-time exemption from the Administrative Procedures Act (APA) in Title 41, Chapter 6 of the Arizona Revised Statutes. A copy of the Notice of Exempt Rulemaking is included with the final materials for the Council's reference.

These rules create classifications of business licenses and specify the costs for entry into the supplier market to bring regulated sports betting to Arizona.

The Department submitted this 1YRR pursuant to A.R.S. § 41-1095.

1. Has the agency analyzed whether the rules are authorized by statute?

Yes. The Department cites both general and specific statutory authority for these rules.

2. Summary of the agency's economic impact comparison and identification of stakeholders:

The Department states that pursuant to A.R.S. § 5-1318, the Event Wagering Fund was established. The Department further indicates that these rules, authorized by statute, set the privilege fee rate as well as the business and employee license fees. The rules create classifications of business licensing which allows for ease of access to the supplier market for small businesses and local/regional vendors.

The Department indicates that the rules bring a regulated sports betting market to the citizens of Arizona. Further, with consumer protections rules clearly outlined, bettors can feel comfortable knowing they are depositing money, placing wagers, and requesting monetary withdrawal with operators regulated by the Arizona Department of Gaming. Stakeholders include the Department and operators regulated by the Arizona Department of Gaming.

3. 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 the Event Wagering Fund is established by statute. Each month, ninety percent of the monies in the Event Wagering Fund are transferred to the State General Fund. The remaining ten percent within this fund is allocated for the regulation and enforcement of event wagering in Arizona. Event wagering is non-appropriated and has no in-state entry fees. The Department states that event wagering privilege fees totaled \$16,000,000 on \$163,000,000 of adjusted gross event wagering receipts for fiscal 2022.

4. Has the agency received any written criticisms of the rules since the rule was adopted?

No, the Department has not received any written criticisms of the rules since the rule was adopted.

5. Has the agency analyzed the rules' clarity, conciseness, and understandability?

Yes, the Department indicates the rules are overall clear, concise, and understandable.

6. Has the agency analyzed the rules' consistency with other rules and statutes?

Yes, the Department indicates the rules are consistent with other rules and statutes.

7. Has the agency analyzed the rules' effectiveness in achieving its objectives?

Yes, the Department indicates the rules are effective in achieving their objectives.

8. Has the agency analyzed the current enforcement status of the rules?

Yes, the Department indicates the rules are enforced as written.

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

The Professional and Amateur Sports Protection Act of 1992 was struck down by the Supreme Court on May 14, 2018, allowing individual states to determine whether to and how to legalize sports betting.

10. Has the agency completed any additional process required by law?

No additional process was required.

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

Yes, the Department's licensing rules comply with A.R.S. § 41-1037, except where the following occurs:

R19-4-104, R19-4-105, and R19-4-106 fall within the allowable exceptions to A.R.S. § 41-1037(A)(2), which states, "the issuance of an alternative type of permit, license, or authorization is specifically authorized by state statute", and (3) which states, "the issuance of a general permit is not technically feasible or would not meet the applicable statutory requirements."

12. Conclusion

Council staff finds that the Board submitted an adequate report pursuant to A.R.S. § 41-1095. The Department is not proposing any additional action, but requests placement on the five year review timeline moving forward as any further rulemaking revisions will comply with all regular rulemaking requirements. For this reason, Council staff recommends approval of the report.

August 23, 2022

VIA EMAIL: grrc@azdoa.gov

Nicole Sornsins, Chair
Governor's Regulatory Review Council
100 North 15th Avenue, Suite 305
Phoenix, Arizona 85007

RE: Arizona Department of Gaming, 19 A.A.C., Chapter 4, Article 1
Event Wagering, One Year Rule Report

Dear Nicole Sornsins:

Please find enclosed the One Year Review Report of Arizona Department of Gaming for 19 A.A.C., Chapter 4, Article 1 which is due on November 23, 2022.

The Arizona Department of Gaming hereby certifies compliance with A.R.S. 41-1091.

For questions about this report, please contact Aiden Fleming at afleming@azgaming.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Aiden Fleming". The signature is stylized and cursive.

Aiden Fleming
Assistant Director

Arizona Department of Gaming

19 A.A.C., Chapter 4, Article 1

Event Wagering

1 Year Rule Report

08/22/2022

1. **Authorization of the rule by existing statutes**

A.R.S. § 5-1301 et seq. Further, Sec. 7 of HB2772 provides authorization for emergency exempt rulemaking states: “the Department of Gaming (“ADG” or the “Department”) is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.”

2. **The objective of each rule:**

Rule	Objective
R19-4-101	Definitions: This rule provides commonly used definitions to be used throughout the Article for ease of reference.
R19-4-102	Event Wagering Permitted: The rule states that event wagering shall only be conducted by licensed responsible parties and event wagers shall only be accepted from persons within the state, with exception to those permitted pursuant to Title 13, Chapter 33.
R19-4-103	Power and Authority: The rule states that the Department reserves all powers, duties, and authority granted to it by the Act and in the Article; that all licensees agree to be subject to state jurisdiction; and that the department shall monitor licensees, audit compliance, and investigate suspected violations.
R19-4-104	License Categories: The rule requires that event wagering employees shall obtain a license prior to providing event wagering services, includes instructions for renewal for operators and suppliers, and instructs applicants to provide the names of suppliers.
R19-4-105	Procedures for licensing: The rule states that applicants for a license shall submit an application, including all information and documentation required, along with applicable fees.
R19-4-106	Allocation for Applicants: The rule states that once licenses become available, an initial application period and a period of evaluation of all applicants under the criteria.
R19-4-107	Event Wagering Facility Location: The rule provides that the responsible party shall give written notice to the Department of the proposed physical location of the event wagering facility, along with proposed changes to the location of an existing facility. The rule also provides that a response will be provided by the Department.
R19-4-108	Retail Wagering Area Determination: The rule states that the responsible party shall determine the retail wagering areas and provide written documentation to the Department, including any changes, and the Department shall issue an approval letter.

R19-4-109	Retail Wagering Area Inspection: The rule states that the Department shall perform a pre-operation inspection to verify compliance of the retail wagering area.
R19-4-110	Responsible Advertising: The rule states that no advertising, marketing, or promoting shall target anyone under the age of 21. The rule also states that there shall not be advertising in college or university owned news assets.
R19-4-111	Internal Control System: The rule states that event wagering systems shall be operated pursuant to a written internal control system approved by the Department; responsible parties shall obtain written approval of the system or any changes to it; financial statements shall be audited; and responsible parties shall notify the Department in writing of their fiscal year end information.
R19-4-112	Privilege Fee: The rule states that the established fee for the privilege of operating event wagering shall be eight percent (8%) of adjusted gross event wagering receipts for retail operations and ten percent (10%) of adjusted gross event wagering receipts for mobile operations.
R19-4-113	Reserve Requirements and Bank Accounts: The rule states that responsible parties should have, and maintain, reserves, bank accounts, and a written plan to settle any outstanding liabilities.
R19-4-114	League Data: The rule includes the responsibilities of governing bodies of sports leagues, the Department, and responsible parties, particularly focusing on how any league data is maintained for proposition wagers, in-play wagers, and in-game wagers, which may be placed before or after a sports event has begun.
R19-4-115	Integrity Monitoring: The rule states that integrity monitoring shall be utilized. The rule also mandates that all integrity monitoring providers shall share information with each other and notify the Department and the sport's governing body of suspicious activity. Additionally, the rule specifies that reports of suspicious wagering activity shall result in responsible parties suspending wagering. The rule allows sports governing bodies to submit a written request to the Department for information about suspicious activity.
R19-4-116	Servers and Cloud Storage: The rule discusses that event wagers may only be accepted on servers located in the State. The rule also requires that the Department be provided with the physical location and required security information. Additionally, the rules allow for utilization of cloud storage for duplicate transactional wagering data upon approval by the Department.
R19-4-117	Geofencing: The rule states that responsible parties shall utilize a geofencing system to monitor the physical location of patrons attempting to place wagers, that the geofence provider shall perform recurring geolocation checks, that a patron shall be blocked if not located in the state, and that attempts to place a wager from unauthorized locations shall be entered into a log available to the Department upon request.

R19-4-118	Technical Standards: The rule states that event wagering systems shall comply with Gaming Laboratories International Standard Series, Standards for Event Wagering Systems, and all appendices.
R19-4-119	Systems and Platforms: The rule states that an event wagering system shall be designed to ensure integrity and confidentiality of patron information, that operators may only have one (1) event wagering system, that responsible parties may utilize one (1) event wagering platform, and that parties must submit a written request for a second platform for Department approval/disapproval.
R19-4-120	Event Wagering System Testing: The rule addresses the testing that determines whether the event wagering system is compliant. The rule addresses the Department's access to the testing results and gives the Department additional testing options.
R19-4-121	Event Wagering System Shipping (Retail and Kiosk): The rule states responsible parties shall provide the Department 24 hours advanced notice of shipment/delivery of a kiosk and/or shipment or download of event wagering software.
R19-4-122	Event Wagering System Installation: The rule states that the responsible party shall notify the Department at least ten (10) days prior to placing the event wagering system into use and shall agree upon a firm date and time for testing to determine compliance.
R19-4-123	Change Management: The rule states that responsible parties shall implement a change management process that details evaluation procedures for all updates and changes to an event wagering system and event wagering platforms.
R19-4-124	Self-Monitoring of Critical Components: The rule states that event wagering systems shall perform a self-authentication process on all critical components upon initial installation of the software and every twenty-four (24) hours thereafter.
R19-4-125	Event Wagering System Communication: The rule states that if an event wagering system is unable to accept a wager or validate a ticket for more than two (2) hours, the responsible party shall notify the Department as soon as practically possible.
R19-4-126	Event Wagering System Recertification: The rule states that the event wagering system shall be submitted to an independent test lab for recertification every fifteen (15) months and the independent lab report is due no later than three (3) days after the recertification is complete.
R19-4-127	Integrity and Security Assessment: The rule states the responsible party shall perform an independent integrity and security assessment of the event wagering system within one hundred and twenty (120) days after the commencement of operations, and annually thereafter.

R19-4-128	Forms of Payment: The rule states that payment for event wagering activity or for deposits into a player account shall be made by cash, cash equivalent, electronic funds transfer, credit card, debit card, check, wire transfer, winnings, promotional or bonus credit. The rule also mandates that patrons shall not use an electronic benefit transfer card.
R19-4-129	Events and Wagers: The rule states that the responsible party shall submit a catalog to the Department of events on which it intends to accept wagers and the types of wagers it intends to offer. For events not previously authorized, the responsible party shall submit a written request to the Department. The Department shall publish a list of authorized events and wager types on its website.
R19-4-130	Wager Rules: The rules state that all event wagering shall be transacted through an event wagering system, and that in the event of a computer or power failure, no tickets shall be manually written. Additionally, the rule requires that no wagers violate state or federal law and that no wagers may be accepted once the outcome of an event has already been determined.
R19-4-131	Layoff Wagers: The rule states that the responsible party may accept event wagers placed under the Act with another responsible party. The amount of event wagers placed and the amounts received shall not affect the computation of adjusted gross revenue.
R19-4-132	House Rules: The rule states that the house rules shall be conspicuously displayed in the retail wagering area and/or on the event wagering platform.
R19-4-133	Player Account Creation: The rule states that a patron may establish a player account in person or electronically, upon verification of age and identity.
R19-4-134	Player Account Terms and Conditions: The rule states that player account terms and conditions shall include the name of responsible party, each patron's consent to have the responsible party verify the patron's age and identity, the rules and obligations applicable to allowing another person to access the patron's account, the patron's consent to monitoring and recording by the responsible party, a privacy policy, a legal age policy, the rules for account suspension, the rules for dormant accounts, the availability of player account statements, and the statewide problem gambling toll-free helpline.
R19-4-135	Player Account Maintenance: The rule states that all adjustments to a player account shall be authorized by the responsible party and periodically reviewed by an employee. Further, the rule provides that a patron shall be allowed to withdraw the funds maintained in their player account. Finally, the rule deems an account dormant if not logged into for 3 years or more and states that unclaimed funds are presumed to be abandoned after one hundred and twenty (120) days.
R19-4-136	Promotions and/or Bonuses: The rule states that responsible parties may offer promotions and/or bonuses with written notification to the Department prior to implementation. The rules of promotions and/or bonuses shall be clear and unambiguous.

R19-4-137	Tournaments: The rule states that responsible parties may conduct event wagering tournaments where only events and wagers approved and authorized by the Department may be played and that the responsible party shall submit to the Department the rules and procedures of such.
R19-4-138	Cashiering (Retail): The rule states that a cashier shall begin a shift with an imprest amount of event wagering inventory consisting of currency and coin. The rule also provides for exceptions to when funds shall be added to, or removed from, the event wagering inventory during the shift. The rule further includes the requirement that a count sheet shall be completed and signed by the cashier and verifying employee and requires rules for verification.
R19-4-139	Accounting: The rule states that responsible parties shall maintain an accounting department that is independent from the operation of event wagering. The rules provides daily, monthly, quarterly, and annual accounting procedures.
R19-4-140	Information Technology: The rule dictates parameters for information technology. Responsible parties shall: maintain an information technology department responsible for quality, reliability, and accuracy of all computer systems; ensure that duties in the information technology department are adequately segregated and monitored; and adopt procedures for appropriately dealing with security incidents. The information technology environment shall be maintained in a secure location that is restricted to authorized employees. Information technology employees shall test the recovery procedures at specified intervals at least annually and make the results available to the Department upon request.
R19-4-141	Internal Audit: The rule dictates parameters for internal audits stating that responsible parties shall maintain a separate audit department that shall audit the responsible party's compliance at least annually and produce a written report that is made available to the Department. Additionally, the rule requires that documentation shall be maintained to evidence all internal audit work performed and follow-up observations shall be performed to verify that corrective action has been taken.
R19-4-142	Security and Surveillance Plan: The rule states that each responsible party shall establish, maintain, and adhere to a written security and surveillance plan for the retail wagering areas, kiosks, and/or event wagering platforms.
R19-4-143	Surveillance: The rule states that responsible parties shall have a surveillance system which monitors and records general activities in the retail wagering area.
R19-4-144	Keys: The rule states that access to, and return of, keys or equivalents utilized in the operation of event wagering shall be documented, and keys shall be identified. The rule also requires a separate and unique key for kiosk release and contents as well as an annual inventory of sensitive keys.
R19-4-145	Reporting Requirements: The rule states that responsible parties shall report to the Department any violation or suspected violation of the Act or this article, and the report shall be in writing and submitted within seventy-two (72) hours of discovery.

R19-4-146	Remedies: The rule states that the Department may place conditions on a license, fine, or otherwise sanction licensees for violations of this Statute or the administrative rules of the Department.
R19-4-147	Liability for Damage to Persons and Property: The rule states that responsible parties shall maintain a policy of commercial general liability insurance with a combined single limit for a security breach, personal injury, and/or property damage of not less than five million dollars (\$5,000,000) per occurrence and in the aggregate. A copy of the policy, as well as any updates and/or renewals, shall be available to the Department.
R19-4-148	Patron Disputes: The rule states when there is an unresolved dispute between the responsible party and the patron about payment, the responsible party shall notify the patron of their right to file a written complaint.
R19-4-149	Barred Persons: The rule states the Department shall establish a list of persons barred from retail wagering areas, kiosks, and event wagering platforms because their conduct, criminal history, and association with career offenders or career offender organizations poses a threat to the integrity of event wagering or to the public health, safety, or welfare.
R19-4-150	Self-Exclusion and Responsible Gaming: The rule states that as part of their procedures and programs to mitigate problem gambling and curtail compulsive gambling, responsible parties shall conspicuously post the statewide helpline information.
R19-4-151	Debt Setoff: The rule states that if a responsible party is required to file a form W2G or similar form, the responsible party shall check to determine if the player has a past due setoff obligation.
R19-4-152	Retention of Records: The rule states the responsible party shall retain all books, records, and data for at least five 5 (five) years.
R19-4-153	Calculation of Time: The rule states that in computing time, the day of the act or event shall not be included, but the last day should be included unless it falls on a Saturday, Sunday, or legal holiday. Additionally, the rule provides that if the time allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation period.

3. **Are the rules effective in achieving their objective?** YES ✓ NO__
4. **Are the rules consistent with other rules and statutes?** YES ✓ NO__
5. **Are the rules enforced as written?** YES ✓ NO__

6. **Are the rules clear, concise, and understandable?** YES NO

7. **Has the agency received written criticisms of the rules within the last year?**
YES NO

Pursuant to Laws 2021, Chapter 234-E, The Department was permitted a rule exemption that expired on April 15, 2022, one year from the date of the emergency enactment of the bill. During each rulemaking and amendment action, the Department solicited written feedback from stakeholders that further shaped the Department's rule language prior to submitting the rules to the Secretary of State, including the latest amendment action conducted on April 14, 2022

8. **Economic, small business, and consumer impact comparison**

There will be substantial economic benefit from the growth of regulated event wagering. These rules, authorized by statute, set the privilege fee rate as well as the business and employee license fees. These fees will bring revenues to the State of Arizona in the range of \$23,000,000-\$27,000,000 per annum. Additionally, these newly regulated activities have the potential to create between 100-200 jobs statewide, along with 6-10 regulatory positions for the Department of Gaming.

The rules create classifications of business licensing which allow for ease of access to the supplier market for small businesses and local/regional vendors. The costs for entry into the supplier market have been set conservatively with minimally invasive backgrounding based on the requirements of the statute. The costs for entry into the operator market have been set moderately, in-line with other event wagering jurisdictions, to allow for the creation of revenue for the State of Arizona.

Most importantly, the rules bring a regulated sports betting market to the citizens of Arizona. With consumer protection rules clearly outlined, bettors can feel comfortable knowing

they are depositing money, placing wagers, and requesting monetary withdrawal with operators regulated by the Arizona Department of Gaming.

9. **Has the agency received any business competitiveness analyses of the rules?**

YES _____ NO ✓

10. **Has the agency completed the course of action indicated in the agency's previous one-year-review report?**

YES __ NO ✓

N/A. This is our first one year review report.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

Pursuant to A.R.S. § 5-1318, the Event Wagering Fund is established. Each month, ninety percent of monies in this fund are transferred to the State General Fund. The remaining ten percent within this fund is allocated for the regulation and enforcement of event wagering in Arizona. Event Wagering is non-appropriated and has no in-state entry fees. Event wagering Privilege fees totaled \$16,000,000 on \$163,000,000 of adjusted gross event wagering receipts for fiscal year 2022.

12. **Are the rules more stringent than corresponding federal laws**

YES _____ NO ✓

Professional and Amateur Sports Protection Act ("PASPA"), enacted by Congress in 1992, was struck down by the United States Supreme Court on May 14, 2018. This ruling cleared the way

for individual states to determine whether to and how to legalize sports betting, as there was no longer a federal law prohibiting such conduct.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S § 41-1037 or explain why the agency believes an exception applies:**

Yes, the Department's new licensing rules are compliant pursuant to A.R.S. § 41-1037, except where the following applies:

R19-4-104, R19-4-105, and R19-4-106 fall within the allowable exceptions to A.R.S. § 41-1037(A)(2), which states, "the issuance of an alternative type of permit, license, or authorization is specifically authorized by state statute", and (3) which states, "the issuance of a general permit is not technically feasible or would not meet the applicable statutory requirements."

In this case, the statute authorizes certain licenses for specified durations and titles. For example, R19-4-104 Section A states, "the event wagering employee license shall be in effect for two years and the employee shall have obtained a renewal from the Department thereafter as a condition of continuing employment", as required by A.R.S. § 41-1037, and "Event Wagering operators shall have obtained a license from the Department prior to commencing employment or performing the duties of the position". Additionally, due to the nature of the various license types indicated in statute, it is not possible to issue a general permit that would meet the statutory requirements for these various licenses.

R19-4-105 Section A states, "every applicant for a license shall submit a complete application in the form prescribed by the Department, which shall include all information, and

documentation required by the Department along with the applicable fees”. A.R.S. § 41-1037 (A)(4) states, “The issuance of a general permit would result in additional regulatory requirements or costs being placed on the permit applicant”. R19-4-105 Section B lists all fees associated with the permits and licenses. R19-4-105 Section D discusses the receipt of a temporary license “unless the Department does not believe the applicant will qualify for licensure”. A general permit would not meet the requirements for this license as it would cost the applicant more.

R19-4-106 discusses licenses which are allocated by the Department, specifically for event wagering operator licenses which ties into A.R.S. § 41-1037 (A)(2), which states, “The issuance of an alternative type of permit, license or authorization is specifically authorized by state statute.” These licenses are of an “alternative type”. Also, because event wagering licenses are limited a general permit would not apply here due the specifics of the licenses issued for event wagering. A.R.S. § 41-1037(A)(4) states, “The issuance of a general permit would result in additional regulatory requirements or costs being placed on the permit applicant”. The applicants for an event wagering license are applying and paying for the specific event wagering license and therefore a general permit could incur more fees or steps.

14. **Proposed course of action:**

No additional course of action; however, the Department requests that the Governor’s Regulatory Review Council place these rules on a 5 year review timeline going forward, as any further rulemaking revisions will comply with all regular rulemaking requirements.

CHAPTER 4. DEPARTMENT OF GAMING

ARTICLE 1. EVENT WAGERING

R19-4-101. Definitions

- A. The definitions in A.R.S. § 5-1301 apply to this Article.
- B. Additionally, for purposes of this Article and the Act, and unless the context requires otherwise:
1. "Act" means Title 5, Arizona Revised Statutes, Chapter 11.
 2. "Affiliate" means a person, directly or indirectly, through one or more intermediaries, who controls or is controlled by, a responsible party.
 3. "Applicant" means any person who has applied for a license under the provisions of the Act or this Article.
 4. "Application" means all the forms and documents that are required to be submitted or completed to obtain a license under the provisions of the Act or this Article.
 5. "Article" means *Arizona Administrative Code*, Title 19, Chapter 4, Article 1.
 6. "Commercially Reasonable Terms" includes, for the purposes of league data only, the following non-exclusive factors:
 - a. The extent to which event wagering operators have purchased the same or similar official league data on the same or similar terms;
 - b. The speed, accuracy, timeliness, reliability, quality, and quantity of the official league data as compared to comparable non-official league data;
 - c. The quality and complexity of the process used to collect and distribute the official league data as compared to comparable non-official league data; and
 - d. The availability and cost of similar league data from multiple sources.
 7. "Designee" means a person authorized to act on behalf of an event wagering operator and who is responsible for the management and control of event wagering operations. A designee is not independently eligible to become an event wagering operator, nor is it eligible to transfer licensure. The term is not inclusive of designee as referenced in A.R.S. § 5-1316(C).
 8. "Event Wager" means a wager on sports events or other events, portions of sports events or other events, the individual performance statistics of athletes in a sports event or combination of sports events or the individual performance of individuals in other events or a combination of other events through any system or method of wagering.
 9. "Event Wagering Platform" means the internet interface to a single event wagering system, which is designed to accept mobile event wagers through a website and/or a mobile application.
 10. "Event Wagering System" means the hardware, software, firmware, communications technology or other equipment to allow patrons to place event wagers, regardless of whether event wagers are offered at retail, to include kiosks, and/or over the internet on an event wagering platform.
 11. "Geofence Provider" means a person who creates a virtual perimeter for a real geographic location.
 12. "Global Risk Management" means the management of risks associated with event wagering, the setting or changing of event wagers, cutoff times for event wagers, acceptance or rejection of event wagers, laying off of event wagers, lines, point spreads, and odds for event wagers, and other activity relating to event wagering.
 13. "Independent Test Laboratory" means a person who provides testing services for responsible parties to certify that event wagering systems, processes, and programs meet the technical requirements of the Act and this Article.
 14. "Integrity Monitoring Provider" means an independent third person who assists in the identification of suspicious wagering activity.
 15. "Internal Control System" means the minimum level of operational controls developed by a responsible party to ensure the integrity of event wagering.
 16. "Kiosk" means a device located within a retail wagering area that interfaces with an event wagering system and may be utilized by a patron to place event wagers, redeem winning tickets, redeem vouchers, open a player account, and make player account deposits and withdrawals.
 17. "League Data Provider" means a person who provides statistical results, outcomes, and other data related to approved events.
 18. "License" means an approval issued by the Department to a person pursuant to this Article to be involved in the operation of event wagering.
 19. "Licensee" includes any person licensed by the Department under this Article.
 20. "Marketing Affiliate" means a person who is involved in the promotion, marketing, and recruitment for event wagering business in exchange for a commission or other fee based on the number of registrations, wagering activity, or a percentage of adjusted gross event wagering receipts. Owners, operators, promoters, tribes, tribally owned entities, and their designees, as referenced in A.R.S. § 5-1307(a) and (b), shall not be subject to licensure as Marketing Affiliates.
 21. "Outstanding Event Wagering Liability" means the sum of the aggregate amount wagered on events whose outcomes have not been determined and the amount owed but unpaid on winning wagers.
 22. "Patron" means a player or participant who places event wagers pursuant to the Act and this Article.
 23. "Player Account" means an account established by a patron with a responsible party so that the patron may place event wagers with that responsible party. Player accounts may also be referred to as event wagering accounts.
 24. "Responsible Party" means event wagering operators, designees, limited event wagering operators, and management services providers.
 25. "Retail Wagering Area" or "Retail" means the designated area within an event wagering facility where event wagering activity under the Act takes place.
 26. "State" means the State of Arizona not to include the Indian lands within its boundaries.
 27. "Supplier" or "Vendor" includes persons who satisfy the definition of supplier in the Act and persons who provide goods and/or services, directly or indirectly, to a responsible party in connection with event wagering pursuant to the Act, including those referred to as ancillary suppliers for purposes of the licensing fee structure. Ancillary suppliers include:
 - a. Affiliates;
 - b. Bookmakers;
 - c. Data centers providing physical security and infrastructure;
 - d. Geofence providers;
 - e. Identity verification service providers;
 - f. Independent test laboratories;
 - g. Integrity monitoring providers;
 - h. League data providers;
 - i. Marketing affiliates;

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- j. Payment processors; and
 - k. Any other person as determined by the Department.
28. "Suspicious Wagering Activity" means unusual event wagering activity that cannot be explained and is indicative of any of the following: match fixing, the manipulation of an event, misuse of inside information, a potential breach of a sports governing body's internal rules or code of conduct pertaining to event wagering, any other conduct that corrupts the outcome of an event, and any other prohibited activity.
29. "Ticket" means a printed or electronic document utilized to record a wager by an event wagering system.
30. "Unusual Wagering Activity" means abnormal wagering activity exhibited by one or more authorized participants and considered by a responsible party as a potential indicator of suspicious wagering activity.
31. "Voucher" means a printed or electronic wagering instrument which may also be redeemed for cash or cash equivalents.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-102. Event Wagering Permitted

Event wagering in the State, except that which is permitted pursuant to A.R.S. Title 13, Chapter 33, shall only be conducted by licensed responsible parties who operate in compliance with, and meet the terms of, the Act and this Article. Event wagers, except those which are permitted pursuant to A.R.S. Title 13, Chapter 33, shall only be accepted from persons within the State pursuant to the Act and this Article.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-103. Power and Authority

- A. The Department reserves all powers, duties, and authority granted to it by the Act and in this Article.
- B. As a condition of holding a license, all licensees agree to be subject to State jurisdiction for purposes of compliance with, and enforcement of, the Act and this Article.
- C. The Department shall monitor licensees, audit compliance with this Act and Article, and investigate suspected violations of any provision in the Act or this Article and may, at any time:
 1. Access and inspect all or any part of each event wagering system;
 2. Access and inspect kiosks;
 3. Access, review, and/or copy all books, records, and/or data maintained by a licensee related to event wagering in the State; and
 4. Inspect all or any part of an event wagering facility or server location.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-104. License Categories

- A. Event wagering employees shall have obtained a license from the Department prior to commencing employment or performing the duties of the position. Event wagering employees

include those persons who are primary management officials responsible for event wagering in the State, those persons in the State who accept wagers, redeem tickets, and/or handle monies, and any additional persons the Department determines meet the definition in A.R.S. § 5-1301(5). The event wagering employee license shall be in effect for two years and the employee shall have obtained a renewal from the Department thereafter as a condition of continuing employment.

- B. Event wagering operators are subject to the licensing requirements of the Act and this Article. Event wagering operators shall have obtained from the Department a renewal of the license every five years thereafter before continuing to operate event wagering. Pursuant to A.R.S. § 5-1304(A)(1) and (2), if a qualified event wagering operator designates a designee, the designee shall be subject to licensure including any fees and the event wagering operator shall not be subject to licensure including any fees.
- C. Designees appointed by an event wagering operator shall have obtained a license from the Department prior to providing event wagering services. The designee license shall be in effect for five years and the designee shall have obtained a renewal from the Department thereafter as a condition of continuing operation. A designee shall maintain a designation from a qualified event wagering operator in order to provide event wagering services. If a designee operates event wagering, including developing and operating event wagering systems and platforms and providing odds, lines, and global risk management, a separate management services provider license is not required.
- D. Limited event wagering operators are subject to the licensing requirements of the Act and this Article. Limited event wagering operators shall have obtained from the Department a renewal of the license every two years thereafter before continuing to operate event wagering. An additional wagering facility shall be under contract with a qualified racetrack enclosure in order to apply, hold, and/or renew a limited event wagering license.
- E. Management services providers are subject to the licensing requirements of the Act and this Article. Management services providers shall have obtained from the Department a renewal of the license every two years thereafter before continuing to manage event wagering services.
- F. Suppliers, including ancillary suppliers, are subject to the licensing requirements of the Act and this Article. Suppliers, including ancillary suppliers, shall have obtained from the Department a renewal of the license every two years thereafter before continuing to provide goods and/or services.
- G. On a quarterly basis, responsible parties shall provide to the Department a list of the names and addresses of their suppliers, including ancillary suppliers, who provide goods and/or services for event wagering in the State.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-105. Procedures for Licensing

- A. Every applicant for a license shall submit a complete application in the form prescribed by the Department, which shall include all information and documentation required by the Department, along with the applicable fees.
 1. Responsible parties shall submit a non-refundable application fee. The application fee shall be credited towards the initial license fee if the applicant is granted a license.

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2. Event wagering employees and suppliers shall submit a non-refundable license fee.
- B.** The fees for licensure shall be the following:
1. Event Wagering Operator
 - a. Application Fee \$ 100,000
 - b. Initial License \$ 750,000
 - c. Annual License Fee \$ 150,000
 2. Designee
 - a. Application Fee \$ 100,000
 - b. Initial License \$ 750,000
 - c. Annual License Fee \$ 150,000
 3. Limited Event Wagering Operator
 - a. Application Fee \$ 1,000
 - b. Initial License \$ 10,000
 - c. Annual License Fee \$ 5,000
 4. Management Services Provider
 - a. Application Fee \$ 1,000
 - b. Initial License \$ 10,000
 - c. Annual License Fee \$ 5,000
 5. Supplier
 - a. Initial License \$ 1,500
 - b. Renewal \$ 500
 6. Ancillary Supplier
 - a. Initial License \$ 1,500
 - b. Renewal \$ 500
 7. Employee
 - a. Initial License \$ 250
 - b. Renewal \$ 125
- C.** Within 180 days of being issued a license, the responsible party shall conduct event wagering in the State or the license shall revert to the Department.
- D.** Within five days following its receipt of a complete application for licensure of an event wagering employee or supplier, the Department shall issue a temporary license to the applicant unless the Department does not believe that the applicant will qualify for licensure. If the employee or supplier does not receive a response from the Department regarding the approval or denial of the applicant's temporary license by the close of the fifth day following the receipt of a complete application for licensure, then the applicant's temporary license shall be deemed approved by the Department. The results of a Department background investigation shall not be required prior to the issuance of a temporary license. The temporary license shall become void and be of no effect upon either the issuance of licensure or upon the issuance of a notice of denial.
- E.** Responsible parties shall require all event wagering employees in a retail wagering area to wear in plain view identification cards issued by the Department. The identification cards will include a photograph, first and last name, an identification number unique to the license, the Department's seal or signature, and a date of expiration.
- F.** Responsible parties shall remit the annual license fee to the Department within 12 months of the date in which they were issued a license, and annually thereafter.
- G.** If a responsible party has remitted each of the annual license fees and is applying for license renewal, the responsible party shall submit their completed renewal application to the Department at least 30 days prior to the expiration date of their license. Responsible parties may continue to be engaged under their expired license until action is taken on the renewal application by the Department.
- H.** If event wagering employees or suppliers are applying for license renewal, event wagering employees and suppliers shall submit their completed renewal application along with the license renewal fee to the Department at least 30 days prior to the expiration date of their license. Event wagering employees and suppliers may continue to be engaged under their expired license until action is taken on the renewal application by the Department.
- I.** As part of the reporting of material changes required by A.R.S. § 5-1305(E), after an applicant other than an event wagering employee is licensed, it shall file a report of each change of its principals with the Department. Each new principal shall file a complete application within 30 days after appointment or election. The license shall remain valid unless the Department denies the application.
- J.** The Department may revoke a license if the responsible party fails to continue operations.
- K.** Applicants and licensees may appeal a summary suspension, or a determination by the Department of a revocation, suspension, or denial of licensure.
- L.** An applicant for licensure or renewal that wishes to withdraw an application shall submit a request to the Department in writing. The application shall not be considered withdrawn without the written permission of the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-106. Allocation for Applicants

- A.** Once licenses initially become available, the Department will announce an initial application period of no less than 10 days in which to accept license applications and supplemental allocation applications. Within 10 days of the conclusion of the initial application period, the Department will evaluate all applicants under the criteria established in R19-4-106(B), (C), and/or (D) to determine who is qualified for licensure and will provide written notification to the applicants that were deemed initially qualified. If there are more qualified applicants than licenses available, the Department shall review each supplemental allocation application and shall make a determination within 10 days of the initial licensure qualification determination and will provide written notification to the applicants that were selected for allocation.
- B.** For a tribe (to include its wholly owned entity, designee, or management services provider relevant to the initial application) to be qualified for an event wagering operator license:
1. It must meet the definition of an event wagering operator in A.R.S. § 5-1301(7)(b) and the requirements of A.R.S. § 5-1304 (A)(2), (B) and (C).
 2. It and its event wagering employees must submit to background checks under A.R.S. § 5-1302(C) and (E), must not be prohibited participants under A.R.S. § 5-1301(16), and must not have a criminal history or other grounds sufficient to disqualify the applicant apparent on the face of the application as noted in A.R.S. § 5-1305(C), which will be determined by the factors listed in A.R.S. § 5-1305(B)(1) through (5).
- C.** For a professional sports team (to include the PGA operator, the NASCAR promoter, designee, or management services provider relevant to the initial application) to be qualified for an event wagering operator license:
1. It must meet the definition of an event wagering operator in A.R.S. § 5-1301(7)(a) and the requirements of A.R.S. § 5-1304 (A)(1), (B) and (C).
 2. It and its event wagering employees must submit to background checks under A.R.S. § 5-1302(C) and (E), must not be prohibited participants under A.R.S. § 5-1301(16), and must not have a criminal history or other grounds suf-

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- ficient to disqualify the applicant apparent on the face of the application as noted in A.R.S. § 5-1305(C), which will be determined by the factors listed in A.R.S. § 5-1305(B)(1) through (5).
- D.** For a racetrack enclosure or additional wagering facility (to include management services provider) to be qualified for a limited event wagering operator license:
1. It must meet the definition of a limited event wagering operator in A.R.S. § 5-1301(8) and the requirements of A.R.S. § 5-1307(A), (B) and (C).
 2. It and its event wagering employees must submit to background checks under A.R.S. § 5-1302(C) and (E), must not be prohibited participants under A.R.S. § 5-1301(16), and must not have a criminal history or other grounds sufficient to disqualify the applicant apparent on the face of the application as noted in A.R.S. § 5-1305(C), which will be determined by the factors listed in A.R.S. § 5-1305(B)(1) through (5).
- E.** If more than 10 tribes and/or more than 10 professional sports teams qualify for an event wagering operator license, the Department shall allocate the licenses among the qualifying tribes and/or qualifying professional sports teams and ensure an equal opportunity for all qualified applicants required by A.R.S. § 5-1305(C) by considering the following criteria (which may include information from a wholly owned entity, designee, management services provider, affiliate, or other partner):
1. Business ability, experience, and track record of the event wagering operator applicant, designee applicant, and/or management services provider applicant, both local and international, which establishes the ability to create and maintain a successful event wagering operation;
 2. Experience and track record of the event wagering operator applicant, designee applicant, and/or management services provider, both local and international, in the operation of gaming or related activity;
 3. Contributions to the surrounding tribal, local, or State community to include:
 - a. Consideration of the size of the community impacted, or to be impacted in the future;
 - b. The extent to which the community has already benefited from gaming, or may do so in the future; and
 - c. The use of revenue to assist the community in the past, and how event wagering revenue will assist in the future;
 4. Good standing in terms of obtaining and maintaining licenses/permits in all markets;
 5. Demonstrated vision, willingness, and commitment to make local investments in the State, or on tribal lands, including prior investments in other states, if applicable;
 6. Demonstrated culture of player protection, investments in player protection, and an effective governance program;
 7. Responsiveness, approachability, and involvement of local management;
 8. Competency to conduct event wagering, including proposed internal controls, and the maximization of privilege fees to the State;
 9. Ability to begin operating event wagering within six months after obtaining the license;
 10. Demonstrated financial stability, resources, integrity, and business ability and acumen;
 11. Demonstrated regulatory compliance and cooperation with regulatory authorities;
 12. The lack of opportunity to benefit from event wagering type activity in some manner or location without a license;
 13. Whether the issuance of the license will provide benefits to other qualified applicants through partnerships or other opportunities;
 14. Increased employment and enhancement of the labor market in the State or on tribal lands;
 15. A preference for applicants who are located, headquartered, and/or own or operate a physical facility in the State, or applicants who will use a designee or management services provider, or are partners with an entity located, headquartered, and/or who own or operate a physical facility in the State;
 16. For tribal licenses, a preference that licenses be distributed among non-gaming tribes, rural gaming tribes, and to tribes located relatively near metropolitan areas in the State;
 17. Whether the event wagering operator applicant would appeal to a unique or unaddressed market or introduce a unique brand or affiliate;
 18. Whether the issuance of a license to the event wagering operator applicant would increase the patron base in the State; and
 19. Any other criteria, or the weighting of them, deemed by the Department to be in the best interests of the State.
- F.** If more than 10 racetrack enclosures or additional wagering facilities qualify for a limited event wagering operator license, the Department shall allocate the licenses and ensure an equal opportunity for all qualified applicants required by A.R.S. § 5-1305(C) by considering the following criteria (which may include information from a management services provider, affiliate, or other partner):
1. Business ability, experience, and track record of the limited event wagering operator applicant and/or management services provider applicant, both local and international which establishes the ability to create and maintain a successful limited event wagering operation;
 2. Experience and track record of the limited event wagering operator applicant and/or management services provider, both local and international, in the operation of pari-mutuel wagering, gaming, or related activity;
 3. Good standing in terms of obtaining and maintaining licenses/permits in all markets;
 4. Demonstrated vision, willingness, and commitment to make local investments in the State including prior investments in other states, if applicable;
 5. Demonstrated culture of player protection, investments in player protection, and an effective governance program;
 6. Responsiveness, approachability, and involvement of local management;
 7. Competency to conduct event wagering, including proposed internal controls, and the maximization of privilege fees to the State;
 8. Ability to begin operating event wagering within six months after obtaining the license;
 9. Demonstrated financial stability, resources, integrity, and business ability and acumen;
 10. Demonstrated regulatory compliance and cooperation with regulatory authorities;
 11. Increased employment and enhancement of the labor market in the State, as well as enhancement of other racing enterprises in the State;
 12. A preference for locations with a large, unique, or unaddressed market;
 13. Whether the limited event wagering operator applicant would introduce a unique brand or affiliate;

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14. Whether the issuance of a license to the limited event wagering operator applicant would increase the patron base in the State; and
15. Any other criteria, or the weighting of them, deemed by the Department to be in the best interests of the State.
- G.** Any applicant deemed qualified for licensure, or who was allocated a license, must be deemed suitable for licensure under A.R.S. § 5-1305.
- H.** In the event one or more licenses become available, the Department will announce an application period and follow the allocation procedures in R19-4-106.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-107. Event Wagering Facility Location

- A.** An event wagering operator, designee, or limited event wagering operator shall provide written notice to the Department of the proposed physical location of the event wagering facility, or of any proposed changes to the location of an existing event wagering facility. The notice shall be provided to the Department at least 60 days prior to the intended opening date of the new or relocated event wagering facility so that the Department may determine whether the proposed physical location meets the requirements of the Act.
- B.** The Department shall provide a written response within 30 days of receipt of the notice.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-108. Retail Wagering Area Determination

- A.** The responsible party authorized to operate an event wagering facility shall determine and document the retail wagering area or areas of its facility. The determination and documentation shall be provided to the Department prior to the pre-operation inspection required under R19-4-109(B).
- B.** Any changes to the retail wagering area or areas shall be submitted to the Department in writing for review and approval at least 30 days prior to implementation.
- C.** The Department shall issue a letter approving the determination or otherwise delineating the retail wagering area or areas.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-109. Retail Wagering Area Inspection

- A.** A responsible party may not operate a retail wagering area without the written approval of the Department.
- B.** Prior to the initial opening of the retail wagering area, or any changes to the retail wagering area approved under R19-4-108(B), the Department shall conduct a pre-operation inspection to verify that the proposed retail wagering area complies with the applicable requirements of the Act and this Article. The Department shall send the results of the inspection in writing within seven days of the inspection and shall approve the opening of the retail wagering area if it determines that the area meets the required compliance.

- C.** If the Department determines that the retail wagering area does not comply with the applicable requirements of the Act and this Article, a non-compliance letter shall be sent within seven days of the inspection that shall set forth the matters of non-compliance upon which the Department bases its decision. If the matters of non-compliance identified by the Department are resolved, the Department shall approve the opening of the retail wagering area. The Department's decision to deny opening of a retail wagering area shall become final 60 days after the pre-operation inspection if the issues of non-compliance identified by the Department are not resolved.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-110. Responsible Advertising

- A.** Advertising, marketing, and promoting of event wagering shall not target, or otherwise be of a kind that specifically appeals to, persons under 21 years of age.
- B.** Advertising, marketing, and promoting of event wagering shall not be misleading or contain false information.
- C.** Advertising, marketing, and promotion of event wagering shall not promote irresponsible or excessive participation in event wagering, or suggest that social, financial, or personal success is guaranteed by engaging in event wagering.
- D.** Advertising, marketing, and promoting of event wagering shall not occur at event venues where most of the audience at most of the events at the venue is reasonably expected to be under 21 years of age.
- E.** Event wagering messages, including logos, trademarks, or brands, shall not be used, or licensed for use, on clothing, toys, games, or game equipment intended primarily for persons under 21 years of age.
- F.** Event wagering shall not be promoted or advertised in college or university-owned news assets, including digital news assets.
- G.** Event wagering shall not be promoted or advertised on college or university campuses, except for generally available advertising, including television, radio, and digital advertising.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-111. Internal Control System

- A.** Responsible parties shall operate event wagering, including each event wagering system, retail wagering area, kiosk, and/or event wagering platform, pursuant to a written internal control system approved by the Department. The internal control system shall be designed to reasonably assure that for the purposes of event wagering in the State:
1. Assets are safeguarded and accountability over assets is maintained;
 2. Liabilities are properly recorded and contingent liabilities are properly disclosed;
 3. Financial records including records relating to revenues, expenses, assets, liabilities, and equity/fund balances are accurate and reliable;
 4. Transactions are performed in accordance with the responsible party's general or specific authorization;
 5. Access to assets is permitted only in accordance with the responsible party's specific authorization;

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6. Recorded accountability for assets is compared with actual assets at frequent intervals and appropriate action is taken with respect to any discrepancies; and
 7. Functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by qualified personnel.
- B.** The internal control system shall include:
1. A description of, and the inter-relationships and dependencies of, the event wagering system, hardware, software, and all integrated supplier modules;
 2. A description of, and physical/logical security for, event wagering servers;
 3. Procedures for verifying geolocation services and establishing a patron's geographic location;
 4. A detailed security and surveillance plan;
 5. Procedures for the use, access, and security of all keys utilized in the operation of event wagering;
 6. A description of the procedures for responding to a failure of the event wagering system and/or event wagering platform;
 7. Automated and manual risk management procedures;
 8. Change management procedures;
 9. Procedures for identifying and reporting fraudulent and/or suspicious wagering activity, including identifying unusual betting patterns and reporting them to integrity monitoring providers;
 10. Procedures for the mitigation of risk of fraud and cheating;
 11. Bank Secrecy Act procedures;
 12. Procedures for advertising and marketing in a responsible manner;
 13. Procedures to mitigate problem gambling and curtail compulsive gambling;
 14. A responsible gaming training and education program;
 15. Procedures for the identification, notice, and removal of self-excluded or barred persons from event wagering facilities and event wagering platforms;
 16. Procedures for selling tickets, cashing tickets, canceling event wagers, voiding tickets, handling lost tickets, and issuing tax or other required forms;
 17. Procedures for, and definition of, obvious errors;
 18. Procedures for setting and moving lines;
 19. Procedures for the reconciliation of assets and documents contained in a cashier's drawer, kiosk, or player account, including drop, fill, and count procedures;
 20. Procedures for the verification of player identification;
 21. Procedures for the issuance and acceptance of promotional and/or bonus credit for event wagers;
 22. Procedures for handling patron disputes;
 23. Procedures for creating, updating, adjusting, and closing player accounts;
 24. Procedures for internal audit;
 25. Procedures for the retention of event wagering records;
 26. Procedures for the disposition of claims arising from personal injury or property damage, loss of funds, and/or compromised personal or financial information alleged to have been suffered by patrons; and
 27. Procedures for the identification and prohibition of prohibited participants from participation in event wagering.
- C.** Responsible parties shall have obtained written approval of the internal control system, or any changes to it, from the Department prior to implementation. The Department shall review the system, or any changes, and issue a written approval or disapproval of the system.
1. Prior to the commencement of operations in the State, the responsible party shall have obtained written approval from the Department for the internal control system.
 2. After the commencement of operations in the State, the responsible party shall submit any changes to the internal control system to the Department for review and approval. If, after five days, the responsible party has not received a response from the Department regarding the changes to the internal control system, then the changes shall be deemed approved by the Department.
- D.** For event wagering under the Act, responsible parties shall maintain:
1. Accurate, complete, legible, and permanent records of all transactions in a manner suitable for audit under the standards of the American Institute of Certified Public Accountants;
 2. General accounting records using a double entry system of accounting with transactions recorded on a basis consistent with generally accepted accounting principles;
 3. Detailed supporting and subsidiary records;
 4. Detailed records identifying revenues, expenses, assets, liabilities and fund balances or equity;
 5. All records required by the internal control system including, but not limited to, those relating to any event wagering activity authorized by the Act;
 6. Journal entries;
 7. Detailed records sufficient to accurately reflect gross income and expenses relating to its operations;
 8. Detailed records of any reviews or audits, whether internal or otherwise, performed in addition to the annual audit required in R19-4-111(E), including, but not limited to, management advisory letters, agreed upon procedure reviews, notices of non-compliance, and reports on the internal control system; and
 9. Records of any proposed or adjusting entries made by an independent certified public accountant.
- E.** Financial statements, or a specific element financial statement related to event wagering operations in the State, shall be audited, not less than annually at its fiscal year end, by an independent certified public accountant at the expense of the responsible party. The audit shall also include, or be supplemented with, an attestation by the auditor that adjusted gross event wagering receipts are accurately reported.
- F.** The Department shall be authorized to confer with the independent certified public accountant at the conclusion of the audit process and to review all the independent certified public accountant's work papers and documentation relating to the responsible party.
- G.** Responsible parties shall notify the Department in writing of their fiscal year end and any changes to the fiscal year end within 10 days after deciding on a fiscal year end or a change to that year end. If the responsible party changes its fiscal year end, it may elect either to prepare financial statements for a short fiscal year or for an extended fiscal year, but in no event shall an extended fiscal year extend more than 15 months.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-112. Privilege Fee

- A.** As per A.R.S. § 5-1318(A), the established fee for the privilege of operating event wagering shall be 8% of adjusted gross event wagering receipts for retail operations and 10% of adjusted gross event wagering receipts for mobile operations.

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- B.** The calculation of adjusted gross event wagering receipts shall be reported in the format required by the Department. The responsible party shall submit all necessary supporting documentation as directed by the Department to confirm the calculation of adjusted gross event wagering receipts. The report and supporting documentation shall be submitted to the Department no later than the 25th day of each month for the preceding month.
1. Fees paid pursuant to the Act and this Article shall be paid to the Department in the manner prescribed by the Department.
 2. Following the Department's receipt of the annual audit pursuant to A.R.S. § 5-1319, any overpayment of fees by the responsible party shall be credited to the responsible party's next monthly fee payment. Any underpayment of fees shall be paid by the responsible party within 30 days of the Department's receipt of the annual audit.
- C.** Official league data offered to responsible parties by the governing body of a sports league, sports organization, or sports association or other authorized entity that maintains official league data for the purposes of event wagering shall be offered on commercially reasonable terms.
- D.** Responsible parties may submit a written request to the Department for the use, or continued use, of non-official league data within 60 days of receiving the notification from the Department regarding the availability of official league data. The request shall include a detailed analysis of the necessity of the use, or continued use, of non-official league data. Responsible parties may use a non-official league data provider during the 60 day period and the pendency of the Department's consideration of a responsible party's request.
- E.** Within seven days of receipt of the written request from a responsible party to utilize a non-official league data provider, the Department shall issue a written approval or disapproval.
- F.** The Department shall publish a list of official league data providers and approved non-official league data providers on its website.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-113. Reserve Requirements and Bank Accounts

- A.** Responsible parties shall maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or any combination of the aforementioned, in an amount that is the greater of either \$500,000 or the amount that is necessary to ensure the responsible party's ability to cover all outstanding event wagering liability and the funds held for player accounts.
- B.** The responsible party shall maintain bank account or accounts for funds in player accounts that are separate and distinct from all other corporate accounts, unless otherwise agreed to by the Department. The account or accounts for player funds shall be used for all player deposits, receipts, and disbursements relating to event wagering under the Act. The responsible party shall utilize a software accounting system that separates and distinguishes all receipts and disbursements regarding or in any way relating to event wagering activity under the Act, the operation, and the construction or operation of event wagering facilities.
- C.** The responsible party shall notify the Department no less than 180 days prior to ceasing operations and shall provide a written plan to settle any outstanding liabilities and/or refund player account funds.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-114. League Data

- A.** The governing body of a sports league, organization or association, or other authorized entity that maintains official league data may notify the Department that official league data for proposition wagers, in-play wagers, and in-game wagers, which may be placed before or after a sports event has begun, is available for responsible parties.
- B.** The Department shall notify responsible parties within seven days of receipt of the notification from the governing body of a sports league, organization or association, or other authorized entity that maintains official league data of the availability of official league data.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-115. Integrity Monitoring

- A.** Responsible parties shall utilize an integrity monitoring service.
- B.** All integrity monitoring providers shall share information with each other and shall disseminate all reports of unusual and/or suspicious wagering activity to their members. Responsible parties shall review such reports and notify their integrity monitoring provider whether they have experienced similar activity.
- C.** The integrity monitoring providers shall notify the Department and the appropriate sport's governing body of any suspicious wagering activity as soon as practically possible.
- D.** Responsible parties receiving a report of suspicious wagering activity shall be permitted to suspend wagering on events related to the report but shall not cancel related event wagers until receiving written approval from the Department.
- E.** If a sports governing body submits a written request to the Department requesting access to information relating to suspicious wagering activity, responsible parties shall comply with the request pursuant to A.R.S. § 5-1316.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-116. Servers and Cloud Storage

- A.** Responsible parties shall only accept event wagers on a server or servers located in the State. Responsible parties shall provide the Department with the physical location of each server used to conduct event wagering. The server or servers shall have physical and logical security as provided in the responsible party's internal control system.
- B.** Upon written approval by the Department, the responsible party may utilize cloud storage for duplicate transactional wagering data and/or for data not related to transactional wagering.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28

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A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-117. Geofencing

- A. The responsible party shall utilize a geofence system to dynamically monitor the physical location of patrons attempting to place wagers on event wagering platforms.
- B. The geofence system shall perform a geolocation check prior to the placement of an event wager in an authorized session.
- C. The geofence system shall perform recurring geolocation checks throughout a patron's authorized session.
- D. If a geolocation check determines that a patron is not located in the State, the patron shall be blocked from placing event wagers on the event wagering platform.
- E. The responsible party or the geofence provider shall implement a means to notify a patron of a geolocation failure.
- F. The geofence provider shall provide to the Department access to real-time geofence data.
- G. Attempts to place wagers from unauthorized locations shall be entered into a log by the geofence provider and/or the responsible party. The log shall be available to the Department upon request.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-118. Technical Standards

Event wagering systems shall comply with Gaming Laboratories International (GLI) Standard Series GLI-33: Standards for Event Wagering Systems, and all appendices, version 1.1, dated May 14, 2019, but not including any later amendments or additions.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-119. Systems and Platforms

- A. An event wagering system shall be designed to ensure the integrity and confidentiality of all patron communications, security and confidentiality of patron data including personal and financial information, and the proper identification of the sender and receiver of all communications.
- B. Each event wagering operator may only have one event wagering system, whether its own or as provided by a management services provider which may include one separate and distinct set of hardware, software, firmware, communications technology, or other equipment to allow patrons to place event wagers on an event wagering platform and, if applicable, one set of hardware, software, firmware, communications technology, or other equipment to allow patrons to place event wagers at an event wagering facility.
- C. Responsible parties may utilize one event wagering platform. Responsible parties may utilize a second event wagering platform only upon approval by the Department. In no event shall a responsible party utilize more than two event wagering platforms.
- D. In order to operate a second event wagering platform, responsible parties shall submit a written request to the Department. The Department shall exercise its discretion in its consideration of the written request for a second event wagering platform. Factors the Department may consider in reaching its determination include:
 - 1. Numbers of responsible parties and authorized event wagering platforms;
 - 2. The introduction of a unique brand or affiliate;

- 3. The expansion of the patron base in the State;
- 4. Market size, scope, development, and growth;
- 5. Advances in technology; and
- 6. Other factors deemed relevant by the Department or the responsible party.
- E. Within 30 days of receipt of the written request from a responsible party to utilize a second event wagering platform, the Department shall issue a written approval or disapproval.
- F. Each event wagering platform shall display the name, brand, and/or logo of the responsible party and/or affiliate.
 - 1. If the responsible party changes the name, brand, and/or logo of its event wagering platform, it shall submit the changes to the Department prior to implementation.
 - 2. The responsible party shall not terminate use of an event wagering platform without prior written approval from the Department.
- G. Responsible parties shall establish test accounts for the Department to be used to test the various components and operations of the event wagering system.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-120. Event Wagering System Testing

- A. An independent test laboratory shall test to determine whether an event wagering system complies with all applicable technical standards referenced in the Act and this Article, including, if applicable, an initial geofence system test to verify that event wagers can only be accepted from persons located within the State.
- B. The responsible party shall provide the independent test laboratory all information necessary for the independent test laboratory to render its opinion.
- C. The Department shall have secure access to the independent test laboratory certification report that contains the results of the testing.
- D. The Department reserves the right to require additional testing.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-121. Event Wagering System Shipping (Retail and Kiosk)

Responsible parties and/or suppliers shall provide the Department 24 hours advanced notice of any shipment or delivery of a kiosk and/or shipment or download of event wagering system software.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-122. Event Wagering System Installation

- A. The responsible party shall notify the Department in writing at least 10 days prior to the tentative date when the responsible party intends to place an event wagering system into use. The responsible party and Department shall then agree upon a firm date and time for testing.
- B. The Department's testing of an event wagering system shall be conducted to determine compliance with the Act and this Article. These tests shall include, but need not be limited to:

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1. Verifying event wagering system software;
 2. For retail and kiosks, verifying equipment serial numbers;
 3. Verifying that all applicable event wagering system software and/or hardware has been certified by an independent test laboratory;
 4. Verifying system reporting processes; and
 5. Verifying physical and logical security.
- C. If approval is denied, the Department shall provide written notice to the responsible party detailing the reasons for the denial no later than three days after the completion of testing.
- D. For kiosks, the Department shall affix an identifying approval seal or equivalent when it is approved for use.
- E. For retail and kiosks, the Department shall ensure that event wagering system equipment and event wagering activity under the Act have the required surveillance coverage.
- c. No impact changes. Responsible parties may implement these changes without prior notification to the Department. Examples include:
 - i. Installation or changes to backup software and/or hardware;
 - ii. Adding or removing users;
 - iii. Database maintenance that modifies or deletes non-critical data;
 - iv. Installation of operating system security patches; or
 - v. Background images, color schemes, or similar ancillary front-end updates.
 - vi. Emergency changes. Responsible parties may implement these changes immediately without prior notification to the Department to deal with open threats or liabilities. Responsible parties shall notify the Department as soon as practically possible of the necessity of the emergency and its resolution.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-123. Change Management

Responsible parties shall implement a change management process that details evaluation procedures for all updates and changes to an event wagering system and event wagering platforms. The change management process shall address at a minimum:

1. A clear and transparent framework to assist in managing deployments and other changes in the regulated live production environment.
2. A description of the process, to include roles in the change management process, handling requests for change, and the change classification categories.
3. The categories of requests for change which shall be based on their impact to the security, integrity, recovery, confidentiality, accountability, and availability of an event wagering system:
 - a. High impact changes which have a high impact on regulated components or reporting of the event wagering system. Responsible parties shall not implement these changes without the written approval of the Department. The Department shall provide a written response to the responsible party within five days of the notification. The Department will determine if additional testing or certification is required by an independent test laboratory. Examples include:
 - i. Implementation of a new wagering feature or a change which impacts wagering logic;
 - ii. A change impacting required regulatory reports or data used for financial reconciliation;
 - iii. A change implemented by the responsible party that impacts geolocation services; or
 - iv. A change impacting the handling or storage of personally identifiable information.
 - b. Low impact changes. Responsible parties may implement these changes with prior notification to the Department. Examples include:
 - i. Firewall rule changes;
 - ii. Database maintenance;
 - iii. Changes to the physical location of backup data;
 - iv. Any change or addition of physical hardware component or components; or
 - v. Changes to non-wagering logic components.

4. The use of a change management log, which shall include at a minimum:
 - a. Date and time that a change is internally approved for release;
 - b. Components to be changed;
 - c. Details of the change;
 - d. Anticipated release date of the change;
 - e. Category of the change; and
 - f. Name of the authorized employee or employees.
5. Implementation procedures to include notification to system users, scheduling, project planning, and recovery.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-124. Self-Monitoring of Critical Components

Event wagering systems shall perform a self-authentication process on all critical components contained on an event wagering system upon initial installation of the software and every 24 hours thereafter.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-125. Event Wagering System Communication

If an event wagering system is unable to accept a wager or validate a ticket for more than two hours, the responsible party shall notify the Department as soon as practically possible.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-126. Event Wagering System Recertification

- A. At least once every 15 months, the event wagering system shall be submitted to an independent test laboratory for recertification under R19-4-120. Recertification shall not be required if the event wagering system did not have any updates or changes during the previous 15 months. If a change referenced in R19-4-123(3)(a) requires comprehensive testing of the event wagering system by an independent test laboratory, this recertification shall be deferred for 15 months from the date of testing.
- B. The independent test laboratory's certification report shall be submitted to the Department no later than three days after the recertification is complete. The Department shall test the

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recertified event wagering system as per R19-4-122(B) at an agreed upon date and time.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-127. Integrity and Security Assessment

- A.** The responsible party shall perform an integrity and security assessment of the event wagering system within 120 days after the commencement of operations, and annually thereafter. The assessment shall be conducted by an independent integrity and security assessment professional. The scope of the assessment shall include, at a minimum, the following:
1. A vulnerability assessment of mobile platforms, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities of all devices, platforms, and applications connected to or present on the networks;
 2. A penetration test of all mobile platforms, mobile applications, internal, external, and wireless networks to confirm if identified vulnerabilities of all devices, platforms, and applications are susceptible to compromise;
 3. A policy and procedures review against the current ISO 27001 standard or another similar standard approved by the Department;
 4. A review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration; and
 5. Any other specific criteria or standards for the integrity and security assessment as required by the Department.
- B.** The full independent integrity and security assessment professional's report on the assessment shall be submitted to the Department no later than 30 days after the assessment is completed and shall include the following:
1. Assessment procedures and scope;
 2. Name and company affiliation of the individual or individuals who conducted the assessment;
 3. Date of assessment;
 4. Findings;
 5. Recommended corrective action, if applicable; and
 6. The responsible party's response to the findings and recommended corrective action.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-128. Forms of Payment

- A.** Payment for event wagering activity or for deposit into a player account shall be made by cash, cash equivalent, electronic funds transfer, credit card, debit card, check, wire transfer, winnings, and/or promotional or bonus credit. Other forms of payment may be utilized upon written approval of the Department.
- B.** In the retail wagering area, the responsible party shall not allow a patron to conduct an electronic benefit transfer card transaction from a program intended to provide temporary assistance for needy families pursuant to A.R.S. § 46-297.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-129. Events and Wagers

- A.** The responsible party shall submit a catalogue to the Department of the events on which it intends to accept wagers and types of wagers it intends to offer. The catalogue and any changes shall be submitted to the Department prior to implementation.
- B.** The responsible party shall submit a written request to the Department for an event not previously authorized. The request shall include a detailed description of the event and its governing body so that the Department may determine:
1. How wagers will be placed and how winning wagers will be determined;
 2. How the event will be conducted and supervised;
 3. Whether any wager could affect the outcome of the event;
 4. How the outcome of the event will be verifiable and generated through a reliable and independent process; and
 5. How the event would be conducted in compliance with any applicable laws.
- C.** The responsible party shall submit a written request to the Department for a wager type not previously authorized. The request shall include a detailed description of the wager type so that the Department may determine:
1. How the wager will be placed and how winning will be determined;
 2. Whether the wager could affect the outcome of an event; and
 3. How the wager could be made in compliance with any applicable laws.
- D.** Within seven days of receipt of the written request for an event and/or wager type, the Department shall issue a written approval or disapproval to the responsible party.
- E.** The Department shall publish a list of authorized events and wager types on its website.
- F.** The Department may prohibit a particular event or wager type; provided that:
1. The Department shall not prohibit, and it may authorize, event wagers placed on the final outcomes of live in-person poker tournaments played by living individuals located in the same physical room, such as a poker room; and
 2. Except as provided in R19-4-129(F)(1), activities that present the player with a user interface depicting spinning reels or games authorized to the tribes pursuant to the 2021 Amended and Restated Compact are prohibited.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 919 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-130. Wager Rules

- A.** All event wagering shall be transacted through an event wagering system. In the event of a computer or power failure, no tickets shall be manually written.
1. Anonymous event wagers shall only be accepted in the retail wagering area or at a kiosk; and
 2. Mobile event wagers shall only be accepted from a verified player account through an event wagering platform.
- B.** An event wager shall not be accepted from a person who is placing the event wager for the benefit of another for compen-

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- sation or is placing the event wager in violation of state or federal law.
- C. An event wager shall not be accepted upon an event whose outcome has already been determined.
- D. Upon acceptance of an event wager, a ticket shall be immediately issued.
- E. The responsible party may cancel an accepted wager for obvious error as defined in the responsible party's internal control system.
- F. Except for obvious error, the responsible party shall not unilaterally cancel any wager without prior written approval of the Department.
- G. If a patron wishes to void a ticket written prior to the start of an event, and the void request is approved by the responsible party, the ticket shall be verified by the event wagering system and a refund shall be given to the patron. For printed tickets, a void designation shall be branded on the ticket.
- H. Upon verification by the responsible party, winnings from player account wagers shall be immediately deposited into the player account.
- I. Winnings from anonymous wagers shall be immediately payable to the patron upon validation of the ticket by an event wagering system and verification by the responsible party.
- J. In the case of a computer or power failure, tickets may be manually paid. All manually paid tickets shall be marked as "paid" and entered into an event wagering system as soon as possible to verify the accuracy of the payout. All manually paid tickets shall be reviewed as part of the daily audit process.
- K. A log for all manually paid tickets shall be maintained and include:
1. The unique transaction identified;
 2. Date and time;
 3. Amount of the payout; and
 4. Employee name.
- L. Winning tickets shall be honored for at least one year after the conclusion of the event or events unless otherwise approved by the Department. Redemption by mail shall be accepted and payment shall be made by the responsible party no later than 10 days after receipt.
- M. Funds from abandoned tickets or vouchers shall be remitted to the Arizona Department of Revenue as required by A.R.S. § 44-307.
1. Types of event wagers accepted;
 2. Minimum and maximum event wager amounts accepted;
 3. Method for calculation and payment of winning event wagers;
 4. Effect of scheduling changes and/or cancelled events;
 5. Process for handling incorrectly posted events, odds, or results;
 6. Method of notifying patrons of odds or proposition changes;
 7. Methods of funding an event wager or player account;
 8. Methods for redeeming a winning event wager;
 9. Lost or damaged ticket policy;
 10. Process for accepting event wagers at other than posted terms;
 11. Process for canceling event wagers for obvious errors, including notification;
 12. Process for patrons to submit questions and/or complaints;
 13. Notification of the patron dispute process; and
 14. Notification of the self-exclusion process.
- B. Responsible parties shall submit the house rules to the Department prior to implementation. The Department shall review the house rules and issue a written approval or disapproval of them. Any proposed changes to the house rules shall be approved by the Department prior to implementation. If, after five days, the responsible party has not received a response from the Department regarding the house rules, or any changes to them, then the house rules shall be deemed approved by the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-133. Player Account Creation

- A. A patron may establish a player account in person or by electronic means.
- B. Responsible parties shall verify a patron's age and identity before allowing that patron to utilize a player account to place event wagers.
- C. Responsible parties may utilize an identity verification service provider to confirm a patron's age and identity.
- D. Responsible parties shall prohibit a patron from having more than one player account and username.
- E. Responsible parties shall establish and maintain each player account file with the following:
1. Patron's legal name;
 2. Patron's date of birth;
 3. The last four digits of the patron's social security number, the patron's driver's license number, or an equivalent identification number for a noncitizen;
 4. Patron's account number or username;
 5. Patron's residential address;
 6. Patron's e-mail address;
 7. The method used to verify the patron's identity;
 8. The date of verification; and
 9. Acknowledgement of event wagering terms and conditions, including any subsequent updates.
- F. Responsible parties shall notify patrons of the establishment of a player account and the associated terms and conditions.
- G. Responsible parties shall re-verify a patron's identification upon reasonable suspicion that the patron's identification has been compromised or the player account has been misused, or upon any suspicious activity involving the patron or player account.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-131. Layoff Wagers

- A. The responsible party may accept event wagers placed under the Act with another responsible party. The responsible party shall inform the other responsible party accepting the event wager that the event wager is being placed and shall disclose its identity.
- B. The amounts of event wagers placed with a responsible party and the amounts received by the responsible party as payments on such event wagers shall not affect the computation of the adjusted gross event wagering revenue.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-132. House Rules

- A. The house rules shall be conspicuously displayed in the retail wagering area and/or on the event wagering platform. House rules shall address:

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Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-134. Player Account Terms and Conditions

Player account terms and conditions shall include the following:

1. Name of the responsible party with whom the patron is entering into a contractual relationship;
2. Patron's consent to have the responsible party confirm the patron's age and identity;
3. Rules and obligations applicable to the patron with regard to allowing any other person to access or use his or her player account and being physically present in the State to place a wager;
4. Patron's consent to the monitoring and recording by the responsible party of any event wagering communication and geographic location information;
5. Privacy policy;
6. Legal age policy;
7. Rules for player account suspension;
8. Rules for dormant player accounts;
9. Rules for closing player accounts;
10. Availability of player account statements; and
11. The statewide problem gambling toll-free helpline telephone number, text message and website information.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-135. Player Account Maintenance

- A. All adjustments to a player account shall be authorized by the responsible party and periodically reviewed by an employee independent of the adjustment.
- B. A patron shall be allowed to withdraw the funds maintained in his or her player account.
 1. Upon verification by the responsible party, the patron's request to withdraw funds shall be honored within seven days of the request.
 2. The responsible party may decline to honor a patron request to withdraw funds if the responsible party believes that the patron engaged in either fraudulent conduct or other conduct that would put the responsible party in violation of the law or this Article. In such cases, the responsible party shall:
 - a. Provide notice to the patron of the delay in honoring the request to withdraw funds from the player account;
 - b. Investigate in an expedient fashion;
 - c. Notify the patron of the final determination of the request to withdraw funds; and
 - d. Notify the Department of any investigation that confirmed fraudulent conduct.
- C. The responsible party shall consider a player account to be dormant if the patron has not logged into the player account for at least three years. A dormant account shall be closed by the responsible party. Upon closure of a dormant account, the responsible party shall make reasonable efforts to contact the account holder to return any unclaimed funds as required by A.R.S. § 44-307(E).
- D. After 120 days of attempting to contact the account holder, the unclaimed funds in a dormant account shall be presumed abandoned. Responsible parties shall remit all abandoned funds to the Arizona Department of Revenue as required by A.R.S. § 44-307.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-136. Promotions and/or Bonuses

- A. Responsible parties may offer promotions and/or bonuses.
- B. The responsible party shall submit a written notification to the Department for a promotion and/or bonus prior to implementation. The responsible party need not submit structurally similar or ongoing promotions and/or bonuses after the initial submission, unless otherwise determined by the Department.
- C. The promotion and/or bonus rules shall be clear and unambiguous, and include:
 1. Date and time the promotion or bonus is active and expires;
 2. Rules of play;
 3. Nature and value of prizes or awards;
 4. Eligibility restrictions or limitations;
 5. Wagering and redemption requirements, including any limitations;
 6. Eligible events or wagers;
 7. Cancellation requirements; and
 8. Terms and conditions that are full, accurate, concise, transparent, and do not contain misleading information.
- D. Promotions and/or bonuses described as free shall clearly disclose material facts, terms, and conditions.
- E. Promotions and/or bonuses shall not restrict the patron from withdrawing their own funds, or withdrawing winnings from wagers placed using their own funds.
- F. Responsible parties shall make the promotion or bonus rules available to eligible patrons.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-137. Tournaments

- A. Responsible parties may conduct event wagering tournaments. At such tournaments only events and wagers approved and authorized by the Department may be played.
- B. The responsible party shall submit to the Department the rules and procedures governing the conduct and play of any event wagering tournament prior to implementation.
- C. The tournament rules and procedures shall include but are not limited to:
 1. Qualification or selection criteria which limit the eligibility of tournament patrons;
 2. Regulations of the tournament (e.g., beginning and ending times, number of events, entry fee, elimination factors, cash handling procedures, etc.); and
 3. Prizes to be awarded.
- D. Responsible parties shall make the rules available to all tournament patrons prior to the beginning of the tournament.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-138. Cashiering (Retail)

- A. A cashier shall begin a shift with an imprest amount of event wagering inventory, consisting of currency and coin. No funds shall be added to or removed from the event wagering inventory during the shift except:
 1. Collection of event wagers;
 2. Making change for a patron buying a ticket;

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3. Collection of vouchers;
 4. Payment of winning tickets;
 5. Payment of voided tickets;
 6. Payment of vouchers; and
 7. Cash transfers or miscellaneous cash transactions with appropriate documentation.
- B.** An event wagering inventory count sheet shall be completed and signed by the cashier and a verifying employee on a per shift basis. The following shall be recorded on the count sheet:
1. The date, time, and shift of preparation;
 2. The total amount of each denomination of currency and coin in the event wagering inventory issued to the cashier; and
 3. The window number to which the cashier is assigned.
- C.** If the count of the inventory does not agree, the cashier and the verifying employee shall attempt to determine the cause of the variance in the count. Any variance not resolved by the cashier and the verifying employee shall be reported in writing to the responsible party. Any variance over \$500 shall be reported to the Department within 72 hours. The report shall include the following:
1. The date on which the variance occurred;
 2. The shift during which the variance occurred;
 3. The name of the cashier;
 4. The name of the verifying employee;
 5. The window number; and
 6. The amount of the variance.
- D.** If the event wagering system generated net receipts for the shift do not agree with the count sheet, the verifying employee shall record any overage or shortage. Any variance not resolved by the verifying employee shall be reported in writing to the responsible party. Any variance over \$500 shall be reported to the Department within 72 hours. The report shall include the following:
1. The date on which the variance occurred;
 2. The shift during which the variance occurred;
 3. The name of the cashier;
 4. The name of the verifying employee;
 5. The window number; and
 6. The amount of the variance.
- a. The tickets shall be recalculated and regraded using the event wagering system record of event results; and
 - b. The date and starting time of the event per the results report shall be compared to the date and time on the ticket and in the event wagering system transaction report.
5. Daily, for retail payouts made without event wagering system authorization at the time of payment including such payouts for contest/tournament winners, shall:
- a. Trace all payouts to the event wagering system transaction report or the purged tickets report to verify authenticity of the initial event wager;
 - b. For payouts subsequently entered into the event wagering system by employees, compare the manual payout amount to the event wagering system amount; and
 - c. For payouts not entered into the event wagering system by employees, enter the payout into the event wagering system and compare the manual payout amount to the event wagering system amount. If the system is inoperative, manually regrade the ticket to ensure the proper payout amount was made.
6. Daily, for all retail voided tickets:
- a. The event wagering system reports which display voided ticket information shall be examined to verify that tickets were properly voided in the computer system;
 - b. The voided tickets shall be examined for a void designation; and
 - c. If the event wagering system prints void tickets, a void ticket shall be attached to the original ticket.
7. Daily, event wagering system exception reports shall be reviewed for propriety of transactions and unusual occurrences. All noted improper transactions or unusual occurrences noted during the review of exception reports shall be investigated with the results documented.
8. Monthly, foot the customer copy of paid retail tickets for a minimum of one cashier station and trace the totals to those produced by the event wagering system.
9. Quarterly, for each kiosk, foot the vouchers redeemed for a minimum of one day and trace the totals to the totals recorded in the event wagering system and the related accountability document. This procedure may be performed for different kiosks throughout the quarter as long as each kiosk's activity is examined once a quarter. Accounting/revenue audit shall document the test and the results of variance investigations, by kiosk.
10. Quarterly, for a minimum of one day, the event wagering system reports shall be reviewed for the proper calculation of the following:
- a. Amounts held by the responsible party for player accounts (if applicable);
 - b. Amounts accepted by the responsible party as wagers on events whose outcomes have not been determined (futures); and
 - c. For retail, amounts owed but unpaid on winning event wagers through the period established for honoring winning wagers (unpaid winners and unredeemed vouchers).
11. Quarterly, for a minimum of one day:
- a. If future wagers are accepted, review the event wagering system reports to ascertain that future wagers are properly included in write on the day of the event;

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-139. Accounting

Responsible parties shall maintain an accounting department that is independent from the operation of event wagering. Accounting/revenue audit personnel shall perform the following:

1. Daily, for each cashier station except for kiosks, the write and payouts shall be compared to the cash proceeds/disbursements with a documented investigation being performed on all large variances (i.e., overages or shortages greater than \$100 per cashier).
2. Daily, reconcile the dollar amount of player account transactions to the transaction summary report and investigate and document any variances.
3. Daily, select a random sample of five paid retail transactions from the event wagering system transaction report and trace the transaction to the customer's copy of the paid ticket.
4. Daily, for all winning retail payouts equal to or greater than \$10,000 and for a random sample of 10 of all other winning retail payouts:

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- b. For retail, recalculate and verify the change in the unpaid winners and unredeemed vouchers balance to the total purged tickets and vouchers; and
 - c. For retail, select two winning tickets to verify that the wager was accepted, and payouts were made in accordance with the posted house rules.
12. Annually, foot the write on the event wagering system record of written tickets for a minimum of three cashiers for each wagering pool for one day and trace the total to the total produced by the event wagering system.
 13. Annually, for a minimum of one day, foot the redeemed vouchers for one cashier station and trace the totals to those produced by the event wagering system.
 14. Daily, reconcile all tournament entries and payouts to the dollar amounts recorded in the appropriate accountability document and/or event wagering system report.
 15. When payment is made to the winners of a tournament, reconcile the tournament entry fees collected to the actual tournament payouts made.
 16. Monthly, review all tournaments, promotions, and bonuses to determine proper accounting treatment and proper win/loss computation.
 17. Monthly, perform procedures to ensure that promotions and bonuses are conducted in accordance with conditions provided to the patrons.
 18. Documentation shall be maintained evidencing the performance of audit procedures, the exceptions noted, and follow-up of all audit exceptions.
- C. An internal audit shall be performed at least annually with the results documented in a written report which shall be available to the Department.
 - D. Documentation shall be maintained to evidence all internal audit work performed as it relates to the requirements of this section, including all instances of noncompliance.
 - E. Follow-up observations and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance. The verification shall be performed within six months following the date of notification.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-142. Security and Surveillance Plan

Each responsible party shall establish, maintain, and adhere to a written security and surveillance plan for the retail wagering areas, kiosks, and/or event wagering platforms. The plan shall provide for the following:

1. The physical safety of employees;
2. The physical safety of patrons in a retail wagering area and at kiosks;
3. The physical and logical security of a patron's information on an event wagering system;
4. The physical safeguarding of assets in a retail wagering area and/or kiosk;
5. The logical safeguarding of assets on an event wagering system;
6. The physical safeguarding of assets transported to and from a retail wagering area and/or kiosk; and
7. The protection of patron and responsible party property from illegal activity.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-140. Information Technology

- A. Responsible parties shall maintain an information technology department that is responsible for the quality, reliability, and accuracy of all computer systems used in the operation.
- B. Responsible parties shall ensure that duties in the information technology department are adequately segregated and monitored to detect procedural errors, unauthorized access to financial transactions and assets, and to prevent the concealment of fraud.
- C. The information technology environment and infrastructure shall be maintained in a secured physical location that is restricted to authorized employees.
- D. Responsible parties shall adopt procedures for responding to, monitoring, investigating, resolving, documenting, and reporting security incidents associated with information technology systems.
- E. Information technology employees shall test the recovery procedures of the event wagering system on a sample basis at specified intervals at least annually. The results shall be documented and available to the Department upon request.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-141. Internal Audit

- A. Responsible parties shall maintain a separate audit department, independent of the event wagering operation, whether internal or through an ancillary supplier.
- B. The internal audit department shall be responsible for auditing the responsible party's compliance with the Act and this Article, the internal control system, and any other applicable rules and regulations.

R19-4-143. Surveillance

- A. Responsible parties shall have a surveillance system which monitors and records general activities in the retail wagering area.
- B. Each cashier station or window shall be equipped with at least one dedicated camera covering all activity, with sufficient clarity to identify the employees performing the different functions.
- C. Each kiosk shall be equipped with at least one dedicated camera covering all activities with sufficient clarity to identify the activity and the individuals performing it, including maintenance, drops or fills, and redemption of tickets.
- D. The surveillance system shall monitor and record a general overview of all areas where cash or cash equivalents may be stored or counted.
- E. The surveillance system shall monitor and record patrons placing wagers with sufficient clarity to allow for them to be identified and their activities to be monitored.
- F. The surveillance system shall record an accurate date and time stamp on recorded events. The displayed date and time shall not significantly obstruct the recorded view.
- G. Each camera shall be installed in a manner that prevents it from being readily obstructed, tampered with, or disabled.
- H. A periodic inspection of the surveillance system shall be conducted by the responsible party. When a malfunction of the surveillance system is discovered, the malfunction and necessary repairs shall be documented, and repairs initiated within 72 hours.

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- I. All recordings required by this section shall be retained for a minimum of seven days.
- J. Suspected crimes and/or suspicious wagering activity shall be copied, documented, and retained for at least one year unless otherwise authorized by the Department.
- K. The Department shall have remote access to the surveillance system and its transmissions.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-144. Keys

- A. Access to, and return of, keys or equivalents utilized in the operation of event wagering shall be documented with the date, time, and signature or other unique identifier of the agent accessing or returning the key or keys.
- B. Documentation of all keys, including duplicates, shall be maintained, including:
 1. Unique identifier for each individual key;
 2. Key storage location;
 3. Number of keys made, duplicated, and destroyed; and
 4. Authorization and access.
- C. The responsible party shall identify those keys (ex. kiosk, restricted computer storage media) which are considered sensitive and require additional access control.
- D. The kiosk release and contents shall require a separate and unique key lock or alternative secure access method.
- E. Annually, an inventory of all sensitive keys shall be performed by internal audit and reconciled to records of keys made, issued, and destroyed.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-145. Reporting Requirements

- A. The responsible party shall report to the Department any violation or suspected violation of the Act or this Article, security breaches, breaches of confidentiality of a patron's personal information, and any other activity as required by the Department.
- B. Responsible parties shall report the information listed above to the Department in writing within 72 hours of discovery.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-146. Remedies

The Department may place conditions on a license, fine, or otherwise sanction, licensees, for violations of this Statute, or the administrative rules of the Department. The Department's ability to impose fines and/or sanctions is subject to the following:

1. The Department shall notify the responsible party of the results of its investigation or investigations and any administrative proceedings. The results of any investigation shall not be disclosed if such disclosure will compromise ongoing law enforcement investigations or activities, or would violate applicable state and federal law.
2. All monetary fines collected by the Department, including any interest earned thereon, shall be deposited in the Event Wagering Fund established by A.R.S. § 5-1318(B).

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-147. Liability for Damage to Persons and Property

Responsible parties shall maintain a policy of commercial general liability insurance with a combined single limit for a security breach, personal injury, and/or property damage of not less than \$5,000,000 per occurrence and in the aggregate. A copy of the policy, as well as any updates and/or renewals, shall be available to the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-148. Patron Disputes

- A. Whenever the responsible party refuses payment of alleged winnings to a patron or there is otherwise a dispute with a patron regarding their player account, wagers, wins, or losses from event wagering, and the responsible party and the patron are unable to resolve the dispute to the satisfaction of the patron, the responsible party shall notify the patron of their right to file a written complaint. The notice shall include the procedure for filing a written complaint and the responsible party's complaint resolution process.
- B. Upon receipt of a complaint, the responsible party shall investigate and provide a written response to the patron within 10 days. The response shall include a statement that if the dispute is not resolved to the satisfaction of the patron, the patron may submit their complaint in writing to the Department.
 1. If the Department receives a written complaint from a patron with regard to an unresolved patron dispute, the Department shall contact the responsible party and the responsible party shall provide to the Department a written response and any additional documentation relating to the patron's complaint.
 2. The Department, in its sole discretion, may investigate the dispute and reach a final decision which may include a requirement for appropriate corrective action.
 3. The Department shall provide a written response to the responsible party and the patron of the results of its investigation and the corrective action it directs, if any, within five days of the completion of its investigation.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-149. Barred Persons

The Department shall establish a list of persons barred from retail wagering areas, kiosks, and event wagering platforms because their conduct, criminal history, and association with career offenders or career offender organizations poses a threat to the integrity of event wagering or to the public health, safety, or welfare. The responsible party shall, upon having knowledge of a barred person's presence in a retail wagering area, prohibit that barred person from placing any wager, directly or indirectly, in a retail wagering area, on a kiosk, or on an event wagering platform. To the extent not previously provided, the Department shall send a copy of its list on a monthly basis to the responsible party, along with detailed information regarding why the person has been barred. Such persons shall be barred from all retail wagering areas, kiosks, and event wagering platforms within the State.

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Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-150. Self-Exclusion and Responsible Gaming

- A. As part of their procedures and programs to mitigate problem gaming and curtail compulsive gambling, responsible parties shall:
1. Post at all public entrances and exits of the retail wagering area signage in English and Spanish stating that help is available if a person has a problem with gambling, to include the statewide toll-free helpline telephone number, text message, website information established by the Department, and any other information as directed by the Department.
 2. Display on each event wagering platform and/or kiosk, obvious and easily accessible messaging stating that help is available if a person has a problem with gambling, to include the statewide toll-free helpline telephone number, text message, website information established by the Department, and any other information as directed by the Department.
 3. Include a responsible gaming message with the Department's statewide toll-free crisis helpline telephone number, or another toll-free crisis helpline telephone number as approved by the Department, on all advertisements for event wagering, including on television, radio, internet, printed advertisements, and billboards.
- B. The self-exclusion list shall not be provided to any licensed supplier without the written approval of the Department. Approval shall only be granted by the Department when sharing of the list is deemed necessary to effectuate the terms of the Act and this Article.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-151. Debt Setoff

- A. If a responsible party is required to file a form W2G or a substantially similar form, regardless of whether those winnings are claimed at a retail wagering area or on an event wagering platform, the responsible party shall check to determine if the player has a past due, setoff obligation.
- B. The responsible party shall withhold past due, setoff obligations from those winnings which triggered the filing of a form W2G or a substantially similar form.
- C. The Department shall supply the responsible party with the lists of outstanding obligations as provided by the Arizona Department of Economic Security, Child Support Enforcement, Supplemental Nutrition Assistance Program and Assistance Overpayment, the Arizona Supreme Court, the Arizona Health Care Cost Containment System, and the Arizona Department of Revenue (State tax debt) on a monthly basis.
- D. The outstanding obligation lists shall not be provided to any licensed supplier without the written approval of the Department. Approval shall only be granted by the Department when sharing of the list is deemed necessary to effectuate the terms of the Act and this Article.
- E. The responsible party shall provide a receipt to the patron for any funds withheld for outstanding obligations.
- F. Any funds withheld by the responsible party shall be remitted to the Department within seven days in a format provided by the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-152. Retention of Records

The responsible party shall require that all books, records, and data relating to the operation and management of event wagering in the State are maintained for at least five years from the date of creation. Upon written approval of the Department, books, records, and/or data may be destroyed prior to passage of the required five year retention period.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-153. Calculation of Time

In computing any period prescribed or allowed by the Act or this Article, the day of the act, event, or default from which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday under state law or federal law. When the time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays under state law or federal law shall be excluded from the computation period.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

ARTICLE 2. FANTASY SPORTS**R19-4-201. Definitions**

- A. The definitions in A.R.S. § 5-1201 apply to this Article.
- B. Additionally, in this Article and in the Act, unless the context requires:
1. "Act" means Title 5, Arizona Revised Statutes, Chapter 10.
 2. "Article" means *Arizona Administrative Code*, Title 19, Chapter 4, Article 2.
 3. "Cash Equivalent" means, for the purposes of this Article 2 only, an electronic funds transfer, credit card, debit card, check, wire transfer, winnings, promotional or bonus credit, and any other form of payment as approved by the Department.
 4. "Fantasy Sports Contest Entry" means the method to participate in a fantasy sports contest.
 5. "Geofence Provider" means a person who creates a virtual perimeter for a real geographic location.
 6. "Internal Control System" means the minimum level of operational controls developed by a responsible party to ensure the integrity of fantasy sports contests.
 7. "Licensee" includes any person licensed by the Department under this Article.
 8. "Responsible Party" means the fantasy sports contest operator or the management company who is responsible for the operation of fantasy sports contests.
 9. "State" means the State of Arizona not to include the Indian lands within its exterior boundaries.
 10. "Supplier" means persons who provide goods or services to a responsible party in connection with fantasy sports contests pursuant to the Act, to include:
 - a. Fantasy sports contest platform providers;
 - b. Identity verification service providers;
 - c. Payment processors;
 - d. Geofence providers; and

§ 5-1201. Definitions

In this chapter, unless the context otherwise requires:

1. "Applicant" means any person that has applied for a License as a fantasy sports contest operator or that has been approved for any Act related to fantasy sports contests.
2. "Application" means a request to issue a license as a fantasy sports contest operator or to approve any act related to fantasy sports contests.
3. "Athletic event":
 - (a) Means a real-world professional, collegiate or nationally recognized sports game, contest or competition that involves the physical exertion and skill of the participating individual athletes who are each physically present at the location in which the sports game, contest or competition occurs, and the outcome of the sports game, contest or competition is directly dependent on the performance of the participating athletes.
 - (b) Includes events involving motor vehicles.
4. "Department" means the Department of Gaming.
5. "Entry fee" means cash or cash equivalent that is paid by a participant to a fantasy sports contest operator to participate in a fantasy sports contest.
6. "Fantasy sports contest" means a simulated game or contest that is offered to the public with an entry fee and that meets all of the following conditions:
 - (a) No fantasy sports contest team is composed of the entire roster of a real-world sports team.
 - (b) No fantasy sports contest team is composed entirely of individual athletes who are members of the same real-world sports team.
 - (c) Each prize or award or the value of all prizes or awards offered to winning fantasy sports contest players is made known to the fantasy sports contest players in advance of the fantasy sports contest.
 - (d) Each winning outcome reflects the relative knowledge and skill of the fantasy sports contest players and is determined by the aggregated statistical results of the performance of multiple individual athletes or participants selected by the fantasy sports contest player to form the fantasy sports contest team, whose individual performances in the fantasy sports contest

directly correspond with the actual performance of those athletes or participants in the athletic events in which those individual athletes or participants participated.

(e) A winning outcome is not based on randomized or historical events or on the score, point spread or performance in an athletic event of a single real-world sports team, a single athlete or any combination of Real-world sports teams.

(f) The fantasy sports contest does not constitute or involve and is not based on any of the following:

(i) Racing that involves animals.

(ii) A game or contest ordinarily offered by a horse track or casino for money, credit or any representative of value, including any races, games or contests that involve horses or that are played with cards or dice.

(iii) A slot machine or other mechanical, electromechanical or electronic device, equipment or machine.

(iv) Poker, blackjack, faro, monte, keno, bingo, fan-tan, Twenty-one, seven and a half, klondike, craps, chuck-a-luck, chinese Chuck-a-luck, wheel of fortune, chemin de fer, baccarat, pai gow, beat the Banker, panguingue, roulette or other banking or percentage Games.

(v) Any other game or device that is authorized or that is not authorized by this state.

(vi) A high school or youth sporting event or any event that is not an athletic event.

(vii) A contest that involves or results in betting on a race, a game, a contest or a sport that constitutes event wagering as defined in section 5-1301.

7. "Fantasy sports contest adjusted revenues" means the amount equal to the total of all entry fees that a fantasy sports contest operator collects from all fantasy sports contest players minus the total of all sums paid out as prizes or awards to all fantasy sports contest players, multiplied by the in-state percentage.

8. "Fantasy sports contest operator" or "operator" means a person that is engaged in the business of professionally conducting paid fantasy sports contests for cash or other prizes or awards for members of the general public that requires cash or cash equivalent as an entry fee to be paid by a member of the general public who participates in a paid fantasy sports contest.

9. "Fantasy sports contest platform" means the hardware, software, firmware, communications technology or other equipment, including operator procedures implemented to allow player participation in digital or online fantasy sports contests, and if supported, the corresponding equipment related to the display of the outcomes, and other similar information necessary to facilitate player participation in which a player is provided with the means to establish a Player Account and the fantasy sports contest operator is provided with the means to review Player Accounts, suspend fantasy sports contests, generate various financial transaction and account reports, input outcomes for fantasy sports contests and set any configurable parameters.

10. "Fantasy sports contest player" or "player" means an individual who participates in a fantasy sports contest offered by a fantasy sports contest operator.

11. "Fantasy sports contest team" means the simulated team composed of multiple individual athletes, each of whom is a member of a real-world sports team that a fantasy sports contest player selects to compete in a fantasy sports contest.

12. "Highly experienced player" means a fantasy sports contest player who has done at least one of the following:

(a) Entered more than one thousand fantasy sports contests offered by a single fantasy sports contest operator.

(b) Won more than three prizes or awards valued at \$1,000 each or more from a single fantasy sports contest operator.

13. "Holding company" means a corporation, firm, partnership, limited partnership, limited liability company, trust or other form of business organization that is not an individual and that directly or indirectly does either of the following:

(a) Holds an ownership interest of ten percent or more, as determined by the holding company's board, in a fantasy sports contest operator.

(b) Holds voting rights with the power to vote ten percent or more of the outstanding voting rights of a fantasy sports contest operator.

14. "In-state percentage" means for each fantasy sports contest, the percentage, rounded to the nearest tenth of a percent, equal to the total entry fees collected from all in-state participants divided by the total entry fees collected from all participants in the fantasy sports contest, unless otherwise prescribed by the Department.

15. "Key employee" means an employee of a fantasy sports contest operator who has the power to exercise significant influence over decisions concerning the fantasy sports contest operator.
16. "License" means an approval that is issued by the Department to any Person or entity to be involved in a Fantasy Sports Operation.
17. "Management company" means a person retained by a fantasy sports contest operator to manage a fantasy sports contest platform and provide general administration and other operational services.
18. "Person" means an individual, partnership, corporation, association, limited liability company, federally recognized Indian tribe or other legal entity.
19. "Player Account" means an account that is established by a patron for the purpose of participating in fantasy sports contests, including deposits, withdrawals, entry fees and payouts.
20. "Prize or award" means anything of value or any amount of cash or cash equivalents.
21. "Protected information" means information related to playing fantasy sports contests by a fantasy sports contest player that is not readily available to the general public and that is obtained as a result of a person's employment in relation to a fantasy sports contest.
22. "Script" means a list of commands that a fantasy contest-related computer program can execute and that is created by a fantasy sports contest player or by a third party for a fantasy sports contest player to automate processes on a fantasy sports contest platform.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

Related Legislative Provision:

See L. 2021, ch. 234, s. 8.

See L. 2021, ch. 234, s. 7.

§ 5-1202. Fantasy sports contests; exceptions; rules; licensure

A. Except as otherwise provided in this section, a person may not offer fantasy sports contests in this state unless the person is licensed by the Department as a fantasy sports contest operator.

B. An individual may offer one or more fantasy sports contests if all of the following apply:

1. The fantasy sports contests are not made available to the general public.
2. Each of the fantasy sports contests is limited to not more than fifteen total fantasy sports contest players.
3. The individual collects not more than \$10,000 in total entry fees for all fantasy sports contests offered in a calendar year, at least ninety-five percent of which are awarded to the fantasy sports contest players.

C. An Indian tribe that lawfully conducts class III gaming pursuant to a Tribal-State Gaming Compact with this state, directly or through a third-party operator, may offer and conduct fantasy sports contests without applying for or holding a license pursuant to this section if all activities of the fantasy sports contest occur within the boundary of its Indian Lands and the Indian tribe complies with any regulations that are included in the Compact or its appendices regarding fantasy sports contests.

D. To ensure the integrity of fantasy sports contests, the Department has jurisdiction over each person involved in conducting a fantasy sports contest. The Department may adopt rules related to conducting fantasy sports contests, including rules prescribing penalties for violating this chapter or any rules adopted under this chapter.

E. Every Applicant for licensure shall submit a completed Application, along with any required information, to the Department. The Department shall determine the form and content of the Application. Each Application shall be accompanied by the Applicant's current photograph and the fee required by the Department. The applicant must also submit a full set of fingerprints to the department 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.

F. The information required by the department shall include documentation of all of the following:

1. The name of the applicant.

2. The location of the applicant's principal place of business.
3. The applicant's telephone number.
4. The applicant's Social Security number or, if applicable, the applicant's federal tax identification number.
5. The name and address of each individual that holds a ten percent or more ownership interest in the applicant or in shares of the applicant.
6. The applicant's criminal record, if any, or if the applicant is a business entity, on request, any criminal record of an individual who is a director, officer or key employee of, or any individual who has a ten percent or more ownership interest in, the applicant.
7. Any ownership interest that a director, officer, key employee or individual owner of ten percent or more of the applicant holds in a person that is or was a fantasy sports contest operator or similar entity in any jurisdiction.
8. An identification of any business, including, if applicable, the state of incorporation or registration, in which an applicant, director, officer, key employee or individual owner of ten percent or more of the applicant, has an equity interest of five percent or more.
9. Whether an applicant, director, officer, key employee or individual owner of ten percent or more of the applicant has ever applied for or been granted any license, registration or certificate issued by a licensing authority in this state or any other jurisdiction for a gaming activity.
10. Whether an applicant, director, officer, key employee or individual owner of ten percent or more of the applicant has filed or been served with a complaint or other notice filed by a public body regarding the delinquency in payment of or dispute over filings concerning the payment of any tax required under federal, state or local law, including the amount of tax, the type of tax, the taxing agency and the time periods involved.
11. A description of any physical facility operated by the applicant in this state, the employees who work at the facility and the nature of the business conducted at the facility.
12. Information sufficient to show, as determined by the department, that the applicant can meet the requirements of procedures submitted by the applicant under section 5-1203 and under any rules adopted under this chapter.

G. The department may require licensure of a holding company, a Management Company or any other person it considers sufficiently connected to the fantasy sports contest operator if that licensure is necessary to preserve the integrity of fantasy sports contests and protect fantasy sports contest players.

H. A license issued under this section is valid for two years. The department shall renew a license biennially if the applicant demonstrates continued eligibility for licensure under this chapter and pays the renewal fee. Notwithstanding this subsection, the department may investigate a licensee at any time the department determines it is necessary to ensure that the licensee remains in compliance with this chapter and the rules adopted pursuant to this chapter.

I. The department shall establish The initial license fee and The license renewal fee. The department may assess investigative costs if the cost of a licensure investigation exceeds the amount of the initial license or renewal fee.

J. On receipt of a completed Application and the required fee, the Department shall conduct the necessary background investigation to determine if the Applicant meets the qualifications for licensure. On completion of the necessary background investigation, the Department shall either issue a license or deny the Application. If the Application for licensure is denied, a statement setting forth the grounds for denial shall be forwarded to the applicant together with all other documents relied on by the Department, to the extent allowed by law.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1203. Prohibited employees; procedures and controls

A. The Fantasy Sports Contest Operator may not employ an individual and, if already employed, shall terminate an employee who is identified through regulations issued by the department if the Individual meets any of the following criteria:

1. Has been convicted of any gaming offense.
2. Has been convicted of a felony in the seven years before submission of the employment application unless that felony has been set aside.
3. Has ever been convicted of a felony related to extortion, burglary, larceny, bribery, embezzlement, robbery, racketeering, money laundering, forgery, fraud, murder, voluntary manslaughter or a sexual offense that requires the individual to register pursuant to section 13-3821.
4. Has knowingly and wilfully provided materially important false statements or information or omitted materially important information on the individual's employment Application or background questionnaire.
5. Is an individual whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation and control of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in conducting gaming or carrying on the business and financial arrangements incidental to gaming.

B. As a condition of licensure, a fantasy sports contest operator must submit to and receive approval from the department for commercially reasonable procedures and internal controls intended to do all of the following:

1. Prevent the fantasy sports contest operator or its owners, directors, officers and employees and any relative of any of these individuals living in the same household from participating in a fantasy sports contest offered to the public.
2. Prevent the employees or agents of the fantasy sports contest operator from sharing protected information with third parties unless the protected information is otherwise made publicly available.
3. Prevent participants and officials in an athletic event from participating in a fantasy sports contest that is based on the athletic event.
4. Establish the number of entries a single fantasy sports contest player may enter in a single fantasy sports contest and take reasonable steps to prevent

fantasy sports contest players from submitting more than the allowable number of entries.

5. Identify each highly experienced player by a symbol attached to the highly experienced player's username.

6. Offer some fantasy sports contests that are open only to players other than highly experienced players.

7. Either of the following:

(a) Segregate the deposits in the fantasy sports contest players' accounts from operational money.

(b) Maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond or a combination of these, the aggregate amount of which exceeds the total dollar value amount of deposits in the fantasy sports contest players' accounts. The reserve may not be used for operational activities.

8. Ensure compliance with the applicable state and federal requirements to protect the privacy and online security of a fantasy sports contest player and the fantasy sports contest player's account.

9. Otherwise ensure the integrity of fantasy sports contests.

C. A licensed fantasy sports contest operator shall comply with the procedures and internal controls that are submitted to and approved by the department under subsection B of this section. A licensed fantasy sports contest operator may make technical adjustments to its procedures and internal controls if the adjustments are not material and it notifies the department within twenty-one days of the changes becoming effective and continues to meet or exceed the standards required by this chapter and any rules adopted by the department.

D. Procedures submitted to the department under subsection B of this section are confidential and privileged and are not subject to disclosure under title 39, chapter 1, article 2.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1204. Financial responsibility

On or before July 1 of each year, a licensed fantasy sports contest operator shall contract with a certified public accountant to perform an independent audit in accordance with generally accepted accounting principles of the financial condition of the licensed fantasy sports contest operator's total operation for the previous fiscal year and to ensure compliance with this chapter and for any other purpose as prescribed by rule. not later than one hundred eighty days after the end of the fantasy sports contest operator's fiscal year, A licensed fantasy sports contest operator shall submit the audit results under this section to the department. The results of an audit submitted to the department under this section are confidential and privileged and are not subject to disclosure as provided in title 39, chapter 1, article 2.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1205. Prohibitions; exception

A. A fantasy sports contest operator shall prohibit an individual who is under twenty-one years of age from participating in a fantasy sports contest.

B. A licensed fantasy sports contest operator may not do any of the following:

1. Allow the use of a script that provides a fantasy sports contest player with an unfair competitive advantage. A script made readily available to all fantasy sports contest players does not provide a fantasy sports contest player with an unfair competitive advantage and may not be determined otherwise.

2. Use false, deceptive or misleading advertising or advertising that is not based on fact.

3. Target, in advertising or promotions, either of the following:

(a) Individuals who have restricted themselves from entering a fantasy sports contest under the procedures established by the department pursuant to section 5-1206.

(b) Individuals who are under twenty-one years of age.

C. A fantasy sports contest may not be offered on, at or from any of the following:

1. A kiosk or machine open to public use and physically located in a retail business location, bar, restaurant or other commercial establishment.

2. A kiosk or machine open to public use and physically located in a place of public accommodation, except that a fraternal organization or VETERANS' organization as defined in section 5-401 or a licensed racetrack may operate up to two kiosks for the sole purpose of offering fantasy sports.

D. This section does not apply to a federally recognized Indian tribe operating under its Tribal-State Gaming Compact and any amendments.

History:

Added by L. 2021, ch. 234, s. 3, eff. 4/15/2021.

**§ 5-1206. Problem gambling; self-exclusion list; program;
liabilities**

A. A Fantasy Sports Contest Operator shall develop a procedure to inform fantasy sports contest players that help is available if an individual has a problem with gambling and, at a minimum, provide the statewide toll-free helpline telephone number, text message and website information established by the Department.

B. The Department and the Fantasy Sports Contest Operator shall comply with the following requirements to allow problem gamblers to voluntarily exclude themselves from Fantasy Sports Contests statewide:

1. The Department shall establish a list of Persons who acknowledge, in a manner to be established by rule, that they have a compulsive play problem and voluntarily seek to exclude themselves from Fantasy Sports Contests statewide. The Department shall establish procedures for the placement on and removal from the list of self-excluded Persons. Only a Person seeking voluntary self-exclusion shall be allowed to include the Person's name on the self-exclusion list of the Department.

2. The Fantasy Sports Contest Operator shall establish procedures for advising Persons who inquire about self-exclusion and offer self-exclusion application forms provided by the Department to those Persons when requested.

3. The Department shall compile identifying information concerning self-excluded Persons. Such information shall contain, at a minimum, the full name and any aliases of the Person, a photograph of the Person, the social security or driver's license number of the Person and the current physical and electronic contact information, including mailing address, of the Person.

4. The Department, on a weekly basis, shall provide the compiled information to Fantasy Sports Contest Operators. Fantasy Sports Contest Operators shall treat the information received from the Department under this Section as confidential, and the information may not be disclosed except to vendors approved by the Department for purposes of complying with this Section, appropriate law enforcement agencies if needed in conducting an official investigation, or unless ordered by a court of competent jurisdiction.

5. A Fantasy Sports Contest Operator shall check the most recent self-excluded Persons list provided by the Department before creating a Player Account for any self-excluded Person. A Fantasy Sports Contest Operator shall revoke a Player Account and remove all self-excluded Persons from all marketing lists of the Fantasy Sports Contest Operator.

6. A Fantasy Sports Contest Operator shall take reasonable steps to ensure that Persons on the Department's list of self-excluded Persons are denied access to all Fantasy Sports Contests.

7. A Fantasy Sports Contest Operator shall take reasonable steps to identify self-excluded Persons.

8. If a self-excluded person participates in a fantasy sports contest, the Fantasy Sports Contest Operator shall report to the Department, at a minimum, the name of the self-excluded person, the date of participation, the amount or value of any monies, prizes or awards forfeited, if any, and any other action taken. The report shall be provided to the Department within twenty-four hours of discovery.

C. A Fantasy Sports Contest Operator may not pay any prize or award to a Person who is on the Department's self-exclusion list. Any prize or award won by a Person on the self-exclusion list shall be forfeited and shall be donated by the Fantasy Sports Contest Operator to the Department's Division of Problem Gambling on a quarterly basis by the twenty-fifth day of the following month.

D. Notwithstanding any other provision of this chapter, the Department's list of self-excluded Persons is not open to public inspection.

E. A Fantasy Sports Contest Operator shall develop and maintain a program to mitigate compulsive play and curtail compulsive play, which may be in conjunction with the Department.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1207. Department of gaming; authority

The department shall adopt rules to implement this chapter as provided in Title 41, Chapter 6, including rules that do all of the following:

1. Require a fantasy sports contest operator to implement commercially reasonable procedures to prohibit access to both of the following:
 - (a) Individuals who request to restrict themselves from playing fantasy sports contests.
 - (b) Individuals who are under twenty-one years of age.
2. Prescribe requirements related to beginning players and highly experienced players.
3. Suspend the account of a fantasy sports contest player who violates this chapter or a rule adopted under this chapter.
4. Provide a fantasy sports contest player with access to information on playing responsibly and how to ask for assistance for compulsive play behavior.
5. Require an applicant for a fantasy sports contest operator license to designate at least one key employee as a condition of obtaining a license.
6. Include any other rule the department determines is necessary to ensure the integrity of fantasy sports contests.

History:

Added by L. 2021, ch. 234, s. 3, eff. 4/15/2021.

§ 5-1208. Requirements

A. After a Fantasy Sports Contest Operator is licensed, the fantasy sports contest operator shall report any change to the information regarding ownership included in its application with the Department within thirty days after the change is effective. The Fantasy Sports Contest Operator's license shall remain valid unless the Department determines that the Fantasy Sports Contest Operator is no longer qualified to maintain the license due to the change.

B. A licensed fantasy sports contest operator shall retain and maintain in a place secure from theft, loss or destruction all of the records required to be maintained under this chapter and the rules adopted under this chapter for at least three years after the date the record is created.

C. A licensed fantasy sports contest operator shall organize all records under subsections A and B of this section in a manner that enables the licensed fantasy sports contest operator to provide the department with the records.

D. Information obtained under this section is confidential and privileged and is not subject to disclosure as provided in title 39, chapter 1, article 2.

E. If a fantasy sports contest operator is required to file a form 1099-misc or other substantially equivalent form with the united states internal revenue service for a person who is identified by the Arizona administrative office of the courts, the department of economic security division of child support enforcement, the department of economic security supplemental nutrition assistance program and assistance overpayment or the Arizona health care cost containment system administration as owing an obligation, the fantasy sports contest operator shall withhold from the person's account the amount of obligations owed at the time the form 1099-misc or a substantially equivalent form is issued, if the fantasy sports operator has been notified by this state of the obligation. At that time, the fantasy sports contest operator shall transmit the amount withheld for obligations to the department of gaming and shall also transmit any INFORMATION requested by the department of gaming. The department of gaming shall provide information to the fantasy sports contest operator of persons with outstanding obligations. If the identified person is also self-excluded, tax liabilities and setoff obligations shall be satisfied before any monies are donated to the department of gaming division of problem gambling pursuant to section 5-1206. If the identified person has MULTIPLE liabilities, those liabilities shall be satisfied in the following order:

1. Child support enforcement.

2. Supplemental nutrition assistance program and assistance overpayment.
3. The courts.
4. The Arizona health care cost containment system administration.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1209. Revocation, suspension or denial of license; grounds; definitions

A. The department may revoke, suspend or deny a license if an applicant or licensee meets any of the following criteria:

1. Violates, fails or refuses to comply with the provisions, requirements, conditions, limitations or duties imposed by law or rule, or if any such violation occurs on any fantasy sports contest platform operated by any such person or over which the person has substantial control.
2. Knowingly causes, aids, abets or conspires with another to cause any person to violate any of the laws of this state or the rules of the department.
3. Obtains a license by fraud, misrepresentation, concealment or through inadvertence or mistake.
4. Is convicted of or forfeited bond on a charge of or pleads guilty to:
 - (a) Forgery, larceny, extortion or conspiracy to defraud.
 - (b) Wilful failure to make required payment or reports to any tribal, state or federal governmental agency, filing false reports with any tribal, state or federal governmental agency or any similar offense or offenses.
 - (c) Bribing or otherwise unlawfully influencing a public official of this state or any other state or jurisdiction.
 - (d) Any crime, whether a felony or misdemeanor, involving any gaming activity, physical harm to an individual or moral turpitude.
5. Makes a misrepresentation of or fails to disclose a material fact to the department.
6. Fails to prove, by clear and convincing evidence, that the person is qualified for licensure.
7. Is subject to current prosecution or pending charges or a conviction that is under appeal for any of the offenses included in this subsection. At the request of an applicant for an original license, the department may defer decision on the application during the pendency of the prosecution or appeal.
8. Has had a gaming license issued by any jurisdiction in the United States revoked or denied.

9. Demonstrates a wilful disregard for compliance with gaming regulatory authority in any jurisdiction, including suspension, revocation or denial of an application for a license or forfeiture of a license.
 10. Has pursued or is pursuing economic gain in an occupational manner or context in violation of the criminal laws of any state if the pursuit creates probable cause to believe that the person's participation in gaming or related activities would be detrimental to the proper operation of authorized gaming or a related activity in this state.
 11. Is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization thereby establishing probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of authorized gaming or related activities in this state.
 12. Is a person whose prior activities, criminal record, if any, habits and associations pose a threat to the public interest of this state or to the effective regulation and control of fantasy sports contests, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of fantasy sports contests, or the carrying on of the business and financial arrangements incidental thereto.
 13. Fails to provide any information requested by the department within seven days of the request for the information.
- B. The department, pursuant to the laws of this state, may summarily suspend a license issued pursuant to this chapter if the continued licensure of a person constitutes an immediate threat to the public health, safety or welfare.
- C. Any applicant for licensure agrees by making such application to be subject to state jurisdiction to the extent necessary to determine the applicant's qualification to hold such license, including all necessary administrative procedures, hearings and appeals pursuant to title 41, chapter 6 and the department's rules.
- D. An applicant for licensure may not withdraw an application without the department's written permission. The department may not unreasonably withhold permission to withdraw an application.
- E. For the purposes of this section:
1. "Career offender" means any individual who behaves in an occupational manner or context for the purposes of economic gain by violating federal law or the laws and public policy of this state.

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definitions (Arizona Revised Statutes (2022 Edition))**

2. "Career offender organization" means any group of individuals who operate together as career offenders.
3. "Occupational manner or context" means the systematic planning, administration, management or execution of an activity for financial gain.

History:

Amended by L. 2022, ch. 59,s. 8, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1210. Violations; classification; penalties

A. A person may not do any of the following:

1. Except as otherwise provided in this chapter, offer a fantasy sports contest in this state unless the person is licensed by the department.
2. Knowingly make a false statement on an application for a license under this chapter.
3. Knowingly provide false testimony to the department or any authorized representative of the department.

B. The department may not issue a license under this chapter to a person that violates subsection A of this section.

C. A person that violates subsection A, paragraph 1 of this section is guilty of a crime as follows:

1. For the first or second violation, the person is guilty of a class 3 misdemeanor.
2. For a third or subsequent violation, the person is guilty of a class 1 misdemeanor.

D. The department may issue a cease and desist order and obtain injunctive relief against a person that violates this chapter.

E. The Department may impose a civil penalty of not more than \$10,000 for a violation of this chapter, a rule adopted under this chapter or an order of the Department. A civil penalty imposed under this section is payable to this State and may be collected in a civil action brought by the Department.

F. The department may suspend, revoke or restrict the license of a fantasy sports contest operator that violates this chapter, a rule adopted under this chapter or an order of the department.

History:

Added by L. 2021, ch. 234, s. 3, eff. 4/15/2021.

§ 5-1211. Fees; penalty

A. The department shall establish a fee for the privilege of operating fantasy sports contests. In determining the fee, the department shall consider the highest percentage of revenue share that an Indian tribe pays to this state pursuant to the tribal-state gaming compacts and any amendments. the fee may not exceed ten percent of the fantasy sports contest operator's adjusted revenues. A fantasy sports contest operator shall report to the department and pay the fee from its monthly fantasy sports contest adjusted revenues, on a form and in the manner prescribed by the department. This subsection does not apply to an individual who offers a fantasy sports contest under section 5-1202, subsection B.

B. The fee established pursuant to subsection A of this section is due and payable to the department by the twenty-fifth day of each month and shall be based on monthly fantasy sports contest adjusted revenue derived during the previous month.

C. The department shall deposit, pursuant to sections 35-146 and 35-147, the fees collected pursuant to this section in the fantasy sports contest fund established by section 5-1212.

D. A licensed fantasy sports contest operator who fails to remit to the department the fees required under this section is liable, in addition to any sanction or penalty imposed under this chapter, for the payment of a penalty of five percent per month up to a maximum of twenty-five percent of the amounts ultimately found to be due, to be recovered by the department. Penalties imposed and collected by the department under this subsection must be deposited in the fantasy sports contest fund established by section 5-1212.

History:

Amended by L. 2022, ch. 306,s. 1, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1212. Fantasy sports contest fund

A. The fantasy sports contest fund is established consisting of monies deposited pursuant to section 5-1211 or from any other source. The department shall administer the fund. Monies in the fund are subject to legislative appropriation.

B. On notice from the department, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. The department may spend not more than ten percent of monies on the department's annual costs of regulating and enforcing this chapter unless otherwise provided by the legislature. at the end of each fiscal year, any revenues collected in excess of the amount appropriated from the fund shall be transferred to the state general fund.

History:

Amended by L. 2022, ch. 306,s. 2, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1213. Conditional enactment; notice

A. This chapter does not become effective unless and before each Indian tribe with a gaming facility in Pima county and each Indian tribe with a gaming facility in the Phoenix metropolitan area, as defined in the 2021 compact amendment, has entered into a 2021 gaming compact amendment and notice of the United States secretary of the interior's approval or approval by operation of law has been published in the federal register.

B. The department shall notify the director of the Arizona legislative council in writing of the date on which the condition was met.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1301. Definitions

In this chapter, unless the context otherwise requires:

1. "Adjusted gross event wagering receipts" means an event wagering operator's gross wagering receipts, excluding voided bets, minus winnings paid to authorized participants and any federal excise tax. A deduction from adjusted gross event wagering receipts equal to the value of free bets or promotional credits redeemed by authorized participants may be taken as provided in this paragraph. The deduction under this paragraph for free bets or promotional credits is limited to the first five years following the effective date of this section as follows:

(a) For years one and two, a deduction not to exceed Twenty percent of an event wagering operator's gross wagering Receipts.

(b) For year three, a deduction not to exceed fifteen percent of an event wagering operator's gross wagering receipts.

(c) For years four and five, a deduction not to exceed ten percent of an event wagering operator's GROSS wagering receipts.

(d) For year six and each year thereafter, a deduction of Free bets is not allowed. January 1 following the year in which the event Wagering operator begins event wagering operations is considered the first year Of event wagering for the purposes of this paragraph. An event wagering Operator may deduct up to twenty percent of an event wagering operator's gross Wagering receipts during any period that the operator conducts event wagering Before January 1 of the first year of event wagering Operations.

2. "Department" means the Department of Gaming.

3. "E-sport" means an organized, multiplayer video game competition, particularly between professional players, individually or as teams.

4. "Event wagering":

(a) Means accepting wagers on sports events or other events, portions of sports events or other events, the individual performance statistics of athletes in a sports event or combination of sports events or the individual performance of individuals in other events or a combination of other events by any system or method of wagering, including in person or over the Internet through websites and on mobile devices.

(b) Does not include a fantasy sports contest as defined in section 5-1201.

5. "Event wagering employee" means an employee of an event wagering operator, sports facility, management services provider or limited event wagering operator who is directly involved in the management or control of the conduct of event wagering under this chapter in this state.
6. "Event wagering facility" means a facility at which event wagering is conducted under this chapter.
7. "Event wagering operator" means either:
 - (a) An owner or operator of an Arizona professional sports team or franchise, an operator of a sports facility in this state that hosts an annual tournament on the PGA tour or a promoter of a National association for stock car auto racing national touring race in this state, or the designee of such an owner, operator or promoter, who is licensed to offer event wagering under this chapter. If an owner, operator or promoter that qualified for an event wagering operator license appoints a designee, the designee will be considered the event wagering operator and the licensee with respect to the applicable license for the purposes of this chapter.
 - (b) An arizona indian tribe or an entity fully owned by an Arizona indian tribe, or its designee, licensed to operate only mobile event Wagering outside the boundaries of its indian lands and throughout this state If it has signed the most recent tribal-state gaming compact and any applicable Appendices or amendments. If an indian tribe that qualified for an event Wagering operator license appoints a designee, the designee will be considered The event wagering operator and the licensee with respect to the applicable License for the purposes of this chapter.
8. "Limited event wagering operator" means a racetrack enclosure or additional wagering facility that holds a permit issued by the division of racing to offer wagers on horseracing and that is licensed under this chapter.
9. "Official league data" means statistics, results, outcomes and other data related to a sports event or other event obtained pursuant to an agreement with the relevant sports governing body or an entity expressly authorized by the sports governing body to provide such information to licensees that authorizes the use of such data for determining the outcome of sports wagers on sports events or other events.
10. "Licensee" means a person that holds an event wagering operator license, limited event wagering license, supplier license or management services provider license.

11. "Management services provider" means a person that Operates, manages or controls event wagering authorized by this chapter on Behalf of an event wagering operator or limited event wagering operator, Including developing or operating event wagering platforms and providing odds, Lines and global risk management, and may provide services to more than one Licensed event wagering operator or licensed limited event wagering Operator.

12. "Other event" means a competition of relative skill or an event authorized by the Department under this chapter.

13. "Person" means an individual, partnership, committee, association, corporation, Indian tribe or an entity fully owned by an Indian tribe, or any other organization or group of persons.

14. "Professional sport" means a sport conducted at the highest level league or organizational play for its respective sport and includes baseball, basketball, football, golf, hockey, soccer and motorsports.

15. "Prohibited conduct" includes any statement, action or other communication intended to unlawfully influence, manipulate or control a betting outcome of a sports event or other event of any individual occurrence or performance in a sports event or other event in exchange for financial gain or to avoid financial or physical harm.

16. "Prohibited participant" means:

(a) Any individual whose participation may undermine the integrity of the wagering, the sports event or the other event.

(b) Any individual who is prohibited from placing a wager as an agent, proxy or because of self-exclusion.

(c) Any individual who is an athlete, coach, referee, player, trainer or personnel of a sports organization in any sports event or other event overseen by that individual's sports organization who, based on information that is not publicly available, has the ability to determine or to unlawfully influence the outcome of a wager.

(d) An individual who holds a position of authority or influence sufficient to exert influence over the participants in a sporting contest, including coaches, managers, handlers and athletic trainers, such that their actions can affect the outcome of a wager.

(e) An individual with access to exclusive information on any sports event or other event overseen by that individual's sports governing body that is not

publicly available information or any individual identified by any lists provided by the sports governing body to the Department.

17. "Sports event" means a professional sport or athletic event, a collegiate sport or athletic event, a motor race event, an e-sport event or an Olympic event.

18. "Sports facility" means a facility that is owned by a commercial, state or local government or quasi-governmental entity that hosts professional sports events and that holds a seating capacity of more than ten thousand persons at its primary facility, one location in this state that hosts an annual golf tournament on the PGA tour and one location that holds an outdoor motorsports facility that hosts a national association for stock car auto racing national touring race.

19. "Sports governing body" means an organization headquartered in the United States that prescribes final rules and enforces codes of conduct with respect to a sports event and participants in a sports event.

20. "Tier one sports wager" means a sports wager that is determined solely by the final score or final outcome of the sports event and that is placed before the sports event has begun.

21. "Tier two sports wager" means a sports wager that is not a tier one sports wager.

22. "Supplier" means a person that manufactures, distributes or supplies event wagering equipment or software, including event wagering systems.

23. "Wager":

(a) Means a sum of money or thing of value risked on an uncertain occurrence.

(b) Includes tier one and tier two sports wagers, single-game bets, teaser bets, parlays, over-under bets, moneyline bets, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, straight bets and other wagers approved by the Department.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1302. Department of gaming; powers; duties

- A. The department shall enforce this chapter and supervise compliance with laws and rules relating to regulating and controlling event wagering in this state.
- B. The department may adopt rules in accordance with this chapter and Title 41, Chapter 6.
- C. The department shall evaluate all applicants to Determine suitability for issuing all event wagering operator licenses, limited Event wagering operator licenses, supplier licenses and management services Provider licenses and license renewals and shall charge and collect all fees Pursuant to this chapter.
- D. The department may deny, revoke or suspend licenses or renewals or deny an applicant's request to withdraw a license application.
- E. The department shall conduct background checks of event wagering operators, limited event wagering operators, management services providers and event wagering suppliers and may monitor and conduct periodic audits of event wagering operations and providers.
- F. Hearings shall be conducted pursuant to title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, any party aggrieved by a final order or decision of the department may seek judicial review pursuant to title 12, chapter 7, article 6.
- G. The department shall oversee event wagering and develop standards and procedures and engage in other duties as the director of the department prescribes to further the purposes of this Chapter, including establishing and enforcing standards and procedures for:
1. Collecting, depositing and disbursing all applicable license fees and payments as required by this Chapter.
 2. Operating event wagering and maintaining, testing, inspecting, approving and auditing event wagering accounts, platforms, hardware, software and data, including player, financial, accounting and wagering data.
 3. Operating event wagering facilities, including location, security and surveillance, departmental access, inspections and approvals.
 4. Licensing and requirements for the use of geolocation services to reasonably ensure persons engaging in event wagering are located in this

State or another departmentally authorized location allowed by this Chapter at the time of event wagering.

5. Approving other events on which wagers may be taken consistent with this Chapter.

6. Establishing mechanisms designed to detect and prevent the unauthorized use of player accounts and to detect and prevent fraud, money laundering and collusion, including a requirement that event wagering operations contract with a departmentally licensed integrity monitoring provider.

7. Paying winning wagers, reporting taxes and collecting debt setoffs from a payout of winnings that triggers the licensee's obligation to file a form w-2g or a substantially equivalent form with the united states internal REVENUE service, including overdue child support payments, State tax debt and debts as established by the Department of Economic Security.

H. The department may adopt rules authorizing event Wagering operators to offset loss and manage risk, directly or with a third Party approved by the department, through the use of a liquidity pool in this State or another jurisdiction, if the event wagering operator or its management Services provider is licensed by such jurisdiction to operate an event wagering Or sports betting business. An event wagering operator's use of a liquidity Pool does not eliminate its duty to ensure that it has sufficient monies Available to pay bettors.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1303. Event wagering; license required; exception

A. Event wagering may be conducted only to the extent that it is conducted in accordance with this chapter. A person may not offer any activity in connection with event wagering in this State unless all necessary licenses have been obtained in accordance with federal and state law and any applicable rules of the Department.

B. A wager placed by a participant in this state and received by an event wagering operator or its management services provider in this state is considered to be gambling or gaming that is conducted in this state.

C. A law that is inconsistent with this chapter does not apply to event wagering as provided for by this chapter.

D. This chapter does not apply to event wagering conducted exclusively on Indian lands as that term is defined in the Indian gaming regulatory act (P.L. 100-497; 102 Stat. 2467) by an Indian tribe operated in accordance with a Tribal-State Gaming Compact and any amendments. For purposes of this chapter, event wagering is conducted exclusively on Indian lands only if the individual who places the wager is physically present on Indian lands when the wager is initiated, received or otherwise made on equipment that is physically located on Indian lands, and the wager is initiated, received or otherwise made in conformity with the safe harbor requirements as provided in 31 United States Code section 5362 (10)(C). An event wagering operator may not accept any wager if the individual who places the wager is physically present on Indian lands when the wager is initiated.

E. A person may not provide or make available event wagering devices in a place of public accommodation in this state, including a club or other association, to enable individuals to place wagers except as provided by this chapter. This subsection does not apply to an event wagering operator aggregating, providing or making available event wagering devices within its own event wagering facility.

F. For purposes of this chapter, the intermediate routing of electronic data in connection with event wagering, including routing across state lines, does not determine the location or locations in which the wager is initiated, received or otherwise made.

G. An event wagering operator may use more than one event wagering platform to offer, conduct or operate event wagering. Only an event wagering operator or its management services provider may process, accept, offer or solicit wagers. The event wagering operator must clearly display its own brand or that of an affiliate on the event wagering platform that it uses.

The event wagering operator, in its sole discretion, may also elect to have the brand of the management services provider that it uses be the name and logos of the event wagering platform provider if the event wagering platform also clearly displays the event wagering operator's own trademarks and logos or those of an affiliate.

H. An owner, operator, promoter or Indian tribe that qualifies for an event wagering operator license and appoints a designee to be licensed as an event wagering operator is not responsible for the conduct of its designee.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1304. Licensure; application

A. The department may issue not more than ten event wagering operator licenses to applicants other than an Indian tribe. The department may issue not more than ten event wagering operator licenses to Indian tribes in this state if the Indian tribe receiving a license has signed the most recent tribal-state gaming compact and any applicable appendices or amendments. The department shall issue event wagering operator licenses only to applicants that are either of the following in compliance with this chapter:

1. An owner of an Arizona professional sports team or franchise, operator of a sports facility that hosts an annual tournament on the PGA tour, promoter of a national association for stock car auto racing national touring race conducted in this state or the owner's, operator's or promoter's designee, contracted to operate event wagering for both retail event wagering at a sports facility or its complex as prescribed in subsection D of this section and mobile event wagering throughout the state. If a designee is used, the designee shall be considered the applicant and be subject to any requirements of the application process rather than the owner, operator or promoter.
2. An Indian tribe, or an entity fully owned by an Indian tribe, or its designee contracted to operate only mobile event wagering outside the boundaries of its Indian lands and throughout the state if it has signed the most recent tribal-state gaming compact and any applicable appendices or amendments.

B. An applicant for an event wagering license shall submit an application in a form prescribed by the department, including all of the following:

1. The identification of the applicant's principal owners that own more than five percent of the company, the partners, the members of its board of directors and the officers, the identification of any holding company, including its principals, that is engaged by the applicant to assist in the management or operation of event wagering, if applicable, and information to verify that the applicant is qualified to hold a license under subsection A of this section.
2. A full set of fingerprints 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. The fingerprints shall be furnished by the applicant's officers and directors, if a corporation, members, if a limited liability company, and partners, if a partnership. An applicant convicted of a disqualifying offense may not be licensed.

3. A notice and description of civil judgments obtained against the applicant pertaining to antitrust or security regulation laws of the federal government, of this state or of any other state, jurisdiction, province or country.

4. If the applicant has conducted gaming operations in a jurisdiction that allows such activity, letters of compliance from the regulatory body that regulates event wagering, sports wagering or any other gaming activity that the applicant is licensed for, conducts or operates under jurisdiction of the regulatory body.

5. Information, documentation and assurances concerning financial background and resources of the applicant or its management services provider as may be required to establish by clear and convincing evidence the financial stability and responsibility of the applicant or its management services provider, including bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. Each applicant or its management services provider, in writing, shall authorize the examination of all bank accounts and records as may be deemed necessary by the department. The department may consider any relevant evidence of financial stability. The applicant is presumed to be financially stable if the applicant or its management services provider establishes by clear and convincing evidence that it meets each of the following standards:

(a) The ability to ensure the financial integrity of event wagering operations by maintaining a bankroll or equivalent provisions adequate to pay winning wagers to bettors when due. An applicant is presumed to have met this standard if the applicant or its management services provider maintains, on a daily basis, a bankroll or equivalent provisions in an amount that is at least equal to the average daily minimum bankroll or equivalent provisions, calculated on a monthly basis, for the corresponding month in the previous year.

(b) The ability to meet ongoing operating expenses that are essential to maintaining continuous and stable event wagering operations.

(c) The ability to pay, as and when due, all state and federal taxes.

6. Information to establish by clear and convincing evidence that the applicant or its management services provider has sufficient business ability and gaming experience as to establish the likelihood of creating and maintaining a successful and stable event wagering operation.

7. Information regarding the financial standing of the applicant, including each person or entity that has provided loans or financing to the applicant or its management services provider.

8. Information on the amount of adjusted gross event wagering receipts and associated adjusted gross receipts that the applicant expects to generate.

9. A nonrefundable application fee or annual licensing fee as prescribed by section 5-1310.

10. Any additional information required by the department to determine the financial and operational ability to fulfill its obligations as an event wagering operator.

C. Any applicant for licensure agrees to be subject to state jurisdiction to the extent necessary to determine the applicant's qualification to hold a license, including all necessary administrative procedures, hearings and appeals as provided in title 41, chapter 6 and department rules.

D. A license issued by the department pursuant to this section authorizes an event wagering operator identified in subsection A, paragraph 2 of this section to operate only mobile event wagering or an event wagering operator identified in subsection A, paragraph 1 of this section to offer both:

1. Event wagering in this state through an event wagering facility within a five-block radius of the event wagering operator's sports facility or, in the case of a designee, the sports facility or the designating owner, operator or promoter of a professional sports team, event or franchise. An event wagering facility within one mile of a tribal gaming facility must be:

(a) Within a sports complex that includes retail centers that are adjacent to the sports facility.

(b) Not more than one-fourth of a mile from a sports facility within the sports complex.

2. Event wagering through a mobile platform as specified by the department. A licensed event wagering operator or its designated management services provider may offer event wagering through an event wagering platform as specified by the department.

E. A license issued under this section is valid for five years if the licensee submits an annual license fee, maintains the qualifications to obtain a license under this section and substantially complies with this chapter and other laws and rules relating to event wagering. A licensee may renew its license by submitting an application in a form prescribed by department rule

and the application fee. A license may not be renewed if it is determined by the department that the event wagering operator has not substantially complied with this chapter or any other law regulating its event wagering operations or other operations licensed by the department. A licensee shall submit the nonrefundable annual license and application fees prescribed in section 5-1310 with its application for the renewal of its license.

F. A person may not apply for or obtain more than one event wagering operator license. A management services provider may offer services to more than one event wagering operator.

History:

Amended by L. 2022, ch. 59,s. 9, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

**§ 5-1305. License review; approval; fees; material change;
exemption; display; transferability**

A. On receipt of a completed Application and the required fee, the Department shall conduct the necessary background investigation to ensure the Applicant is qualified for licensure. On completion of the necessary background investigation, the Department shall either issue a license or deny the Application. If the Application is denied, the Department shall forward a statement setting forth the grounds for denial to the applicant together with all other documents on which the department relied, to the extent allowed by law.

B. The Department may conduct additional background investigations of any Person required to be licensed at any time while the license remains valid. The issuance of a license does not create or imply a right of employment or continued employment. The Event Wagering operator or Limited Event Wagering Operator may not employ and, if already employed, shall terminate an event wagering employee if it is determined that the person meets any of the following criteria:

1. Has been convicted of any gaming offense.
2. Has been convicted of a felony in the seven years before submitting an application unless that felony has been set aside.
3. Has ever been convicted of a felony related to extortion, burglary, larceny, bribery, embezzlement, robbery, racketeering, money laundering, forgery, fraud, murder, voluntary manslaughter, a sexual offense that requires the individual to register pursuant to section 13-3821 or kidnapping.
4. Knowingly and wilfully provides materially important false statements or information or omits materially important information on the person's employment Application or background questionnaire.
5. Is a Person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation and control of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

C. Not later than sixty days after the department receives a complete Application, the Department shall issue a license to the Applicant unless the background investigation the Department conducts discloses that the Applicant has a criminal history or unless other grounds sufficient to

**ARS 5-1305 License review; approval; fees; material change;
exemption; display; transferability (Arizona Revised Statutes
(2022 Edition))**

disqualify the Applicant are apparent on the face of the Application. If more than ten applications are received for a particular license type, the department shall adopt a process for ensuring an equal opportunity for all qualified applicants to obtain a license. The department shall review and approve or deny an application for a license as provided in title 41, chapter 6, article 10.

D. For each application for licensure or renewal of a license that is approved under this section, the amount of the application fee must be credited toward the licensee's license fee and the licensee shall remit the balance of the initial license fee to the Department on approval of a license. The fees collected from licensees under this section shall be deposited in the event wagering fund established by section 5-1318 and used by the Department to pay the actual operating and administrative expenses incurred for event wagering.

E. Each person licensed under this chapter shall give the Department written notice within thirty days after a material change is made to information provided in the licensee's application for a license or renewal.

F. Indian tribes within this State operating event wagering exclusively on Indian Lands are exempt from the licensure requirements of this section. Event wagering on Indian Lands is governed by the Tribal-State Gaming Compact, its Appendices, any amendments and the Indian Gaming Regulatory Act (P.L. 100-497; 102 stat. 2467).

G. Each licensee shall display its license conspicuously in the licensee's place of business or have the license available for inspection by an agent of the Department or a law enforcement agency. Each licensee that operates an event wagering platform shall conspicuously display a notice of the license on its platform's landing page.

H. The Department shall keep all information, records, interviews, reports, statements, memoranda or other data supplied to or used by the Department in the course of its review or investigation of an application for an event wagering operator license or renewal of a license confidential. The materials described in this subsection are exempt from disclosure pursuant to Title 39, Chapter 1, Article 2.

I. A license issued under this chapter may not be transferred to another person or entity without prior approval of the department. The department shall work with applicants and licensees to ensure there is no gap in the validity of the license.

History:

**ARS 5-1305 License review; approval; fees; material change;
exemption; display; transferability (Arizona Revised Statutes
(2022 Edition))**

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

**§ 5-1306. License revocation; suspension; denial; grounds;
definitions**

A. The department may revoke, suspend or deny a license when an applicant or licensee meets any of the following criteria:

1. Violates, fails or refuses to comply with the provisions, requirements, conditions, limitations or duties imposed by this chapter and other laws and rules, or if any such violation has occurred on any event wagering system operated by any such person or over which the person has substantial control.

2. Knowingly causes, aids, abets or conspires with another to cause any person to violate any of the laws of this state or the rules of the department.

3. Obtains a license by fraud, misrepresentation, concealment or through inadvertence or mistake.

4. Is convicted or forfeited bond on a charge of or pleads guilty to:

(a) Forgery, larceny, extortion or conspiracy to defraud.

(b) Wilful failure to make required payment or reports to any tribal, state or federal governmental agency, filing false reports with any tribal, state or federal governmental agency or any similar offense or offenses.

(c) Bribing or otherwise unlawfully influencing a public official of this state or any other state or jurisdiction.

(d) Any crime, whether a felony or misdemeanor, involving any gaming activity, physical harm to an individual or moral turpitude.

5. Misrepresents or fails to disclose a material fact to the department.

6. Fails to prove, by clear and convincing evidence, that the person is qualified for licensure.

7. Is subject to current prosecution or pending charges or a conviction that is under appeal for any of the offenses included in this subsection. At the request of an applicant for an original license, the department may defer decision on the application during the pendency of the prosecution or appeal.

8. Has had a gaming license issued by any jurisdiction in the United States revoked or denied.

9. Demonstrates a wilful disregard for compliance with gaming regulatory authority in any jurisdiction, including suspension, revocation or denial of an application for a license or forfeiture of a license.
 10. Has pursued or is pursuing economic gain in an occupational manner or context in violation of the criminal laws of any state if the pursuit creates probable cause to believe that the person's participation in gaming or related activities would be detrimental to the proper operation of an authorized gaming or related activity in this state.
 11. Is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization thereby establishing probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of the authorized gaming or related activities in this state.
 12. Is a person whose prior activities, criminal record, if any, habits and associations pose a threat to the public interest of this state or to the effective regulation and control of event wagering, creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of event wagering or the carrying on of the business and financial arrangements incidental thereto.
 13. Fails to provide any information requested by the department within seven days after the request for the information, except for good cause as determined by the department.
- B. Any applicant for licensure or holder of a license shall be entitled to a full hearing on any final action by the department that may result in the revocation, suspension or denial of licensure. The hearing shall be conducted in accordance with the procedures as provided in title 41, chapter 6 and the department's rules.
- C. The department may summarily suspend any license if the continued licensing of the person constitutes an immediate threat to the public health, safety or welfare.
- D. For the purposes of this section:
1. "Career offender" means any individual who behaves in an occupational manner or context for the purposes of economic gain by violating federal law or the laws and public policy of this state.
 2. "Career offender organization" means any group of individuals who operate together as career offenders.

**ARS 5-1306 License revocation; suspension; denial; grounds;
definitions (Arizona Revised Statutes (2022 Edition))**

3. "Occupational manner or context" means the systematic planning, administration, management or execution of an activity for financial gain.

History:

Amended by L. 2022, ch. 59, s. 10, eff. 9/23/2022. Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

§ 5-1307. Limited event wagering operator licenses; definition

A. An event wagering operator may partner with a racetrack enclosure or additional wagering facility that holds a permit that is issued by the Division of Racing to obtain a limited event wagering license for event wagering only at one specific physical location. On application, the department may issue a total of up to ten limited event wagering licenses to authorize event wagering at ten specific physical locations.

B. An entity seeking a limited event wagering license shall provide the following information to the department in its application:

1. A copy of its current approval by the Division of Racing to conduct racing meetings or approval as an additional wagering facility.

2. A letter from an event wagering operator of its partnership for the purposes of event wagering.

3. An attestation and map demonstrating that the specific physical location of the event wagering facility is located at least five miles from:

(a) A tribal gaming facility.

(b) The specific event wagering facility location operated by an event wagering operator.

(c) The specific event wagering facility location operated by another limited event wagering operator.

C. The department shall issue a limited event wagering license if the following conditions are met:

1. The applicant is in compliance with all Division of Racing rules regarding its racing or additional wagering facility operations.

2. The applicant has a current license with the division of racing.

3. The applicant is not currently the subject of an investigation by the division of racing for a violation of division rules.

4. The applicant submits fees as required by the department.

D. A limited event wagering license allows the licensee to conduct event wagering only in accordance with this chapter and any applicable rules adopted by the department.

**ARS 5-1307 Limited event wagering operator licenses; definition
(Arizona Revised Statutes (2022 Edition))**

E. A limited event wagering operator shall be licensed by the department before the commencement of operation and every two years thereafter. The license shall include each principal, the primary management official and key employees.

F. The department shall deposit, pursuant to sections 35-146 and 35-147, the fees collected from licenses under this section in the event wagering fund established by section 5-1318.

G. For the purposes of this section, "additional wagering facility" has the same meaning prescribed in section 5-101.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1308. Supplier license

A. The department may issue a supplier license to a person that manufactures, distributes, sells or leases event wagering equipment, systems or other gaming items to conduct event wagering and offers services related to the equipment or other gaming items and data to an event wagering operator or limited event wagering operator while the license is active. The department may accept a license issued by another jurisdiction that the department determines to have similar licensure requirements as evidence the applicant meets supplier licensure requirements.

B. The department may adopt rules that establish additional requirements for a supplier and any system or other equipment used for event wagering.

C. An applicant for a supplier license shall demonstrate that the equipment, system or services that the applicant plans to offer to the event wagering operator conform to standards established by the department and applicable State law. The department may accept approval by another jurisdiction that the department determines has similar equipment standards as evidence the applicant meets the standards established by the department and applicable State law.

D. An applicant shall pay to the department a nonrefundable license and application fee as prescribed by section 5-1310. A license is valid for two years. The department shall grant a renewal of a supplier license if the renewal applicant has continued to comply with all applicable statutory and regulatory requirements, submits the renewal application on a Department-issued renewal form and pays the renewal fee prescribed by section 5-1310. The department shall deposit, pursuant to sections 35-146 and 35-147, the fees collected from licensees under this subsection in the event wagering fund established by section 5-1318.

E. A supplier shall submit to the department a list of all event wagering equipment and services sold, delivered or offered to an event wagering operator in this State, as required by the department, all of which must be tested and approved by an independent testing laboratory approved by the department. An event wagering operator or limited event wagering operator may continue to use supplies acquired from a licensed supplier, even if a supplier's license expires or is otherwise canceled, unless the department finds a defect in the supplies.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

§ 5-1309. Management services provider license

A. An event wagering operator may contract with an entity to conduct event wagering in accordance with the rules of the department and this chapter. The entity shall obtain a license from the department as a management services provider pursuant to this chapter and any rules adopted by the department before the execution of any such contract. A management services provider may provide services to more than one event wagering operator or limited event wagering operator under its license.

B. Each applicant for a management services provider license shall meet all requirements for licensure and pay a nonrefundable license and application fee as prescribed by section 5-1310. The department may adopt rules establishing additional requirements for a management services provider. The department may accept a license issued by another jurisdiction that the department determines to have similar licensure requirements as evidence the applicant meets management services provider licensure requirements. The department shall deposit, pursuant to sections 35-146 and 35-147, the fees collected from licensees under this subsection in the event wagering fund established by section 5-1318.

C. Management services provider licenses shall be renewed every two years to licensees who continue to be in compliance with all requirements and who pay the renewal fee.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

§ 5-1310. License fees; bond

A. The department shall establish and collect fees for applications, initial licenses and renewals of the following:

1. Event Wagering Operator licenses.
2. Limited event wagering operator licenses.
3. Management services provider licenses.
4. Supplier licenses.

B. If actual costs incurred by the Department to investigate the background of an Applicant exceed the fees pursuant to subsection A of this section, those costs may be assessed to the Applicant during the investigation process. Payment in full to the Department shall be required before the department issues a license. The Department may require Event Wagering Operators, Limited Event Wagering Operators and Suppliers applying for licensure to post a bond sufficient to cover the actual costs that the Department anticipates will be incurred in conducting a background investigation of the applicant.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

**§ 5-1311. License restrictions; prohibited licensees; violation;
classification**

A. The following persons or their immediate family members may not apply for or obtain a license under this chapter:

1. An employee of the Department.
2. An employee of any professional sports team.
3. A coach of or player for a collegiate, professional or Olympic sports team or sport.
4. An Individual who has been convicted of a crime related to sports or event wagering on a sports event or other event, cheating, extortion, burglary, larceny, bribery, embezzlement, robbery, racketeering, money laundering, forgery or fraud.
5. An Individual who has the ability to directly affect the outcome of a sports event or other event for which wagers are allowed.
6. Any other category of individuals that, if licensed, would negatively affect the integrity of event wagering in this state.

B. A licensee may not:

1. Allow a person under twenty-one years of age to place a wager.
2. Offer, accept or extend credit to a bettor.
3. Target minors in advertising or promotions.
4. Offer or accept a wager on any event, outcome or occurrence, including a high school sports event offered, sponsored or played in connection with a public or private institution that offers education at the secondary level, other than a sports event or other event.
5. Accept a wager from a person who is on the department's list of self-excluded persons created and maintained by an Indian Tribe or the Department.
6. Accept a wager from a prohibited participant.

C. A violation of this section is:

1. For a first offense, a Class 3 misdemeanor.

**ARS 5-1311 License restrictions; prohibited licensees; violation;
classification (Arizona Revised Statutes (2022 Edition))**

2. For a second or subsequent offense, a Class 1 misdemeanor.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1312. Reporting

A. On or before September 30 of each year, the department shall prepare and submit an annual report to the governor, the president of the senate and the speaker of the house of representatives, and shall provide a copy to the secretary of state that contains the following information:

1. The number of active licensees by type.
2. The aggregate gross and net revenue of all licensees.
3. The number of investigations conducted to enforce this chapter.
4. The financial impact on this state of the event wagering industry in this state.

B. The report may be included with other information required to be submitted by the department annually. A report submitted under subsection A of this section may be submitted electronically.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1313. Escrow account; insurance; cash-on-hand; financial practices; audit; post-employment restrictions

A. The department shall establish:

1. The amount of a bond in escrow and the amount of cash that must be kept on hand to ensure that adequate reserves exist for payouts.
2. Any insurance requirements for a licensee.
3. Minimum requirements by which each licensee must exercise effective control over its internal fiscal affairs, including requirements for all of the following:
 - (a) Safeguarding assets and revenues, including evidence of indebtedness.
 - (b) Maintaining reliable records relating to accounts, transactions, profits and losses, operations and events.
 - (c) Risk management.
4. Requirements for internal and independent audits of licensees.
5. The manner in which periodic financial reports must be submitted to the Department from each licensee, including the financial information to be included in the reports.
6. The type of information deemed confidential financial or proprietary information that is not subject to any reporting requirements under this subsection.
7. Policies, procedures and processes designed to mitigate the risk of fraud, cheating or money laundering.
8. Any post-employment restrictions for department employees necessary to maintain the integrity of event wagering in this state.

B. The licensee may maintain the bond at any bank lawfully operating in this state or another entity as approved by the department, and the licensee must be the beneficiary of any interest accrued on the bond.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

§ 5-1314. Event wagering authorized

A. Notwithstanding any other law relating to wagering except for title 5, chapter 1 and title 13, chapter 33, the operation of event wagering is lawful only if the event wagering is conducted in accordance with this chapter and any other relevant laws and rules.

B. Notwithstanding section 5-112, wagers on racing meetings or simulcasted races may be made, offered or received through the means that other wagers allowed by this chapter are made, offered or received unless otherwise prohibited by federal law.

C. Each event wagering operator shall adopt and adhere to a written, comprehensive policy outlining the house rules governing the acceptance of wagers and payouts. The policy and rules must be approved by the department before the event wagering operator accepts wagers. The policy and rules must be readily available to a bettor at any event wagering facility location and on any event wagering platform.

D. The department shall adopt rules regarding:

1. The manner in which an event wagering operator accepts wagers from and issues payouts to bettors, including payouts in excess of \$10,000.

2. Reporting requirements necessary to comply with the Bank Secrecy Act (P.L. 91-508; 84 Stat. 1114) and Patriot Act (P.L. 107-56; 115 Stat. 272) and for any other applicable laws and rules governing reporting suspicious wagers.

E. Each wager placed in accordance with this chapter is deemed to be an enforceable contract under law.

F. If the governing body of a sport or sports league, organization or association or other authorized entity that maintains official league data opts to provide official league data for the purposes of event wagering, An event wagering operator shall exclusively use official league data for purposes of tier two sports wagers unless the event wagering operator can demonstrate to the department that the governing body of a sport or sports league, organization or association or other authorized entity cannot provide a feed of official league data for tier two sports wagers in accordance with commercially reasonable terms, as determined by the department.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

**ARS 5-1314 Event wagering authorized (Arizona Revised Statutes
(2022 Edition))**

§ 5-1315. Prohibited wagers

A. A person may not wager on any of the following:

1. Injuries, penalties and other types or forms of event wagering under this chapter that are contrary to law.

2. Individual actions, events, occurrences or nonoccurrences to be determined during a collegiate sports event, including on the performance or nonperformance of a team or individual participant during a collegiate sports event. This paragraph does not prohibit wagers on the overall outcome of a collegiate sports event or seasonal awards based on a player's cumulative overall play.

B. An event wagering operator may offer only parlay and proposition bets of the type or category as prescribed by the department. The department shall prescribe the types and categories of parlay and proposition bets that may be offered in this state, if any.

C. An event wagering operator, professional sports team, league, association or institution of higher education may submit to the department in writing a request to prohibit a type or form of event wagering, or to prohibit a category of persons from event wagering, if the event wagering operator, team, league, association or institution believes that such event wagering by type, form or category is contrary to public policy, unfair to consumers or affects the integrity or perceived integrity of a particular sport or the sports betting industry. Such a REQUEST shall provide a reasonable amount of time for the department to conduct due DILIGENCE before decision-making, absent the need to proceed on an emergency basis.

D. The department shall review A request made pursuant to subsection C of this section to determine if good cause exists to grant the request. In making a determination under this section, the department shall seek input from licensees unless the emergency nature of the matter does not provide sufficient time for such due diligence. The department shall respond to the request concerning a particular event before the start of the event, or if it is not feasible to respond before the start of the event, as soon as practicable.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

**§ 5-1316. Integrity; reporting prohibited or suspicious conduct;
investigations**

A. All licensees under this chapter shall immediately report to the department and the RELEVANT sports governing body that has requested to receive it any information relating to any of the following:

1. Abnormal betting activity or patterns that may indicate a concern with the integrity of a sports event or events, or any other conduct that corrupts a betting outcome of a sports event or events for purposes of financial gain, including match fixing.
2. Any potential breach of a sports governing body's internal rules and codes of conduct pertaining to event wagering.
3. Conduct that corrupts the betting outcome of event wagering for purposes of financial gain, including match fixing.
4. Suspicious or illegal event wagering activities, including cheating, the use of monies derived from illegal activity, wagers to conceal or launder monies derived from illegal activity, using agents to place wagers or using false identification.

B. Licensees shall report to the department, in real time and at the account level, information regarding a bettor, the amount and type of bet, the time the bet was placed, the location of the bet, including the internet protocol address if applicable, the outcome of the bet and records related to subsection A of this section. Information reported under this subsection must be submitted in the form and manner established by the department.

C. If a sports governing body has notified the Department that real-time information sharing for wagers placed on its sports events is necessary and desirable, licensees shall share the same information with the sports governing body or its designee with respect to wagers on its sports events. Such information may be provided in anonymized form and may be used by a sports governing body solely for integrity purposes.

D. The department and licensees shall make commercially reasonable efforts to cooperate with investigations conducted by sports governing bodies, including using commercially reasonable efforts to provide or facilitate the provision of betting INFORMATION for the purposes of investigations.

E. The department shall establish a hotline or other method of communication that allows any person to confidentially report to the department information about prohibited conduct.

F. The department shall investigate allegations and refer to prosecutorial entities prohibited conduct under this chapter.

G. The identity of any reporting person shall remain confidential unless that person authorizes disclosure of the person's identity or until such time as the allegation of prohibited conduct is referred to a prosecutorial entity.

H. If the department receives a complaint of prohibited conduct by an athlete, the Department shall notify the appropriate sports governing body to review the complaint for appropriate action.

I. Notwithstanding any confidentiality provisions of This chapter, the department may provide or facilitate access to Information regarding account-level betting information and data Files relating to persons placing wagers on notification by a Sports governing body of an official investigation being conducted Into a person or persons who are prohibited by that body from Participating in wagering or who are believed to have taken action That affects the integrity or perceived integrity of the sport it Governs. Any information obtained by a sports governing body shall Be kept confidential unless the information has been made public Through a criminal proceeding or by a court order.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1317. Sports governing body agreements

This chapter does not prohibit a sports governing body on whose events the department has authorized wagering from entering into agreements with licensees in which the sports governing body may share in the amount bet from sports wagering on the events of the sports governing body. A sports governing body is not required to obtain a license or any other approval from the department to lawfully accept such amounts.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

§ 5-1318. [See Note]Fees; event wagering fund

A. The department shall establish a fee for the privilege of operating event wagering. In determining the fee, the department shall consider the highest percentage of revenue share that an Indian tribe pays to this state pursuant to the tribal-state gaming compact. the fee may not exceed ten percent of the event wagering operator's adjusted gross event wagering receipts. The event wagering operator or designee has the option to choose either the cash accrual or modified accrual basis method of accounting for purposes of calculating the amount of the fee owed by the event wagering operator or designee. The fees required pursuant to this section are due and payable to the department not later than the twenty-fifth day of the month following the calendar month in which the adjusted gross event wagering receipts were received and the obligation was accrued.

B. The event wagering fund is established consisting of monies deposited pursuant to this chapter or from any other source. The department shall administer the fund. Except as otherwise provided in this chapter, the department shall deposit, pursuant to sections 35-146 and 35-147, all monies collected under this chapter in the event wagering fund. On or before the twenty-fifth of each month, ninety percent of the monies deposited in the event wagering fund from the previous month shall be transferred to the state general fund. On notice from the department, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. Unless otherwise determined by the legislature, the department may spend not more than ten percent of monies on the department's annual costs of regulating and enforcing this chapter .

History:

Amended by L. 2022, ch. 306,s. 4, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

Related Legislative Provision:

See L. 2022, ch. 306, s. 3.

§ 5-1319. Financial responsibility

On or before July 1 of each year, a licensed event Wagering operator and management services provider shall contract With a certified public accountant to perform an independent audit, In accordance with generally accepted accounting principles Published by the American Institute of Certified Public Accountants, the financial condition of the licensed event wagering Operator's or management services provider's total Operation for the previous fiscal year and to ensure compliance With this chapter and for any other purpose as prescribed by rule. Not later than one hundred eighty days after the end of the event Wagering operator's or management services provider's Fiscal year, a licensed event wagering operator or management Service provider shall submit the audit results under this section To the department. The results of an audit submitted to the Department under this section are confidential and privileged and Are not subject to disclosure as provided in title 39, chapter 1, Article 2.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

**§ 5-1320. Problem gambling; self-exclusion list; program;
liabilities**

A. A licensee shall develop a procedure to inform players that help is available if a Person has a problem with gambling and, at a minimum, provide the statewide toll-free helpline telephone number, text message and website information established by the Department.

B. The Department and licensees shall comply with the following requirements to allow problem gamblers to voluntarily exclude themselves from Event Wagering statewide:

1. The Department shall establish a list of Persons who, by acknowledging in a manner to be established by the Department that they are problem gamblers, voluntarily seek to exclude themselves from Event Wagering statewide. The Department shall establish procedures for the placement on and removal from the list of self-excluded Persons. A Person other than the Person seeking voluntary self-exclusion may not include that Person's name on the self-exclusion list of the Department.

2. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall establish procedures for advising Persons who inquire about self-exclusion and offer self-exclusion application forms provided by the Department to those Persons when requested.

3. The Department shall compile identifying information concerning self-excluded Persons. Such information shall contain, at a minimum, the full name and any aliases of the Person, a photograph of the Person, the social security or driver's license number of the Person and the current physical and electronic contact information, including mailing address, of the Person.

4. The Department shall provide the compiled information to Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators on a weekly basis. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall treat the information received from the Department under this Section as confidential, and the information shall not be disclosed except to vendors approved by the Department for purposes of complying with this Section, appropriate law enforcement agencies if needed in conducting an official investigation or unless ordered by a court of competent jurisdiction.

5. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall check the most recent self-excluded Persons list provided by the Department before creating a Player Account.

The Event Wagering Operator, Commercial Sports License Holder or Limited Event wagering Operator shall revoke a Player Account and remove all self-excluded Persons from all mailing lists of the Event Wagering Operator, Commercial Sports License Holder or Limited Event wagering Operator.

6. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall take commercially reasonable steps to ensure that Persons on the Department's list of self-excluded Persons are denied access to all Event Wagering.

7. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall take commercially reasonable steps to identify self-excluded Persons. If a self-excluded person participates in Event Wagering, the Event Wagering Operator, Commercial Sports License Holder and Limited Event wagering Operator shall report to the Department, at a minimum, the name of the self-excluded person, the date of participation, the amount or value of any monies, prizes or awards forfeited, if any, and any other action taken. The report shall be provided to the Department within twenty-four hours of discovery.

C. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators may not pay any prize or award to a Person who is on the Department's self-exclusion list. Any prize or award won by a Person on the self-exclusion list shall be forfeited and shall be donated by the Event Wagering Operator, Commercial Sports License Holder or Limited Event wagering Operator to the Department's Division of Problem Gambling on a quarterly basis by the twenty-fifth day of the following month.

D. Notwithstanding any other provision of this chapter, the Department's list of self-excluded Persons is not open to public inspection.

E. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall develop and maintain a program to mitigate problem gambling and curtail compulsive gambling, which may be in conjunction with the Department.

F. Before paying a Person a payout of winnings that triggers the licensee's obligation to file a form W-2g or a substantially equivalent form with the united states internal revenue service, the event wagering Facility Operator shall check to determine if the Person is identified as having a past-due, setoff obligation in the information provided to the department of gaming on a weekly basis by the administrative office of the courts or in the information provided on a monthly basis by the Department of Economic

Security division of Child Support Enforcement, Department of Economic Security supplemental nutrition assistance program and Assistance Overpayment and the Arizona Health Care Cost Containment System administration. The department of gaming shall provide to the event wagering facility operator information of persons with outstanding obligations. Subsequent to statutory state and federal tax withholding, if a Person receives a payout of winnings that triggers the licensee's obligation to file a form w-2g or a substantially equivalent form with the united states internal REVENUE service and is identified, the event wagering Facility Operator shall withhold the full amount of the winnings or such portion of the winnings that satisfies the Person's past-due, setoff obligation and forward those monies to the identifying agency. The event wagering Facility Operator shall disburse to the Person only that portion of the prize, if any, remaining after the Person's identified obligations have been satisfied. If the identified Person is also self-excluded, tax liabilities and setoff obligations are to be satisfied before any monies are donated to the Department's Division of Problem Gambling. If the identified Person has multiple liabilities, they shall be satisfied in this order:

1. Child Support Enforcement.
2. Supplemental nutrition assistance program and Assistance Overpayment.
3. The courts.
4. The Arizona Health Care Cost Containment System administration.

G. This Section does not waive an Indian Tribe's sovereign immunity from a suit by a Person listed and whose winnings are withheld for an identified obligation.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1321. Conditional enactment; notice

A. This chapter does not become effective unless and before each Indian tribe with a gaming facility in Pima county and each Indian tribe with a gaming facility in the Phoenix metropolitan area, as defined in the 2021 compact amendment, has entered into a 2021 gaming compact amendment and notice of the United States secretary of the interior's approval or approval by operation of law has been published in the federal register.

B. The department shall notify the director of the Arizona legislative council in writing of the date on which the condition was met.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

House Engrossed

fantasy sports betting; event wagering.

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 234
HOUSE BILL 2772

AN ACT

AMENDING SECTION 5-554, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 5-605; AMENDING TITLE 5, ARIZONA REVISED STATUTES, BY ADDING CHAPTERS 10 AND 11; AMENDING SECTIONS 13-3301 AND 13-3305, ARIZONA REVISED STATUTES; RELATING TO AMUSEMENTS AND SPORTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 5-554, Arizona Revised Statutes, is amended to
3 read:

4 5-554. Commission; director; powers and duties; definitions

5 A. The commission shall meet with the director not less than once
6 each quarter to make recommendations and set policy, receive reports from
7 the director and transact other business properly brought before the
8 commission.

9 B. The commission shall oversee a state lottery to produce the
10 maximum amount of net revenue consonant with the dignity of the state. To
11 achieve these ends, the commission shall authorize the director to adopt
12 rules in accordance with title 41, chapter 6. Rules adopted by the
13 director may include the following:

14 1. Subject to the approval of the commission, the types of lottery
15 games and the types of game play-styles to be conducted.

16 2. The method of selecting the winning tickets or shares for
17 noncomputerized online games, except that ~~no~~ A method may NOT be used
18 that, in whole or in part, depends on the results of a dog race, a horse
19 race, ANY GAMING ACTIVITY CONDUCTED PURSUANT TO THE 2021 TRIBAL-STATE
20 GAMING COMPACT AMENDMENTS or any ~~sporting~~ SPORTS event OR OTHER EVENT.

21 3. The manner of payment of prizes to the holders of winning
22 tickets or shares, including providing for payment by the purchase of
23 annuities in the case of prizes payable in installments, except that the
24 commission staff shall examine claims and may not pay any prize based on
25 altered, stolen or counterfeit tickets or based on any tickets that fail
26 to meet established validation requirements, including rules stated on the
27 ticket or in the published game rules, and confidential validation tests
28 applied consistently by the commission staff. No particular prize in a
29 lottery game may be paid more than once, and in the event of a binding
30 determination that more than one person is entitled to a particular prize,
31 the sole remedy of the claimants is the award to each of them of an equal
32 portion of the single prize.

33 4. The method to be used in selling tickets or shares, except that
34 no elected official's name may be printed on the tickets or shares. The
35 overall estimated odds of winning some prize or some cash prize, as
36 appropriate, in a given game shall be printed on each ticket or share.

37 5. The licensing of agents to sell tickets or shares, except that a
38 person who is under eighteen years of age shall not be licensed as an
39 agent.

40 6. The manner and amount of compensation to be paid licensed sales
41 agents necessary to provide for the adequate availability of tickets or
42 shares to prospective buyers and for the convenience of the public,
43 including provision for variable compensation based on sales volume.

1 7. Matters necessary or desirable for the efficient and economical
2 operation and administration of the lottery and for the convenience of the
3 purchasers of tickets or shares and the holders of winning tickets or
4 shares.

5 8. THE LICENSING OF AUTHORIZED KENO LOCATIONS, INCLUDING THE
6 PERSONS THAT CONTROL THE BUSINESS OR OTHER ACTIVITY CONDUCTED AT AN
7 AUTHORIZED KENO LOCATION.

8 C. The commission shall authorize the director to issue orders and
9 shall approve orders issued by the director for the necessary operation of
10 the lottery. Orders issued under this subsection may include the
11 following:

12 1. The prices of tickets or shares in lottery games.

13 2. The themes, game play-styles, and names of lottery games and
14 definitions of symbols and other characters used in lottery games, except
15 that each ticket or share in a lottery game shall bear a unique
16 distinguishable serial number.

17 3. The sale of tickets or shares at a discount for promotional
18 purposes.

19 4. The prize structure of lottery games, including the number and
20 size of prizes available. Available prizes may include free tickets in
21 lottery games and merchandise prizes.

22 5. The frequency of drawings, if any, or other selections of
23 winning tickets or shares, except that:

24 (a) All drawings shall be open to the public.

25 (b) The actual selection of winning tickets or shares may not be
26 performed by an employee or member of the commission.

27 (c) Noncomputerized online game drawings shall be witnessed by an
28 independent observer.

29 6. Requirements for eligibility for participation in grand drawings
30 or other runoff drawings, including requirements for the submission of
31 evidence of eligibility within a shorter period than that provided for
32 claims by section 5-568.

33 7. Incentive and bonus programs designed to increase sales of
34 lottery tickets or shares and to produce the maximum amount of net revenue
35 for this state.

36 8. The method used for the validation of a ticket, which may be by
37 physical or electronic presentation of a ticket.

38 D. Notwithstanding title 41, chapter 6 and subsection B of this
39 section, the director, subject to the approval of the commission, may
40 establish a policy, procedure or practice that relates to an existing
41 online game or a new online game that is the same type and has the same
42 type of game play-style as an online game currently being conducted by the
43 lottery or may modify an existing rule for an existing online game or a
44 new online game that is the same type and has the same type of game
45 play-style as an online game currently being conducted by the lottery,

1 including establishing or modifying the matrix for an online game by
2 giving notice of the establishment or modification at least thirty days
3 before the effective date of the establishment or modification.

4 E. The commission shall maintain and make the following information
5 available for public inspection at its offices during regular business
6 hours:

7 1. A detailed listing of the estimated number of prizes of each
8 particular denomination expected to be awarded in any instant game
9 currently on sale.

10 2. After the end of the claim period prescribed by section 5-568, a
11 listing of the total number of tickets or shares sold and the number of
12 prizes of each particular denomination awarded in each lottery game.

13 3. Definitions of all play symbols and other characters used in
14 each lottery game and instructions on how to play and how to win each
15 lottery game.

16 F. Any information that is maintained by the commission and that
17 would assist a person in locating or identifying a winning ticket or share
18 or that would otherwise compromise the integrity of any lottery game is
19 deemed confidential and is not subject to public inspection.

20 G. The commission, in addition to other games authorized by this
21 article, may establish multijurisdictional lottery games to be conducted
22 concurrently with other lottery games authorized under subsection B of
23 this section. The monies for prizes, for operating expenses and for
24 payment to the state general fund shall be accounted for separately as
25 nearly as practicable in the lottery commission's general accounting
26 system. The monies shall be derived from the revenues of
27 multijurisdictional lottery games.

28 H. The commission, in addition to other games authorized by this
29 article, shall establish special instant ticket games with play areas
30 protected by paper tabs designated for use by charitable organizations.
31 The monies for prizes and for operating expenses shall be accounted for
32 separately as nearly as practicable in the lottery commission's general
33 accounting system. Monies saved from the revenues of the special games,
34 by reason of operating efficiencies, shall become other revenue of the
35 lottery commission and revert to the state general fund, except that the
36 commission shall transfer the proceeds from any games that are sold from a
37 vending machine in an age-restricted area to the state treasurer for
38 deposit in the following amounts:

39 1. Nine hundred thousand dollars each fiscal year in the internet
40 crimes against children enforcement fund established by section 41-199.

41 2. One hundred thousand dollars each fiscal year in the victims'
42 rights enforcement fund established by section 41-1727.

43 3. Any monies in excess of the amounts listed in paragraphs 1 and 2
44 of this subsection, in the state lottery fund established by section
45 5-571.

1 I. The commission or director shall not establish or operate any
2 online or electronic keno game or any game played on the internet, EXCEPT
3 FOR THE ELECTRONIC KENO GAME AND THE MOBILE DRAW GAME AUTHORIZED IN
4 SUBSECTION J OF THIS SECTION.

5 J. FROM AND AFTER THE DATE ON WHICH THE CONDITIONS PRESCRIBED IN
6 SECTIONS 5-1213 AND 5-1321 ARE MET, THE COMMISSION OR DIRECTOR, IN
7 ADDITION TO ANY OTHER GAME AUTHORIZED IN THIS SECTION, MAY ESTABLISH AND
8 OPERATE A SINGLE ELECTRONIC KENO GAME AND A SINGLE MOBILE DRAW GAME ON A
9 CENTRALIZED COMPUTER SYSTEM CONTROLLED BY THE LOTTERY THAT ALLOWS A PLAYER
10 TO PLACE WAGERS, VIEW THE OUTCOME OF A GAME AND RECEIVE WINNINGS OVER THE
11 INTERNET, INCLUDING ON PERSONAL ELECTRONIC DEVICES.

12 K. AN ELECTRONIC KENO GAME CONDUCTED PURSUANT TO SUBSECTION J OF
13 THIS SECTION MAY BE OPERATED ONLY WITHIN AN AUTHORIZED KENO LOCATION. IF
14 THE ELECTRONIC KENO GAME IS AUTHORIZED TO BE PLAYED ON PERSONAL ELECTRONIC
15 DEVICES, PLAYERS SHALL BE GEOGRAPHICALLY RESTRICTED BY MEANS OF GEOFENCING
16 TO AUTHORIZED KENO LOCATIONS. ELECTRONIC KENO GAME DRAWS MAY NOT BE
17 CONDUCTED MORE FREQUENTLY THAN ONCE EVERY FOUR MINUTES. THE NUMBER OF
18 AUTHORIZED KENO LOCATIONS MAY NOT EXCEED THE NUMBER PUBLISHED ANNUALLY BY
19 THE DIRECTOR, WHICH IS EQUAL TO THE TOTAL NUMBER OF ESTABLISHMENTS
20 LICENSED BY THE DEPARTMENT OF GAMING TO ALLOW WAGERING ON LIVE HORSE RACES
21 AND SIMULCAST WAGERING PURSUANT TO SECTION 5-107, PLUS THE TOTAL NUMBER OF
22 CLASS 14 LIQUOR LICENSES THAT THE DEPARTMENT OF LIQUOR LICENSES AND
23 CONTROL ISSUED TO FRATERNAL ORGANIZATIONS OR VETERANS' ORGANIZATIONS AS OF
24 JANUARY 1, 2021. THE TOTAL NUMBER OF AUTHORIZED KENO LOCATIONS SHALL BE
25 AUTOMATICALLY INCREASED BY TWO PERCENT EVERY TWO YEARS.

26 L. A MOBILE DRAW GAME CONDUCTED PURSUANT TO SUBSECTION J OF THIS
27 SECTION MAY OFFER PLAYERS MULTIPLE GAME PLAY STYLES AND WAGERING OPTIONS.
28 PLAYERS OF THE MOBILE DRAW GAME MAY NOT PLAY OR WIN A PRIZE MORE
29 FREQUENTLY THAN ONCE PER HOUR.

30 M. AN ELECTRONIC KENO GAME OR MOBILE DRAW GAME CONDUCTED PURSUANT
31 TO THIS SECTION MAY NOT PRESENT THE PLAYER WITH A USER INTERFACE DEPICTING
32 SPINNING REELS OR THAT REPLICATES A SLOT MACHINE, BLACKJACK, POKER,
33 ROULETTE, CRAPS OR ANY OTHER CASINO-STYLE GAME OTHER THAN TRADITIONAL KENO
34 OR A TRADITIONAL LOTTERY DRAW GAME.

35 ~~J.~~ N. EXCEPT AS PROVIDED IN SUBSECTIONS J, K, L AND M OF THIS
36 SECTION, the commission or director shall not establish or operate any
37 lottery game or any type of game play-style, either individually or in
38 combination, that uses gaming devices or video lottery terminals as those
39 terms are used in section 5-601.02, including monitor games that produce
40 or display outcomes or results more than once per hour.

41 ~~K.~~ O. The director shall print, in a prominent location on each
42 lottery ticket or share, a statement that help is available if a person
43 has a problem with gambling and a toll-free telephone number where problem
44 gambling assistance is available. The director shall require all licensed
45 agents to post a sign with the statement that help is available if a

1 person has a problem with gambling and the toll-free telephone number at
2 the point of sale as prescribed and supplied by the director.

3 ~~P.~~ P. For the purposes of this section:

4 1. "ADDITIONAL WAGERING FACILITY" HAS THE SAME MEANING PRESCRIBED
5 IN SECTION 5-101.

6 2. "AUTHORIZED KENO LOCATION" MEANS A PHYSICAL FACILITY LOCATED AT
7 LEAST FIVE MILES FROM AN INDIAN GAMING FACILITY THAT IS LICENSED BY THE
8 DIRECTOR IN THE SAME MANNER AS LICENSES ISSUED PURSUANT TO SECTION 5-562
9 BUT ONLY TO A FRATERNAL ORGANIZATION OR VETERANS' ORGANIZATION OR TO A
10 RACETRACK ENCLOSURE OR ADDITIONAL WAGERING FACILITY WHERE PARI-MUTUEL
11 WAGERING ON HORSE RACES IS CONDUCTED.

12 ~~3.~~ 3. "Charitable organization" means any nonprofit organization,
13 including not more than one auxiliary of that organization, that has
14 operated for charitable purposes in this state for at least two years
15 before submitting a license application under this article.

16 4. "ELECTRONIC KENO GAME" MEANS A HOUSE BANKING GAME IN WHICH:

17 (a) A PLAYER SELECTS FROM ONE TO TWENTY NUMBERS ON A CARD THAT
18 CONTAINS THE NUMBERS ONE THROUGH EIGHTY.

19 (b) THE LOTTERY RANDOMLY DRAWS TWENTY NUMBERS.

20 (c) PLAYERS WIN IF THE NUMBERS THEY SELECT CORRESPOND TO THE
21 NUMBERS DRAWN BY THE LOTTERY.

22 (d) THE LOTTERY PAYS ALL WINNERS, IF ANY, AND COLLECTS FROM ALL
23 LOSERS.

24 5. "FRATERNAL ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN
25 SECTION 5-401.

26 ~~6.~~ 6. "Game play-style" means the process or procedure that a
27 player must follow to determine if a lottery ticket or share is a winning
28 ticket or share.

29 ~~7.~~ 7. "Matrix" means the odds of winning a prize and the prize
30 payout amounts in a given game.

31 8. "MOBILE DRAW GAME" CONDUCTED PURSUANT TO SUBSECTION J OF THIS
32 SECTION, MEANS A LOTTERY DRAW GAME OFFERED TO PLAYERS OVER THE INTERNET,
33 INCLUDING ON MOBILE DEVICES, IN WHICH:

34 (a) A COMBINATION OF NUMBERS, SYMBOLS OR CHARACTERS IS SELECTED.

35 (b) A COMPUTER SYSTEM AUTHORIZED BY THE LOTTERY RANDOMLY SELECTS A
36 WINNING COMBINATION OF NUMBERS, SYMBOLS OR CHARACTERS.

37 (c) A COMPUTER SYSTEM VALIDATES ANY PRIZE AWARDED TO THE PLAYERS.

38 9. "OTHER EVENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 5-1301.

39 10. "SPORTS EVENT" HAS THE SAME MEANING PRESCRIBED IN SECTION
40 5-1301.

41 11. "VETERANS' ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN
42 SECTION 5-401.

1 Sec. 2. Title 5, chapter 6, article 1, Arizona Revised Statutes, is
2 amended by adding section 5-605, to read:

3 5-605. Tribal-state compacts; 2021 compact trust fund; annual
4 report; definition

5 A. THE 2021 COMPACT TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE
6 PURPOSES OF MITIGATING IMPACTS TO INDIAN TRIBES FROM GAMING AUTHORIZED BY
7 THE 2021 GAMING COMPACT AMENDMENT AND PROVIDING ECONOMIC BENEFITS TO
8 BENEFICIARY TRIBES, INCLUDING THOSE WITH AN EFFECTIVE GAMING COMPACT THAT
9 INCLUDES THE 2021 AMENDMENTS AND DO NOT ENGAGE IN GAMING. THE TRUST FUND
10 CONSISTS OF CONTRIBUTIONS FROM INDIAN TRIBES DESIGNATED IN THE 2021 GAMING
11 COMPACT AMENDMENTS. THE TRUST FUND SHALL NOT INCLUDE TRIBAL CONTRIBUTIONS
12 MADE PURSUANT TO SECTION 5-601.02, SUBSECTION H.

13 B. THE DEPARTMENT OF GAMING SHALL ADMINISTER THE 2021 COMPACT TRUST
14 FUND AS TRUSTEE IN ACCORDANCE WITH THE TERMS OF SECTION 12.1 OF THE 2021
15 GAMING COMPACT AMENDMENT. THE STATE TREASURER SHALL ACCEPT, SEPARATELY
16 ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY,
17 WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED BY SECTION 35-310 AND
18 WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY
19 EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR OF THE
20 DEPARTMENT OF GAMING, THE STATE TREASURER SHALL INVEST AND DIVEST ANY
21 TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS
22 35-313 AND 35-314.03, AND MONIES EARNED FROM THE INVESTMENT SHALL BE
23 CREDITED TO THE TRUST FUND.

24 C. THE BENEFICIARIES OF THE TRUST FUND ARE FEDERALLY RECOGNIZED
25 INDIAN TRIBES WITH A 2021 GAMING COMPACT AMENDMENT THAT ARE ELIGIBLE TO
26 RECEIVE PAYMENTS FROM THE TRUST FUND ACCORDING TO THE TERMS OF THE 2021
27 GAMING COMPACT AMENDMENT.

28 D. MONIES IN THE TRUST FUND SHALL BE DISBURSED EXCLUSIVELY FOR THE
29 PURPOSES PRESCRIBED IN THIS ARTICLE AND IN ACCORDANCE WITH THE 2021 GAMING
30 COMPACT AMENDMENT. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND
31 UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, SHALL BE CARRIED
32 FORWARD TO THE FOLLOWING YEAR AND SHALL NOT REVERT OR BE TRANSFERRED TO
33 ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN THE TRUST FUND
34 ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
35 APPROPRIATIONS.

36 E. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT OF GAMING
37 SHALL ISSUE A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE
38 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND EACH TRIBE THAT HAS EXECUTED A
39 2021 GAMING COMPACT AMENDMENT THAT DISCLOSES ALL MONIES DEPOSITED IN AND
40 DISBURSED FROM THE TRUST FUND DURING THE PRIOR FISCAL YEAR.

41 F. FOR THE PURPOSES OF THIS SECTION, "2021 GAMING COMPACT
42 AMENDMENT" MEANS A TRIBAL-STATE GAMING COMPACT AMENDMENT THAT BECOMES
43 EFFECTIVE AFTER JANUARY 1, 2021.

1 (e) A WINNING OUTCOME IS NOT BASED ON RANDOMIZED OR HISTORICAL
2 EVENTS OR ON THE SCORE, POINT SPREAD OR PERFORMANCE IN AN ATHLETIC EVENT
3 OF A SINGLE REAL-WORLD SPORTS TEAM, A SINGLE ATHLETE OR ANY COMBINATION OF
4 REAL-WORLD SPORTS TEAMS.

5 (f) THE FANTASY SPORTS CONTEST DOES NOT CONSTITUTE OR INVOLVE AND
6 IS NOT BASED ON ANY OF THE FOLLOWING:

7 (i) RACING THAT INVOLVES ANIMALS.

8 (ii) A GAME OR CONTEST ORDINARILY OFFERED BY A HORSE TRACK OR
9 CASINO FOR MONEY, CREDIT OR ANY REPRESENTATIVE OF VALUE, INCLUDING ANY
10 RACES, GAMES OR CONTESTS THAT INVOLVE HORSES OR THAT ARE PLAYED WITH CARDS
11 OR DICE.

12 (iii) A SLOT MACHINE OR OTHER MECHANICAL, ELECTROMECHANICAL OR
13 ELECTRONIC DEVICE, EQUIPMENT OR MACHINE.

14 (iv) POKER, BLACKJACK, FARO, MONTE, KENO, BINGO, FAN-TAN,
15 TWENTY-ONE, SEVEN AND A HALF, KLONDIKE, CRAPS, CHUCK-A-LUCK, CHINESE
16 CHUCK-A-LUCK, WHEEL OF FORTUNE, CHEMIN DE FER, BACCARAT, PAI GOW, BEAT THE
17 BANKER, PANGUINGUE, ROULETTE OR OTHER BANKING OR PERCENTAGE GAMES.

18 (v) ANY OTHER GAME OR DEVICE THAT IS AUTHORIZED OR THAT IS NOT
19 AUTHORIZED BY THIS STATE.

20 (vi) A HIGH SCHOOL OR YOUTH SPORTING EVENT OR ANY EVENT THAT IS NOT
21 AN ATHLETIC EVENT.

22 (vii) A CONTEST THAT INVOLVES OR RESULTS IN BETTING ON A RACE, A
23 GAME, A CONTEST OR A SPORT THAT CONSTITUTES EVENT WAGERING AS DEFINED IN
24 SECTION 5-1301.

25 7. "FANTASY SPORTS CONTEST ADJUSTED REVENUES" MEANS THE AMOUNT
26 EQUAL TO THE TOTAL OF ALL ENTRY FEES THAT A FANTASY SPORTS CONTEST
27 OPERATOR COLLECTS FROM ALL FANTASY SPORTS CONTEST PLAYERS MINUS THE TOTAL
28 OF ALL SUMS PAID OUT AS PRIZES OR AWARDS TO ALL FANTASY SPORTS CONTEST
29 PLAYERS, MULTIPLIED BY THE IN-STATE PERCENTAGE.

30 8. "FANTASY SPORTS CONTEST OPERATOR" OR "OPERATOR" MEANS A PERSON
31 THAT IS ENGAGED IN THE BUSINESS OF PROFESSIONALLY CONDUCTING PAID FANTASY
32 SPORTS CONTESTS FOR CASH OR OTHER PRIZES OR AWARDS FOR MEMBERS OF THE
33 GENERAL PUBLIC THAT REQUIRES CASH OR CASH EQUIVALENT AS AN ENTRY FEE TO BE
34 PAID BY A MEMBER OF THE GENERAL PUBLIC WHO PARTICIPATES IN A PAID FANTASY
35 SPORTS CONTEST.

36 9. "FANTASY SPORTS CONTEST PLATFORM" MEANS THE HARDWARE, SOFTWARE,
37 FIRMWARE, COMMUNICATIONS TECHNOLOGY OR OTHER EQUIPMENT, INCLUDING OPERATOR
38 PROCEDURES IMPLEMENTED TO ALLOW PLAYER PARTICIPATION IN DIGITAL OR ONLINE
39 FANTASY SPORTS CONTESTS, AND IF SUPPORTED, THE CORRESPONDING EQUIPMENT
40 RELATED TO THE DISPLAY OF THE OUTCOMES, AND OTHER SIMILAR INFORMATION
41 NECESSARY TO FACILITATE PLAYER PARTICIPATION IN WHICH A PLAYER IS PROVIDED
42 WITH THE MEANS TO ESTABLISH A PLAYER ACCOUNT AND THE FANTASY SPORTS
43 CONTEST OPERATOR IS PROVIDED WITH THE MEANS TO REVIEW PLAYER ACCOUNTS,
44 SUSPEND FANTASY SPORTS CONTESTS, GENERATE VARIOUS FINANCIAL TRANSACTION

1 AND ACCOUNT REPORTS, INPUT OUTCOMES FOR FANTASY SPORTS CONTESTS AND SET
2 ANY CONFIGURABLE PARAMETERS.

3 10. "FANTASY SPORTS CONTEST PLAYER" OR "PLAYER" MEANS AN INDIVIDUAL
4 WHO PARTICIPATES IN A FANTASY SPORTS CONTEST OFFERED BY A FANTASY SPORTS
5 CONTEST OPERATOR.

6 11. "FANTASY SPORTS CONTEST TEAM" MEANS THE SIMULATED TEAM COMPOSED
7 OF MULTIPLE INDIVIDUAL ATHLETES, EACH OF WHOM IS A MEMBER OF A REAL-WORLD
8 SPORTS TEAM THAT A FANTASY SPORTS CONTEST PLAYER SELECTS TO COMPETE IN A
9 FANTASY SPORTS CONTEST.

10 12. "HIGHLY EXPERIENCED PLAYER" MEANS A FANTASY SPORTS CONTEST
11 PLAYER WHO HAS DONE AT LEAST ONE OF THE FOLLOWING:

12 (a) ENTERED MORE THAN ONE THOUSAND FANTASY SPORTS CONTESTS OFFERED
13 BY A SINGLE FANTASY SPORTS CONTEST OPERATOR.

14 (b) WON MORE THAN THREE PRIZES OR AWARDS VALUED AT \$1,000 EACH OR
15 MORE FROM A SINGLE FANTASY SPORTS CONTEST OPERATOR.

16 13. "HOLDING COMPANY" MEANS A CORPORATION, FIRM, PARTNERSHIP,
17 LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, TRUST OR OTHER FORM OF
18 BUSINESS ORGANIZATION THAT IS NOT AN INDIVIDUAL AND THAT DIRECTLY OR
19 INDIRECTLY DOES EITHER OF THE FOLLOWING:

20 (a) HOLDS AN OWNERSHIP INTEREST OF TEN PERCENT OR MORE, AS
21 DETERMINED BY THE HOLDING COMPANY'S BOARD, IN A FANTASY SPORTS CONTEST
22 OPERATOR.

23 (b) HOLDS VOTING RIGHTS WITH THE POWER TO VOTE TEN PERCENT OR MORE
24 OF THE OUTSTANDING VOTING RIGHTS OF A FANTASY SPORTS CONTEST OPERATOR.

25 14. "IN-STATE PERCENTAGE" MEANS FOR EACH FANTASY SPORTS CONTEST,
26 THE PERCENTAGE, ROUNDED TO THE NEAREST TENTH OF A PERCENT, EQUAL TO THE
27 TOTAL ENTRY FEES COLLECTED FROM ALL IN-STATE PARTICIPANTS DIVIDED BY THE
28 TOTAL ENTRY FEES COLLECTED FROM ALL PARTICIPANTS IN THE FANTASY SPORTS
29 CONTEST, UNLESS OTHERWISE PRESCRIBED BY THE DEPARTMENT.

30 15. "KEY EMPLOYEE" MEANS AN EMPLOYEE OF A FANTASY SPORTS CONTEST
31 OPERATOR WHO HAS THE POWER TO EXERCISE SIGNIFICANT INFLUENCE OVER
32 DECISIONS CONCERNING THE FANTASY SPORTS CONTEST OPERATOR.

33 16. "LICENSE" MEANS AN APPROVAL THAT IS ISSUED BY THE DEPARTMENT TO
34 ANY PERSON OR ENTITY TO BE INVOLVED IN A FANTASY SPORTS OPERATION.

35 17. "MANAGEMENT COMPANY" MEANS A PERSON RETAINED BY A FANTASY
36 SPORTS CONTEST OPERATOR TO MANAGE A FANTASY SPORTS CONTEST PLATFORM AND
37 PROVIDE GENERAL ADMINISTRATION AND OTHER OPERATIONAL SERVICES.

38 18. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
39 ASSOCIATION, LIMITED LIABILITY COMPANY, FEDERALLY RECOGNIZED INDIAN TRIBE
40 OR OTHER LEGAL ENTITY.

41 19. "PLAYER ACCOUNT" MEANS AN ACCOUNT THAT IS ESTABLISHED BY A
42 PATRON FOR THE PURPOSE OF PARTICIPATING IN FANTASY SPORTS CONTESTS,
43 INCLUDING DEPOSITS, WITHDRAWALS, ENTRY FEES AND PAYOUTS.

44 20. "PRIZE OR AWARD" MEANS ANYTHING OF VALUE OR ANY AMOUNT OF CASH
45 OR CASH EQUIVALENTS.

1 21. "PROTECTED INFORMATION" MEANS INFORMATION RELATED TO PLAYING
2 FANTASY SPORTS CONTESTS BY A FANTASY SPORTS CONTEST PLAYER THAT IS NOT
3 READILY AVAILABLE TO THE GENERAL PUBLIC AND THAT IS OBTAINED AS A RESULT
4 OF A PERSON'S EMPLOYMENT IN RELATION TO A FANTASY SPORTS CONTEST.

5 22. "SCRIPT" MEANS A LIST OF COMMANDS THAT A FANTASY
6 CONTEST-RELATED COMPUTER PROGRAM CAN EXECUTE AND THAT IS CREATED BY A
7 FANTASY SPORTS CONTEST PLAYER OR BY A THIRD PARTY FOR A FANTASY SPORTS
8 CONTEST PLAYER TO AUTOMATE PROCESSES ON A FANTASY SPORTS CONTEST PLATFORM.

9 5-1202. Fantasy sports contests; exceptions; rules; licensure

10 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT
11 OFFER FANTASY SPORTS CONTESTS IN THIS STATE UNLESS THE PERSON IS LICENSED
12 BY THE DEPARTMENT AS A FANTASY SPORTS CONTEST OPERATOR.

13 B. AN INDIVIDUAL MAY OFFER ONE OR MORE FANTASY SPORTS CONTESTS IF
14 ALL OF THE FOLLOWING APPLY:

15 1. THE FANTASY SPORTS CONTESTS ARE NOT MADE AVAILABLE TO THE
16 GENERAL PUBLIC.

17 2. EACH OF THE FANTASY SPORTS CONTESTS IS LIMITED TO NOT MORE THAN
18 FIFTEEN TOTAL FANTASY SPORTS CONTEST PLAYERS.

19 3. THE INDIVIDUAL COLLECTS NOT MORE THAN \$10,000 IN TOTAL ENTRY
20 FEES FOR ALL FANTASY SPORTS CONTESTS OFFERED IN A CALENDAR YEAR, AT LEAST
21 NINETY-FIVE PERCENT OF WHICH ARE AWARDED TO THE FANTASY SPORTS CONTEST
22 PLAYERS.

23 C. AN INDIAN TRIBE THAT LAWFULLY CONDUCTS CLASS III GAMING PURSUANT
24 TO A TRIBAL-STATE GAMING COMPACT WITH THIS STATE, DIRECTLY OR THROUGH A
25 THIRD-PARTY OPERATOR, MAY OFFER AND CONDUCT FANTASY SPORTS CONTESTS
26 WITHOUT APPLYING FOR OR HOLDING A LICENSE PURSUANT TO THIS SECTION IF ALL
27 ACTIVITIES OF THE FANTASY SPORTS CONTEST OCCUR WITHIN THE BOUNDARY OF ITS
28 INDIAN LANDS AND THE INDIAN TRIBE COMPLIES WITH ANY REGULATIONS THAT ARE
29 INCLUDED IN THE COMPACT OR ITS APPENDICES REGARDING FANTASY SPORTS
30 CONTESTS.

31 D. TO ENSURE THE INTEGRITY OF FANTASY SPORTS CONTESTS, THE
32 DEPARTMENT HAS JURISDICTION OVER EACH PERSON INVOLVED IN CONDUCTING A
33 FANTASY SPORTS CONTEST. THE DEPARTMENT MAY ADOPT RULES RELATED TO
34 CONDUCTING FANTASY SPORTS CONTESTS, INCLUDING RULES PRESCRIBING PENALTIES
35 FOR VIOLATING THIS CHAPTER OR ANY RULES ADOPTED UNDER THIS CHAPTER.

36 E. EVERY APPLICANT FOR LICENSURE SHALL SUBMIT A COMPLETED
37 APPLICATION, ALONG WITH ANY REQUIRED INFORMATION, TO THE DEPARTMENT. THE
38 DEPARTMENT SHALL DETERMINE THE FORM AND CONTENT OF THE APPLICATION. EACH
39 APPLICATION SHALL BE ACCOMPANIED BY THE APPLICANT'S CURRENT PHOTOGRAPH AND
40 THE FEE REQUIRED BY THE DEPARTMENT. THE APPLICANT MUST ALSO SUBMIT A FULL
41 SET OF FINGERPRINTS TO THE DEPARTMENT FOR THE PURPOSE OF OBTAINING A STATE
42 AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC
43 LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT
44 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

1 F. THE INFORMATION REQUIRED BY THE DEPARTMENT SHALL INCLUDE
2 DOCUMENTATION OF ALL OF THE FOLLOWING:

3 1. THE NAME OF THE APPLICANT.
4 2. THE LOCATION OF THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS.
5 3. THE APPLICANT'S TELEPHONE NUMBER.
6 4. THE APPLICANT'S SOCIAL SECURITY NUMBER OR, IF APPLICABLE, THE
7 APPLICANT'S FEDERAL TAX IDENTIFICATION NUMBER.

8 5. THE NAME AND ADDRESS OF EACH INDIVIDUAL THAT HOLDS A TEN PERCENT
9 OR MORE OWNERSHIP INTEREST IN THE APPLICANT OR IN SHARES OF THE APPLICANT.

10 6. THE APPLICANT'S CRIMINAL RECORD, IF ANY, OR IF THE APPLICANT IS
11 A BUSINESS ENTITY, ON REQUEST, ANY CRIMINAL RECORD OF AN INDIVIDUAL WHO IS
12 A DIRECTOR, OFFICER OR KEY EMPLOYEE OF, OR ANY INDIVIDUAL WHO HAS A TEN
13 PERCENT OR MORE OWNERSHIP INTEREST IN, THE APPLICANT.

14 7. ANY OWNERSHIP INTEREST THAT A DIRECTOR, OFFICER, KEY EMPLOYEE OR
15 INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE APPLICANT HOLDS IN A PERSON
16 THAT IS OR WAS A FANTASY SPORTS CONTEST OPERATOR OR SIMILAR ENTITY IN ANY
17 JURISDICTION.

18 8. AN IDENTIFICATION OF ANY BUSINESS, INCLUDING, IF APPLICABLE, THE
19 STATE OF INCORPORATION OR REGISTRATION, IN WHICH AN APPLICANT, DIRECTOR,
20 OFFICER, KEY EMPLOYEE OR INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE
21 APPLICANT, HAS AN EQUITY INTEREST OF FIVE PERCENT OR MORE.

22 9. WHETHER AN APPLICANT, DIRECTOR, OFFICER, KEY EMPLOYEE OR
23 INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE APPLICANT HAS EVER APPLIED
24 FOR OR BEEN GRANTED ANY LICENSE, REGISTRATION OR CERTIFICATE ISSUED BY A
25 LICENSING AUTHORITY IN THIS STATE OR ANY OTHER JURISDICTION FOR A GAMING
26 ACTIVITY.

27 10. WHETHER AN APPLICANT, DIRECTOR, OFFICER, KEY EMPLOYEE OR
28 INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE APPLICANT HAS FILED OR BEEN
29 SERVED WITH A COMPLAINT OR OTHER NOTICE FILED BY A PUBLIC BODY REGARDING
30 THE DELINQUENCY IN PAYMENT OF OR DISPUTE OVER FILINGS CONCERNING THE
31 PAYMENT OF ANY TAX REQUIRED UNDER FEDERAL, STATE OR LOCAL LAW, INCLUDING
32 THE AMOUNT OF TAX, THE TYPE OF TAX, THE TAXING AGENCY AND THE TIME PERIODS
33 INVOLVED.

34 11. A DESCRIPTION OF ANY PHYSICAL FACILITY OPERATED BY THE
35 APPLICANT IN THIS STATE, THE EMPLOYEES WHO WORK AT THE FACILITY AND THE
36 NATURE OF THE BUSINESS CONDUCTED AT THE FACILITY.

37 12. INFORMATION SUFFICIENT TO SHOW, AS DETERMINED BY THE
38 DEPARTMENT, THAT THE APPLICANT CAN MEET THE REQUIREMENTS OF PROCEDURES
39 SUBMITTED BY THE APPLICANT UNDER SECTION 5-1203 AND UNDER ANY RULES
40 ADOPTED UNDER THIS CHAPTER.

41 G. THE DEPARTMENT MAY REQUIRE LICENSURE OF A HOLDING COMPANY, A
42 MANAGEMENT COMPANY OR ANY OTHER PERSON IT CONSIDERS SUFFICIENTLY CONNECTED
43 TO THE FANTASY SPORTS CONTEST OPERATOR IF THAT LICENSURE IS NECESSARY TO
44 PRESERVE THE INTEGRITY OF FANTASY SPORTS CONTESTS AND PROTECT FANTASY
45 SPORTS CONTEST PLAYERS.

1 H. A LICENSE ISSUED UNDER THIS SECTION IS VALID FOR TWO YEARS. THE
2 DEPARTMENT SHALL RENEW A LICENSE BIENNIALY IF THE APPLICANT DEMONSTRATES
3 CONTINUED ELIGIBILITY FOR LICENSURE UNDER THIS CHAPTER AND PAYS THE
4 RENEWAL FEE. NOTWITHSTANDING THIS SUBSECTION, THE DEPARTMENT MAY
5 INVESTIGATE A LICENSEE AT ANY TIME THE DEPARTMENT DETERMINES IT IS
6 NECESSARY TO ENSURE THAT THE LICENSEE REMAINS IN COMPLIANCE WITH THIS
7 CHAPTER AND THE RULES ADOPTED PURSUANT TO THIS CHAPTER.

8 I. THE DEPARTMENT SHALL ESTABLISH THE INITIAL LICENSE FEE AND THE
9 LICENSE RENEWAL FEE. THE DEPARTMENT MAY ASSESS INVESTIGATIVE COSTS IF THE
10 COST OF A LICENSURE INVESTIGATION EXCEEDS THE AMOUNT OF THE INITIAL
11 LICENSE OR RENEWAL FEE.

12 J. ON RECEIPT OF A COMPLETED APPLICATION AND THE REQUIRED FEE, THE
13 DEPARTMENT SHALL CONDUCT THE NECESSARY BACKGROUND INVESTIGATION TO
14 DETERMINE IF THE APPLICANT MEETS THE QUALIFICATIONS FOR LICENSURE. ON
15 COMPLETION OF THE NECESSARY BACKGROUND INVESTIGATION, THE DEPARTMENT SHALL
16 EITHER ISSUE A LICENSE OR DENY THE APPLICATION. IF THE APPLICATION FOR
17 LICENSURE IS DENIED, A STATEMENT SETTING FORTH THE GROUNDS FOR DENIAL
18 SHALL BE FORWARDED TO THE APPLICANT TOGETHER WITH ALL OTHER DOCUMENTS
19 RELIED ON BY THE DEPARTMENT, TO THE EXTENT ALLOWED BY LAW.

20 5-1203. Prohibited employees; procedures and controls

21 A. THE FANTASY SPORTS CONTEST OPERATOR MAY NOT EMPLOY AN INDIVIDUAL
22 AND, IF ALREADY EMPLOYED, SHALL TERMINATE AN EMPLOYEE WHO IS IDENTIFIED
23 THROUGH REGULATIONS ISSUED BY THE DEPARTMENT IF THE INDIVIDUAL MEETS ANY
24 OF THE FOLLOWING CRITERIA:

25 1. HAS BEEN CONVICTED OF ANY GAMING OFFENSE.

26 2. HAS BEEN CONVICTED OF A FELONY IN THE SEVEN YEARS BEFORE
27 SUBMISSION OF THE EMPLOYMENT APPLICATION UNLESS THAT FELONY HAS BEEN SET
28 ASIDE.

29 3. HAS EVER BEEN CONVICTED OF A FELONY RELATED TO EXTORTION,
30 BURGLARY, LARCENY, BRIBERY, EMBEZZLEMENT, ROBBERY, RACKETEERING, MONEY
31 LAUNDERING, FORGERY, FRAUD, MURDER, VOLUNTARY MANSLAUGHTER OR A SEXUAL
32 OFFENSE THAT REQUIRES THE INDIVIDUAL TO REGISTER PURSUANT TO SECTION
33 13-3821.

34 4. HAS KNOWINGLY AND WILFULLY PROVIDED MATERIALLY IMPORTANT FALSE
35 STATEMENTS OR INFORMATION OR OMITTED MATERIALLY IMPORTANT INFORMATION ON
36 THE INDIVIDUAL'S EMPLOYMENT APPLICATION OR BACKGROUND QUESTIONNAIRE.

37 5. IS AN INDIVIDUAL WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF
38 ANY, OR REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC
39 INTEREST OR TO THE EFFECTIVE REGULATION AND CONTROL OF GAMING OR CREATE OR
40 ENHANCE THE DANGERS OF UNSUITABLE, UNFAIR OR ILLEGAL PRACTICES, METHODS
41 AND ACTIVITIES IN CONDUCTING GAMING OR CARRYING ON THE BUSINESS AND
42 FINANCIAL ARRANGEMENTS INCIDENTAL TO GAMING.

1 B. AS A CONDITION OF LICENSURE, A FANTASY SPORTS CONTEST OPERATOR
2 MUST SUBMIT TO AND RECEIVE APPROVAL FROM THE DEPARTMENT FOR COMMERCIALY
3 REASONABLE PROCEDURES AND INTERNAL CONTROLS INTENDED TO DO ALL OF THE
4 FOLLOWING:

5 1. PREVENT THE FANTASY SPORTS CONTEST OPERATOR OR ITS OWNERS,
6 DIRECTORS, OFFICERS AND EMPLOYEES AND ANY RELATIVE OF ANY OF THESE
7 INDIVIDUALS LIVING IN THE SAME HOUSEHOLD FROM PARTICIPATING IN A FANTASY
8 SPORTS CONTEST OFFERED TO THE PUBLIC.

9 2. PREVENT THE EMPLOYEES OR AGENTS OF THE FANTASY SPORTS CONTEST
10 OPERATOR FROM SHARING PROTECTED INFORMATION WITH THIRD PARTIES UNLESS THE
11 PROTECTED INFORMATION IS OTHERWISE MADE PUBLICLY AVAILABLE.

12 3. PREVENT PARTICIPANTS AND OFFICIALS IN AN ATHLETIC EVENT FROM
13 PARTICIPATING IN A FANTASY SPORTS CONTEST THAT IS BASED ON THE ATHLETIC
14 EVENT.

15 4. ESTABLISH THE NUMBER OF ENTRIES A SINGLE FANTASY SPORTS CONTEST
16 PLAYER MAY ENTER IN A SINGLE FANTASY SPORTS CONTEST AND TAKE REASONABLE
17 STEPS TO PREVENT FANTASY SPORTS CONTEST PLAYERS FROM SUBMITTING MORE THAN
18 THE ALLOWABLE NUMBER OF ENTRIES.

19 5. IDENTIFY EACH HIGHLY EXPERIENCED PLAYER BY A SYMBOL ATTACHED TO
20 THE HIGHLY EXPERIENCED PLAYER'S USERNAME.

21 6. OFFER SOME FANTASY SPORTS CONTESTS THAT ARE OPEN ONLY TO PLAYERS
22 OTHER THAN HIGHLY EXPERIENCED PLAYERS.

23 7. EITHER OF THE FOLLOWING:

24 (a) SEGREGATE THE DEPOSITS IN THE FANTASY SPORTS CONTEST PLAYERS'
25 ACCOUNTS FROM OPERATIONAL MONEY.

26 (b) MAINTAIN A RESERVE IN THE FORM OF CASH, CASH EQUIVALENTS,
27 PAYMENT PROCESSOR RESERVES, PAYMENT PROCESSOR RECEIVABLES, AN IRREVOCABLE
28 LETTER OF CREDIT, A BOND OR A COMBINATION OF THESE, THE AGGREGATE AMOUNT
29 OF WHICH EXCEEDS THE TOTAL DOLLAR VALUE AMOUNT OF DEPOSITS IN THE FANTASY
30 SPORTS CONTEST PLAYERS' ACCOUNTS. THE RESERVE MAY NOT BE USED FOR
31 OPERATIONAL ACTIVITIES.

32 8. ENSURE COMPLIANCE WITH THE APPLICABLE STATE AND FEDERAL
33 REQUIREMENTS TO PROTECT THE PRIVACY AND ONLINE SECURITY OF A FANTASY
34 SPORTS CONTEST PLAYER AND THE FANTASY SPORTS CONTEST PLAYER'S ACCOUNT.

35 9. OTHERWISE ENSURE THE INTEGRITY OF FANTASY SPORTS CONTESTS.

36 C. A LICENSED FANTASY SPORTS CONTEST OPERATOR SHALL COMPLY WITH THE
37 PROCEDURES AND INTERNAL CONTROLS THAT ARE SUBMITTED TO AND APPROVED BY THE
38 DEPARTMENT UNDER SUBSECTION B OF THIS SECTION. A LICENSED FANTASY SPORTS
39 CONTEST OPERATOR MAY MAKE TECHNICAL ADJUSTMENTS TO ITS PROCEDURES AND
40 INTERNAL CONTROLS IF THE ADJUSTMENTS ARE NOT MATERIAL AND IT NOTIFIES THE
41 DEPARTMENT WITHIN TWENTY-ONE DAYS OF THE CHANGES BECOMING EFFECTIVE AND
42 CONTINUES TO MEET OR EXCEED THE STANDARDS REQUIRED BY THIS CHAPTER AND ANY
43 RULES ADOPTED BY THE DEPARTMENT.

1 D. PROCEDURES SUBMITTED TO THE DEPARTMENT UNDER SUBSECTION B OF
2 THIS SECTION ARE CONFIDENTIAL AND PRIVILEGED AND ARE NOT SUBJECT TO
3 DISCLOSURE UNDER TITLE 39, CHAPTER 1, ARTICLE 2.

4 5-1204. Financial responsibility

5 ON OR BEFORE JULY 1 OF EACH YEAR, A LICENSED FANTASY SPORTS CONTEST
6 OPERATOR SHALL CONTRACT WITH A CERTIFIED PUBLIC ACCOUNTANT TO PERFORM AN
7 INDEPENDENT AUDIT IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
8 PRINCIPLES OF THE FINANCIAL CONDITION OF THE LICENSED FANTASY SPORTS
9 CONTEST OPERATOR'S TOTAL OPERATION FOR THE PREVIOUS FISCAL YEAR AND TO
10 ENSURE COMPLIANCE WITH THIS CHAPTER AND FOR ANY OTHER PURPOSE AS
11 PRESCRIBED BY RULE. NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE END
12 OF THE FANTASY SPORTS CONTEST OPERATOR'S FISCAL YEAR, A LICENSED FANTASY
13 SPORTS CONTEST OPERATOR SHALL SUBMIT THE AUDIT RESULTS UNDER THIS SECTION
14 TO THE DEPARTMENT. THE RESULTS OF AN AUDIT SUBMITTED TO THE DEPARTMENT
15 UNDER THIS SECTION ARE CONFIDENTIAL AND PRIVILEGED AND ARE NOT SUBJECT TO
16 DISCLOSURE AS PROVIDED IN TITLE 39, CHAPTER 1, ARTICLE 2.

17 5-1205. Prohibitions; exception

18 A. A FANTASY SPORTS CONTEST OPERATOR SHALL PROHIBIT AN INDIVIDUAL
19 WHO IS UNDER TWENTY-ONE YEARS OF AGE FROM PARTICIPATING IN A FANTASY
20 SPORTS CONTEST.

21 B. A LICENSED FANTASY SPORTS CONTEST OPERATOR MAY NOT DO ANY OF THE
22 FOLLOWING:

23 1. ALLOW THE USE OF A SCRIPT THAT PROVIDES A FANTASY SPORTS CONTEST
24 PLAYER WITH AN UNFAIR COMPETITIVE ADVANTAGE. A SCRIPT MADE READILY
25 AVAILABLE TO ALL FANTASY SPORTS CONTEST PLAYERS DOES NOT PROVIDE A FANTASY
26 SPORTS CONTEST PLAYER WITH AN UNFAIR COMPETITIVE ADVANTAGE AND MAY NOT BE
27 DETERMINED OTHERWISE.

28 2. USE FALSE, DECEPTIVE OR MISLEADING ADVERTISING OR ADVERTISING
29 THAT IS NOT BASED ON FACT.

30 3. TARGET, IN ADVERTISING OR PROMOTIONS, EITHER OF THE FOLLOWING:

31 (a) INDIVIDUALS WHO HAVE RESTRICTED THEMSELVES FROM ENTERING A
32 FANTASY SPORTS CONTEST UNDER THE PROCEDURES ESTABLISHED BY THE DEPARTMENT
33 PURSUANT TO SECTION 5-1206.

34 (b) INDIVIDUALS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.

35 C. A FANTASY SPORTS CONTEST MAY NOT BE OFFERED ON, AT OR FROM ANY
36 OF THE FOLLOWING:

37 1. A KIOSK OR MACHINE OPEN TO PUBLIC USE AND PHYSICALLY LOCATED IN
38 A RETAIL BUSINESS LOCATION, BAR, RESTAURANT OR OTHER COMMERCIAL
39 ESTABLISHMENT.

40 2. A KIOSK OR MACHINE OPEN TO PUBLIC USE AND PHYSICALLY LOCATED IN
41 A PLACE OF PUBLIC ACCOMMODATION, EXCEPT THAT A FRATERNAL ORGANIZATION OR
42 VETERANS' ORGANIZATION AS DEFINED IN SECTION 5-401 OR A LICENSED RACETRACK
43 MAY OPERATE UP TO TWO KIOSKS FOR THE SOLE PURPOSE OF OFFERING FANTASY
44 SPORTS.

1 D. THIS SECTION DOES NOT APPLY TO A FEDERALLY RECOGNIZED INDIAN
2 TRIBE OPERATING UNDER ITS TRIBAL-STATE GAMING COMPACT AND ANY AMENDMENTS.

3 5-1206. Problem gambling; self-exclusion list; program;
4 liabilities

5 A. A FANTASY SPORTS CONTEST OPERATOR SHALL DEVELOP A PROCEDURE TO
6 INFORM FANTASY SPORTS CONTEST PLAYERS THAT HELP IS AVAILABLE IF AN
7 INDIVIDUAL HAS A PROBLEM WITH GAMBLING AND, AT A MINIMUM, PROVIDE THE
8 STATEWIDE TOLL-FREE HELPLINE TELEPHONE NUMBER, TEXT MESSAGE AND WEBSITE
9 INFORMATION ESTABLISHED BY THE DEPARTMENT.

10 B. THE DEPARTMENT AND THE FANTASY SPORTS CONTEST OPERATOR SHALL
11 COMPLY WITH THE FOLLOWING REQUIREMENTS TO ALLOW PROBLEM GAMBLERS TO
12 VOLUNTARILY EXCLUDE THEMSELVES FROM FANTASY SPORTS CONTESTS STATEWIDE:

13 1. THE DEPARTMENT SHALL ESTABLISH A LIST OF PERSONS WHO
14 ACKNOWLEDGE, IN A MANNER TO BE ESTABLISHED BY RULE, THAT THEY HAVE A
15 COMPULSIVE PLAY PROBLEM AND VOLUNTARILY SEEK TO EXCLUDE THEMSELVES FROM
16 FANTASY SPORTS CONTESTS STATEWIDE. THE DEPARTMENT SHALL ESTABLISH
17 PROCEDURES FOR THE PLACEMENT ON AND REMOVAL FROM THE LIST OF SELF-EXCLUDED
18 PERSONS. ONLY A PERSON SEEKING VOLUNTARY SELF-EXCLUSION SHALL BE ALLOWED
19 TO INCLUDE THE PERSON'S NAME ON THE SELF-EXCLUSION LIST OF THE DEPARTMENT.

20 2. THE FANTASY SPORTS CONTEST OPERATOR SHALL ESTABLISH PROCEDURES
21 FOR ADVISING PERSONS WHO INQUIRE ABOUT SELF-EXCLUSION AND OFFER
22 SELF-EXCLUSION APPLICATION FORMS PROVIDED BY THE DEPARTMENT TO THOSE
23 PERSONS WHEN REQUESTED.

24 3. THE DEPARTMENT SHALL COMPILE IDENTIFYING INFORMATION CONCERNING
25 SELF-EXCLUDED PERSONS. SUCH INFORMATION SHALL CONTAIN, AT A MINIMUM, THE
26 FULL NAME AND ANY ALIASES OF THE PERSON, A PHOTOGRAPH OF THE PERSON, THE
27 SOCIAL SECURITY OR DRIVER'S LICENSE NUMBER OF THE PERSON AND THE CURRENT
28 PHYSICAL AND ELECTRONIC CONTACT INFORMATION, INCLUDING MAILING ADDRESS, OF
29 THE PERSON.

30 4. THE DEPARTMENT, ON A WEEKLY BASIS, SHALL PROVIDE THE COMPILED
31 INFORMATION TO FANTASY SPORTS CONTEST OPERATORS. FANTASY SPORTS CONTEST
32 OPERATORS SHALL TREAT THE INFORMATION RECEIVED FROM THE DEPARTMENT UNDER
33 THIS SECTION AS CONFIDENTIAL, AND THE INFORMATION MAY NOT BE DISCLOSED
34 EXCEPT TO VENDORS APPROVED BY THE DEPARTMENT FOR PURPOSES OF COMPLYING
35 WITH THIS SECTION, APPROPRIATE LAW ENFORCEMENT AGENCIES IF NEEDED IN
36 CONDUCTING AN OFFICIAL INVESTIGATION, OR UNLESS ORDERED BY A COURT OF
37 COMPETENT JURISDICTION.

38 5. A FANTASY SPORTS CONTEST OPERATOR SHALL CHECK THE MOST RECENT
39 SELF-EXCLUDED PERSONS LIST PROVIDED BY THE DEPARTMENT BEFORE CREATING A
40 PLAYER ACCOUNT FOR ANY SELF-EXCLUDED PERSON. A FANTASY SPORTS CONTEST
41 OPERATOR SHALL REVOKE A PLAYER ACCOUNT AND REMOVE ALL SELF-EXCLUDED
42 PERSONS FROM ALL MARKETING LISTS OF THE FANTASY SPORTS CONTEST OPERATOR.

43 6. A FANTASY SPORTS CONTEST OPERATOR SHALL TAKE REASONABLE STEPS TO
44 ENSURE THAT PERSONS ON THE DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS ARE
45 DENIED ACCESS TO ALL FANTASY SPORTS CONTESTS.

- 1 7. A FANTASY SPORTS CONTEST OPERATOR SHALL TAKE REASONABLE STEPS TO
2 IDENTIFY SELF-EXCLUDED PERSONS.
- 3 8. IF A SELF-EXCLUDED PERSON PARTICIPATES IN A FANTASY SPORTS
4 CONTEST, THE FANTASY SPORTS CONTEST OPERATOR SHALL REPORT TO THE
5 DEPARTMENT, AT A MINIMUM, THE NAME OF THE SELF-EXCLUDED PERSON, THE DATE
6 OF PARTICIPATION, THE AMOUNT OR VALUE OF ANY MONIES, PRIZES OR AWARDS
7 FORFEITED, IF ANY, AND ANY OTHER ACTION TAKEN. THE REPORT SHALL BE
8 PROVIDED TO THE DEPARTMENT WITHIN TWENTY-FOUR HOURS OF DISCOVERY.
- 9 C. A FANTASY SPORTS CONTEST OPERATOR MAY NOT PAY ANY PRIZE OR AWARD
10 TO A PERSON WHO IS ON THE DEPARTMENT'S SELF-EXCLUSION LIST. ANY PRIZE OR
11 AWARD WON BY A PERSON ON THE SELF-EXCLUSION LIST SHALL BE FORFEITED AND
12 SHALL BE DONATED BY THE FANTASY SPORTS CONTEST OPERATOR TO THE
13 DEPARTMENT'S DIVISION OF PROBLEM GAMBLING ON A QUARTERLY BASIS BY THE
14 TWENTY-FIFTH DAY OF THE FOLLOWING MONTH.
- 15 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE
16 DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS IS NOT OPEN TO PUBLIC
17 INSPECTION.
- 18 E. A FANTASY SPORTS CONTEST OPERATOR SHALL DEVELOP AND MAINTAIN A
19 PROGRAM TO MITIGATE COMPULSIVE PLAY AND CURTAIL COMPULSIVE PLAY, WHICH MAY
20 BE IN CONJUNCTION WITH THE DEPARTMENT.
- 21 5-1207. Department of gaming; authority
- 22 THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS CHAPTER AS
23 PROVIDED IN TITLE 41, CHAPTER 6, INCLUDING RULES THAT DO ALL OF THE
24 FOLLOWING:
- 25 1. REQUIRE A FANTASY SPORTS CONTEST OPERATOR TO IMPLEMENT
26 COMMERCIALY REASONABLE PROCEDURES TO PROHIBIT ACCESS TO BOTH OF THE
27 FOLLOWING:
- 28 (a) INDIVIDUALS WHO REQUEST TO RESTRICT THEMSELVES FROM PLAYING
29 FANTASY SPORTS CONTESTS.
- 30 (b) INDIVIDUALS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.
- 31 2. PRESCRIBE REQUIREMENTS RELATED TO BEGINNING PLAYERS AND HIGHLY
32 EXPERIENCED PLAYERS.
- 33 3. SUSPEND THE ACCOUNT OF A FANTASY SPORTS CONTEST PLAYER WHO
34 VIOLATES THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.
- 35 4. PROVIDE A FANTASY SPORTS CONTEST PLAYER WITH ACCESS TO
36 INFORMATION ON PLAYING RESPONSIBLY AND HOW TO ASK FOR ASSISTANCE FOR
37 COMPULSIVE PLAY BEHAVIOR.
- 38 5. REQUIRE AN APPLICANT FOR A FANTASY SPORTS CONTEST OPERATOR
39 LICENSE TO DESIGNATE AT LEAST ONE KEY EMPLOYEE AS A CONDITION OF OBTAINING
40 A LICENSE.
- 41 6. INCLUDE ANY OTHER RULE THE DEPARTMENT DETERMINES IS NECESSARY TO
42 ENSURE THE INTEGRITY OF FANTASY SPORTS CONTESTS.

1 5-1208. Requirements

2 A. AFTER A FANTASY SPORTS CONTEST OPERATOR IS LICENSED, THE FANTASY
3 SPORTS CONTEST OPERATOR SHALL REPORT ANY CHANGE TO THE INFORMATION
4 REGARDING OWNERSHIP INCLUDED IN ITS APPLICATION WITH THE DEPARTMENT WITHIN
5 THIRTY DAYS AFTER THE CHANGE IS EFFECTIVE. THE FANTASY SPORTS CONTEST
6 OPERATOR'S LICENSE SHALL REMAIN VALID UNLESS THE DEPARTMENT DETERMINES
7 THAT THE FANTASY SPORTS CONTEST OPERATOR IS NO LONGER QUALIFIED TO
8 MAINTAIN THE LICENSE DUE TO THE CHANGE.

9 B. A LICENSED FANTASY SPORTS CONTEST OPERATOR SHALL RETAIN AND
10 MAINTAIN IN A PLACE SECURE FROM THEFT, LOSS OR DESTRUCTION ALL OF THE
11 RECORDS REQUIRED TO BE MAINTAINED UNDER THIS CHAPTER AND THE RULES ADOPTED
12 UNDER THIS CHAPTER FOR AT LEAST THREE YEARS AFTER THE DATE THE RECORD IS
13 CREATED.

14 C. A LICENSED FANTASY SPORTS CONTEST OPERATOR SHALL ORGANIZE ALL
15 RECORDS UNDER SUBSECTIONS A AND B OF THIS SECTION IN A MANNER THAT ENABLES
16 THE LICENSED FANTASY SPORTS CONTEST OPERATOR TO PROVIDE THE DEPARTMENT
17 WITH THE RECORDS.

18 D. INFORMATION OBTAINED UNDER THIS SECTION IS CONFIDENTIAL AND
19 PRIVILEGED AND IS NOT SUBJECT TO DISCLOSURE AS PROVIDED IN TITLE 39,
20 CHAPTER 1, ARTICLE 2.

21 E. IF A FANTASY SPORTS CONTEST OPERATOR IS REQUIRED TO FILE A FORM
22 1099-MISC OR OTHER SUBSTANTIALLY EQUIVALENT FORM WITH THE UNITED STATES
23 INTERNAL REVENUE SERVICE FOR A PERSON WHO IS IDENTIFIED BY THE ARIZONA
24 ADMINISTRATIVE OFFICE OF THE COURTS, THE DEPARTMENT OF ECONOMIC SECURITY
25 DIVISION OF CHILD SUPPORT ENFORCEMENT, THE DEPARTMENT OF ECONOMIC SECURITY
26 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE OVERPAYMENT OR
27 THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION AS OWING AN
28 OBLIGATION, THE FANTASY SPORTS CONTEST OPERATOR SHALL WITHHOLD FROM THE
29 PERSON'S ACCOUNT THE AMOUNT OF OBLIGATIONS OWED AT THE TIME THE FORM
30 1099-MISC OR A SUBSTANTIALLY EQUIVALENT FORM IS ISSUED, IF THE FANTASY
31 SPORTS OPERATOR HAS BEEN NOTIFIED BY THIS STATE OF THE OBLIGATION. AT
32 THAT TIME, THE FANTASY SPORTS CONTEST OPERATOR SHALL TRANSMIT THE AMOUNT
33 WITHHELD FOR OBLIGATIONS TO THE DEPARTMENT OF GAMING AND SHALL ALSO
34 TRANSMIT ANY INFORMATION REQUESTED BY THE DEPARTMENT OF GAMING. THE
35 DEPARTMENT OF GAMING SHALL PROVIDE INFORMATION TO THE FANTASY SPORTS
36 CONTEST OPERATOR OF PERSONS WITH OUTSTANDING OBLIGATIONS. IF THE
37 IDENTIFIED PERSON IS ALSO SELF-EXCLUDED, TAX LIABILITIES AND SETOFF
38 OBLIGATIONS SHALL BE SATISFIED BEFORE ANY MONIES ARE DONATED TO THE
39 DEPARTMENT OF GAMING DIVISION OF PROBLEM GAMBLING PURSUANT TO SECTION
40 5-1206. IF THE IDENTIFIED PERSON HAS MULTIPLE LIABILITIES, THOSE
41 LIABILITIES SHALL BE SATISFIED IN THE FOLLOWING ORDER:

- 42 1. CHILD SUPPORT ENFORCEMENT.
- 43 2. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE
44 OVERPAYMENT.
- 45 3. THE COURTS.

1 4. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.
2 5-1209. Revocation, suspension or denial of license; grounds;
3 definitions

4 A. THE DEPARTMENT MAY REVOKE, SUSPEND OR DENY A LICENSE IF AN
5 APPLICANT OR LICENSEE MEETS ANY OF THE FOLLOWING CRITERIA:

6 1. VIOLATES, FAILS OR REFUSES TO COMPLY WITH THE PROVISIONS,
7 REQUIREMENTS, CONDITIONS, LIMITATIONS OR DUTIES IMPOSED BY LAW OR RULE, OR
8 IF ANY SUCH VIOLATION OCCURS ON ANY FANTASY SPORTS CONTEST PLATFORM
9 OPERATED BY ANY SUCH PERSON OR OVER WHICH THE PERSON HAS SUBSTANTIAL
10 CONTROL.

11 2. KNOWINGLY CAUSES, AIDS, ABETS OR CONSPIRES WITH ANOTHER TO CAUSE
12 ANY PERSON TO VIOLATE ANY OF THE LAWS OF THIS STATE OR THE RULES OF THE
13 DEPARTMENT.

14 3. OBTAINS A LICENSE BY FRAUD, MISREPRESENTATION, CONCEALMENT OR
15 THROUGH INADVERTENCE OR MISTAKE.

16 4. IS CONVICTED OR FORFEITED BOND ON A CHARGE OF OR PLEADS GUILTY
17 TO:

18 (a) FORGERY, LARCENY, EXTORTION OR CONSPIRACY TO DEFRAUD.

19 (b) WILFUL FAILURE TO MAKE REQUIRED PAYMENT OR REPORTS TO ANY
20 TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY, FILING FALSE REPORTS WITH
21 ANY TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY OR ANY SIMILAR OFFENSE OR
22 OFFENSES.

23 (c) BRIBING OR OTHERWISE UNLAWFULLY INFLUENCING A PUBLIC OFFICIAL
24 OF THIS STATE OR ANY OTHER STATE OR JURISDICTION.

25 (d) ANY CRIME, WHETHER A FELONY OR MISDEMEANOR, INVOLVING ANY
26 GAMING ACTIVITY, PHYSICAL HARM TO AN INDIVIDUAL OR MORAL TURPITUDE.

27 5. MAKES A MISREPRESENTATION OF OR FAILS TO DISCLOSE A MATERIAL
28 FACT TO THE DEPARTMENT.

29 6. FAILS TO PROVE, BY CLEAR AND CONVINCING EVIDENCE, THAT THE
30 PERSON IS QUALIFIED FOR LICENSURE.

31 7. IS SUBJECT TO CURRENT PROSECUTION OR PENDING CHARGES OR A
32 CONVICTION THAT IS UNDER APPEAL FOR ANY OF THE OFFENSES INCLUDED IN THIS
33 SUBSECTION. AT THE REQUEST OF AN APPLICANT FOR AN ORIGINAL LICENSE, THE
34 DEPARTMENT MAY DEFER DECISION ON THE APPLICATION DURING THE PENDENCY OF
35 THE PROSECUTION OR APPEAL.

36 8. HAS HAD A GAMING LICENSE ISSUED BY ANY JURISDICTION IN THE
37 UNITED STATES REVOKED OR DENIED.

38 9. DEMONSTRATES A WILFUL DISREGARD FOR COMPLIANCE WITH GAMING
39 REGULATORY AUTHORITY IN ANY JURISDICTION, INCLUDING SUSPENSION, REVOCATION
40 OR DENIAL OF AN APPLICATION FOR A LICENSE OR FORFEITURE OF A LICENSE.

41 10. HAS PURSUED OR IS PURSUING ECONOMIC GAIN IN AN OCCUPATIONAL
42 MANNER OR CONTEXT IN VIOLATION OF THE CRIMINAL LAWS OF ANY STATE IF THE
43 PURSUIT CREATES PROBABLE CAUSE TO BELIEVE THAT THE PERSON'S PARTICIPATION
44 IN GAMING OR RELATED ACTIVITIES WOULD BE DETRIMENTAL TO THE PROPER
45 OPERATION OF AUTHORIZED GAMING OR A RELATED ACTIVITY IN THIS STATE.

1 11. IS A CAREER OFFENDER OR A MEMBER OF A CAREER OFFENDER
2 ORGANIZATION OR AN ASSOCIATE OF A CAREER OFFENDER OR CAREER OFFENDER
3 ORGANIZATION THEREBY ESTABLISHING PROBABLE CAUSE TO BELIEVE THAT THE
4 ASSOCIATION IS OF SUCH A NATURE AS TO BE DETRIMENTAL TO THE PROPER
5 OPERATION OF AUTHORIZED GAMING OR RELATED ACTIVITIES IN THIS STATE.

6 12. IS A PERSON WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF ANY,
7 REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC INTEREST
8 OF THIS STATE OR TO THE EFFECTIVE REGULATION AND CONTROL OF FANTASY SPORTS
9 CONTESTS, OR CREATES OR ENHANCES THE DANGERS OF UNSUITABLE, UNFAIR OR
10 ILLEGAL PRACTICES, METHODS AND ACTIVITIES IN THE CONDUCT OF FANTASY SPORTS
11 CONTESTS, OR THE CARRYING ON OF THE BUSINESS AND FINANCIAL ARRANGEMENTS
12 INCIDENTAL THERETO.

13 13. FAILS TO PROVIDE ANY INFORMATION REQUESTED BY THE DEPARTMENT
14 WITHIN SEVEN DAYS OF THE REQUEST FOR THE INFORMATION.

15 B. THE DEPARTMENT, PURSUANT TO THE LAWS OF THIS STATE, MAY
16 SUMMARILY SUSPEND A LICENSE ISSUED PURSUANT TO THIS CHAPTER IF THE
17 CONTINUED LICENSURE OF A PERSON CONSTITUTES AN IMMEDIATE THREAT TO THE
18 PUBLIC HEALTH, SAFETY OR WELFARE.

19 C. ANY APPLICANT FOR LICENSURE AGREES BY MAKING SUCH APPLICATION TO
20 BE SUBJECT TO STATE JURISDICTION TO THE EXTENT NECESSARY TO DETERMINE THE
21 APPLICANT'S QUALIFICATION TO HOLD SUCH LICENSE, INCLUDING ALL NECESSARY
22 ADMINISTRATIVE PROCEDURES, HEARINGS AND APPEALS PURSUANT TO TITLE 41,
23 CHAPTER 6 AND THE DEPARTMENT'S RULES.

24 D. AN APPLICANT FOR LICENSURE MAY NOT WITHDRAW AN APPLICATION
25 WITHOUT THE DEPARTMENT'S WRITTEN PERMISSION. THE DEPARTMENT MAY NOT
26 UNREASONABLY WITHHOLD PERMISSION TO WITHDRAW AN APPLICATION.

27 E. FOR THE PURPOSES OF THIS SECTION:

28 1. "CAREER OFFENDER" MEANS ANY INDIVIDUAL WHO BEHAVES IN AN
29 OCCUPATIONAL MANNER OR CONTEXT FOR THE PURPOSES OF ECONOMIC GAIN BY
30 VIOLATING FEDERAL LAW OR THE LAWS AND PUBLIC POLICY OF THIS STATE.

31 2. "CAREER OFFENDER ORGANIZATION" MEANS ANY GROUP OF INDIVIDUALS
32 WHO OPERATE TOGETHER AS CAREER OFFENDERS.

33 3. "OCCUPATIONAL MANNER OR CONTEXT" MEANS THE SYSTEMATIC PLANNING,
34 ADMINISTRATION, MANAGEMENT OR EXECUTION OF AN ACTIVITY FOR FINANCIAL GAIN.

35 5-1210. Violations; classification; penalties

36 A. A PERSON MAY NOT DO ANY OF THE FOLLOWING:

37 1. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, OFFER A FANTASY
38 SPORTS CONTEST IN THIS STATE UNLESS THE PERSON IS LICENSED BY THE
39 DEPARTMENT.

40 2. KNOWINGLY MAKE A FALSE STATEMENT ON AN APPLICATION FOR A LICENSE
41 UNDER THIS CHAPTER.

42 3. KNOWINGLY PROVIDE FALSE TESTIMONY TO THE DEPARTMENT OR ANY
43 AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT.

1 B. THE DEPARTMENT MAY NOT ISSUE A LICENSE UNDER THIS CHAPTER TO A
2 PERSON THAT VIOLATES SUBSECTION A OF THIS SECTION.

3 C. A PERSON THAT VIOLATES SUBSECTION A, PARAGRAPH 1 OF THIS SECTION
4 IS GUILTY OF A CRIME AS FOLLOWS:

5 1. FOR THE FIRST OR SECOND VIOLATION, THE PERSON IS GUILTY OF A
6 CLASS 3 MISDEMEANOR.

7 2. FOR A THIRD OR SUBSEQUENT VIOLATION, THE PERSON IS GUILTY OF A
8 CLASS 1 MISDEMEANOR.

9 D. THE DEPARTMENT MAY ISSUE A CEASE AND DESIST ORDER AND OBTAIN
10 INJUNCTIVE RELIEF AGAINST A PERSON THAT VIOLATES THIS CHAPTER.

11 E. THE DEPARTMENT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN
12 \$10,000 FOR A VIOLATION OF THIS CHAPTER, A RULE ADOPTED UNDER THIS CHAPTER
13 OR AN ORDER OF THE DEPARTMENT. A CIVIL PENALTY IMPOSED UNDER THIS SECTION
14 IS PAYABLE TO THIS STATE AND MAY BE COLLECTED IN A CIVIL ACTION BROUGHT BY
15 THE DEPARTMENT.

16 F. THE DEPARTMENT MAY SUSPEND, REVOKE OR RESTRICT THE LICENSE OF A
17 FANTASY SPORTS CONTEST OPERATOR THAT VIOLATES THIS CHAPTER, A RULE ADOPTED
18 UNDER THIS CHAPTER OR AN ORDER OF THE DEPARTMENT.

19 5-1211. Fees

20 A. THE DEPARTMENT SHALL ESTABLISH A FEE FOR THE PRIVILEGE OF
21 OPERATING FANTASY SPORTS CONTESTS. IN DETERMINING THE FEE, THE DEPARTMENT
22 SHALL CONSIDER THE HIGHEST PERCENTAGE OF REVENUE SHARE THAT AN INDIAN
23 TRIBE PAYS TO THIS STATE PURSUANT TO THE TRIBAL-STATE GAMING COMPACTS AND
24 ANY AMENDMENTS. A FANTASY SPORTS CONTEST OPERATOR SHALL REPORT TO THE
25 DEPARTMENT AND PAY THE FEE FROM ITS MONTHLY FANTASY SPORTS CONTEST
26 ADJUSTED REVENUES, ON A FORM AND IN THE MANNER PRESCRIBED BY THE
27 DEPARTMENT. THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL WHO OFFERS A
28 FANTASY SPORTS CONTEST UNDER SECTION 5-1202, SUBSECTION B.

29 B. THE FEE ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION IS
30 DUE AND PAYABLE TO THE DEPARTMENT BY THE TWENTY-FIFTH DAY OF EACH MONTH
31 AND SHALL BE BASED ON MONTHLY FANTASY SPORTS CONTEST ADJUSTED REVENUE
32 DERIVED DURING THE PREVIOUS MONTH.

33 C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
34 35-147, THE FEES COLLECTED PURSUANT TO THIS SECTION IN THE FANTASY SPORTS
35 CONTEST FUND ESTABLISHED BY SECTION 5-1212.

36 D. A LICENSED FANTASY SPORTS CONTEST OPERATOR WHO FAILS TO REMIT TO
37 THE DEPARTMENT THE FEES REQUIRED UNDER THIS SECTION IS LIABLE, IN ADDITION
38 TO ANY SANCTION OR PENALTY IMPOSED UNDER THIS CHAPTER, FOR THE PAYMENT OF
39 A PENALTY OF FIVE PERCENT PER MONTH UP TO A MAXIMUM OF TWENTY-FIVE PERCENT
40 OF THE AMOUNTS ULTIMATELY FOUND TO BE DUE, TO BE RECOVERED BY THE
41 DEPARTMENT. PENALTIES IMPOSED AND COLLECTED BY THE DEPARTMENT UNDER THIS
42 SUBSECTION MUST BE DEPOSITED IN THE FANTASY SPORTS CONTEST FUND
43 ESTABLISHED BY SECTION 5-1212.

1 EVENT WAGERING FOR THE PURPOSES OF THIS PARAGRAPH. AN EVENT WAGERING
2 OPERATOR MAY DEDUCT UP TO TWENTY PERCENT OF AN EVENT WAGERING OPERATOR'S
3 GROSS WAGERING RECEIPTS DURING ANY PERIOD THAT THE OPERATOR CONDUCTS EVENT
4 WAGERING BEFORE JANUARY 1 OF THE FIRST YEAR OF EVENT WAGERING OPERATIONS.

5 2. "DEPARTMENT" MEANS THE DEPARTMENT OF GAMING.

6 3. "E-SPORT" MEANS AN ORGANIZED, MULTIPLAYER VIDEO GAME
7 COMPETITION, PARTICULARLY BETWEEN PROFESSIONAL PLAYERS, INDIVIDUALLY OR AS
8 TEAMS.

9 4. "EVENT WAGERING":

10 (a) MEANS ACCEPTING WAGERS ON SPORTS EVENTS OR OTHER EVENTS,
11 PORTIONS OF SPORTS EVENTS OR OTHER EVENTS, THE INDIVIDUAL PERFORMANCE
12 STATISTICS OF ATHLETES IN A SPORTS EVENT OR COMBINATION OF SPORTS EVENTS
13 OR THE INDIVIDUAL PERFORMANCE OF INDIVIDUALS IN OTHER EVENTS OR A
14 COMBINATION OF OTHER EVENTS BY ANY SYSTEM OR METHOD OF WAGERING, INCLUDING
15 IN PERSON OR OVER THE INTERNET THROUGH WEBSITES AND ON MOBILE DEVICES.

16 (b) DOES NOT INCLUDE A FANTASY SPORTS CONTEST AS DEFINED IN SECTION
17 5-1201.

18 5. "EVENT WAGERING EMPLOYEE" MEANS AN EMPLOYEE OF AN EVENT WAGERING
19 OPERATOR, SPORTS FACILITY, MANAGEMENT SERVICES PROVIDER OR LIMITED EVENT
20 WAGERING OPERATOR WHO IS DIRECTLY INVOLVED IN THE MANAGEMENT OR CONTROL OF
21 THE CONDUCT OF EVENT WAGERING UNDER THIS CHAPTER IN THIS STATE.

22 6. "EVENT WAGERING FACILITY" MEANS A FACILITY AT WHICH EVENT
23 WAGERING IS CONDUCTED UNDER THIS CHAPTER.

24 7. "EVENT WAGERING OPERATOR" MEANS EITHER:

25 (a) AN OWNER OR OPERATOR OF AN ARIZONA PROFESSIONAL SPORTS TEAM OR
26 FRANCHISE, AN OPERATOR OF A SPORTS FACILITY IN THIS STATE THAT HOSTS AN
27 ANNUAL TOURNAMENT ON THE PGA TOUR OR A PROMOTER OF A NATIONAL ASSOCIATION
28 FOR STOCK CAR AUTO RACING NATIONAL TOURING RACE IN THIS STATE, OR THE
29 DESIGNEE OF SUCH AN OWNER, OPERATOR OR PROMOTER, WHO IS LICENSED TO OFFER
30 EVENT WAGERING UNDER THIS CHAPTER. IF AN OWNER, OPERATOR OR PROMOTER THAT
31 QUALIFIED FOR AN EVENT WAGERING OPERATOR LICENSE APPOINTS A DESIGNEE, THE
32 DESIGNEE WILL BE CONSIDERED THE EVENT WAGERING OPERATOR AND THE LICENSEE
33 WITH RESPECT TO THE APPLICABLE LICENSE FOR THE PURPOSES OF THIS CHAPTER.

34 (b) AN ARIZONA INDIAN TRIBE OR AN ENTITY FULLY OWNED BY AN ARIZONA
35 INDIAN TRIBE, OR ITS DESIGNEE, LICENSED TO OPERATE ONLY MOBILE EVENT
36 WAGERING OUTSIDE THE BOUNDARIES OF ITS INDIAN LANDS AND THROUGHOUT THIS
37 STATE IF IT HAS SIGNED THE MOST RECENT TRIBAL-STATE GAMING COMPACT AND ANY
38 APPLICABLE APPENDICES OR AMENDMENTS. IF AN INDIAN TRIBE THAT QUALIFIED
39 FOR AN EVENT WAGERING OPERATOR LICENSE APPOINTS A DESIGNEE, THE DESIGNEE
40 WILL BE CONSIDERED THE EVENT WAGERING OPERATOR AND THE LICENSEE WITH
41 RESPECT TO THE APPLICABLE LICENSE FOR THE PURPOSES OF THIS CHAPTER.

42 8. "LIMITED EVENT WAGERING OPERATOR" MEANS A RACETRACK ENCLOSURE OR
43 ADDITIONAL WAGERING FACILITY THAT HOLDS A PERMIT ISSUED BY THE DIVISION OF
44 RACING TO OFFER WAGERS ON HORSERACING AND THAT IS LICENSED UNDER THIS
45 CHAPTER.

1 9. "OFFICIAL LEAGUE DATA" MEANS STATISTICS, RESULTS, OUTCOMES AND
2 OTHER DATA RELATED TO A SPORTS EVENT OR OTHER EVENT OBTAINED PURSUANT TO
3 AN AGREEMENT WITH THE RELEVANT SPORTS GOVERNING BODY OR AN ENTITY
4 EXPRESSLY AUTHORIZED BY THE SPORTS GOVERNING BODY TO PROVIDE SUCH
5 INFORMATION TO LICENSEES THAT AUTHORIZES THE USE OF SUCH DATA FOR
6 DETERMINING THE OUTCOME OF SPORTS WAGERS ON SPORTS EVENTS OR OTHER EVENTS.

7 10. "LICENSEE" MEANS A PERSON THAT HOLDS AN EVENT WAGERING OPERATOR
8 LICENSE, LIMITED EVENT WAGERING LICENSE, SUPPLIER LICENSE OR MANAGEMENT
9 SERVICES PROVIDER LICENSE.

10 11. "MANAGEMENT SERVICES PROVIDER" MEANS A PERSON THAT OPERATES,
11 MANAGES OR CONTROLS EVENT WAGERING AUTHORIZED BY THIS CHAPTER ON BEHALF OF
12 AN EVENT WAGERING OPERATOR OR LIMITED EVENT WAGERING OPERATOR, INCLUDING
13 DEVELOPING OR OPERATING EVENT WAGERING PLATFORMS AND PROVIDING ODDS, LINES
14 AND GLOBAL RISK MANAGEMENT, AND MAY PROVIDE SERVICES TO MORE THAN ONE
15 LICENSED EVENT WAGERING OPERATOR OR LICENSED LIMITED EVENT WAGERING
16 OPERATOR.

17 12. "OTHER EVENT" MEANS A COMPETITION OF RELATIVE SKILL OR AN EVENT
18 AUTHORIZED BY THE DEPARTMENT UNDER THIS CHAPTER.

19 13. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, COMMITTEE,
20 ASSOCIATION, CORPORATION, INDIAN TRIBE OR AN ENTITY FULLY OWNED BY AN
21 INDIAN TRIBE, OR ANY OTHER ORGANIZATION OR GROUP OF PERSONS.

22 14. "PROFESSIONAL SPORT" MEANS A SPORT CONDUCTED AT THE HIGHEST
23 LEVEL LEAGUE OR ORGANIZATIONAL PLAY FOR ITS RESPECTIVE SPORT AND INCLUDES
24 BASEBALL, BASKETBALL, FOOTBALL, GOLF, HOCKEY, SOCCER AND MOTORSPORTS.

25 15. "PROHIBITED CONDUCT" INCLUDES ANY STATEMENT, ACTION OR OTHER
26 COMMUNICATION INTENDED TO UNLAWFULLY INFLUENCE, MANIPULATE OR CONTROL A
27 BETTING OUTCOME OF A SPORTS EVENT OR OTHER EVENT OF ANY INDIVIDUAL
28 OCCURRENCE OR PERFORMANCE IN A SPORTS EVENT OR OTHER EVENT IN EXCHANGE FOR
29 FINANCIAL GAIN OR TO AVOID FINANCIAL OR PHYSICAL HARM.

30 16. "PROHIBITED PARTICIPANT" MEANS:

31 (a) ANY INDIVIDUAL WHOSE PARTICIPATION MAY UNDERMINE THE INTEGRITY
32 OF THE WAGERING, THE SPORTS EVENT OR THE OTHER EVENT.

33 (b) ANY INDIVIDUAL WHO IS PROHIBITED FROM PLACING A WAGER AS AN
34 AGENT, PROXY OR BECAUSE OF SELF-EXCLUSION.

35 (c) ANY INDIVIDUAL WHO IS AN ATHLETE, COACH, REFEREE, PLAYER,
36 TRAINER OR PERSONNEL OF A SPORTS ORGANIZATION IN ANY SPORTS EVENT OR OTHER
37 EVENT OVERSEEN BY THAT INDIVIDUAL'S SPORTS ORGANIZATION WHO, BASED ON
38 INFORMATION THAT IS NOT PUBLICLY AVAILABLE, HAS THE ABILITY TO DETERMINE
39 OR TO UNLAWFULLY INFLUENCE THE OUTCOME OF A WAGER.

40 (d) AN INDIVIDUAL WHO HOLDS A POSITION OF AUTHORITY OR INFLUENCE
41 SUFFICIENT TO EXERT INFLUENCE OVER THE PARTICIPANTS IN A SPORTING CONTEST,
42 INCLUDING COACHES, MANAGERS, HANDLERS AND ATHLETIC TRAINERS, SUCH THAT
43 THEIR ACTIONS CAN AFFECT THE OUTCOME OF A WAGER.

44 (e) AN INDIVIDUAL WITH ACCESS TO EXCLUSIVE INFORMATION ON ANY
45 SPORTS EVENT OR OTHER EVENT OVERSEEN BY THAT INDIVIDUAL'S SPORTS GOVERNING

1 BODY THAT IS NOT PUBLICLY AVAILABLE INFORMATION OR ANY INDIVIDUAL
2 IDENTIFIED BY ANY LISTS PROVIDED BY THE SPORTS GOVERNING BODY TO THE
3 DEPARTMENT.

4 17. "SPORTS EVENT" MEANS A PROFESSIONAL SPORT OR ATHLETIC EVENT, A
5 COLLEGIATE SPORT OR ATHLETIC EVENT, A MOTOR RACE EVENT, AN E-SPORT EVENT
6 OR AN OLYMPIC EVENT.

7 18. "SPORTS FACILITY" MEANS A FACILITY THAT IS OWNED BY A
8 COMMERCIAL, STATE OR LOCAL GOVERNMENT OR QUASI-GOVERNMENTAL ENTITY THAT
9 HOSTS PROFESSIONAL SPORTS EVENTS AND THAT HOLDS A SEATING CAPACITY OF MORE
10 THAN TEN THOUSAND PERSONS AT ITS PRIMARY FACILITY, ONE LOCATION IN THIS
11 STATE THAT HOSTS AN ANNUAL GOLF TOURNAMENT ON THE PGA TOUR AND ONE
12 LOCATION THAT HOLDS AN OUTDOOR MOTORSPORTS FACILITY THAT HOSTS A NATIONAL
13 ASSOCIATION FOR STOCK CAR AUTO RACING NATIONAL TOURING RACE.

14 19. "SPORTS GOVERNING BODY" MEANS AN ORGANIZATION HEADQUARTERED IN
15 THE UNITED STATES THAT PRESCRIBES FINAL RULES AND ENFORCES CODES OF
16 CONDUCT WITH RESPECT TO A SPORTS EVENT AND PARTICIPANTS IN A SPORTS EVENT.

17 20. "TIER ONE SPORTS WAGER" MEANS A SPORTS WAGER THAT IS DETERMINED
18 SOLELY BY THE FINAL SCORE OR FINAL OUTCOME OF THE SPORTS EVENT AND THAT IS
19 PLACED BEFORE THE SPORTS EVENT HAS BEGUN.

20 21. "TIER TWO SPORTS WAGER" MEANS A SPORTS WAGER THAT IS NOT A TIER
21 ONE SPORTS WAGER.

22 22. "SUPPLIER" MEANS A PERSON THAT MANUFACTURES, DISTRIBUTES OR
23 SUPPLIES EVENT WAGERING EQUIPMENT OR SOFTWARE, INCLUDING EVENT WAGERING
24 SYSTEMS.

25 23. "WAGER":

26 (a) MEANS A SUM OF MONEY OR THING OF VALUE RISKED ON AN UNCERTAIN
27 OCCURRENCE.

28 (b) INCLUDES TIER ONE AND TIER TWO SPORTS WAGERS, SINGLE-GAME BETS,
29 TEASER BETS, PARLAYS, OVER-UNDER BETS, MONEYLINE BETS, POOLS, EXCHANGE
30 WAGERING, IN-GAME WAGERING, IN-PLAY BETS, PROPOSITION BETS, STRAIGHT BETS
31 AND OTHER WAGERS APPROVED BY THE DEPARTMENT.

32 5-1302. Department of gaming; powers; duties

33 A. THE DEPARTMENT SHALL ENFORCE THIS CHAPTER AND SUPERVISE
34 COMPLIANCE WITH LAWS AND RULES RELATING TO REGULATING AND CONTROLLING
35 EVENT WAGERING IN THIS STATE.

36 B. THE DEPARTMENT MAY ADOPT RULES IN ACCORDANCE WITH THIS CHAPTER
37 AND TITLE 41, CHAPTER 6.

38 C. THE DEPARTMENT SHALL EVALUATE ALL APPLICANTS TO DETERMINE
39 SUITABILITY FOR ISSUING ALL EVENT WAGERING OPERATOR LICENSES, LIMITED
40 EVENT WAGERING OPERATOR LICENSES, SUPPLIER LICENSES AND MANAGEMENT
41 SERVICES PROVIDER LICENSES AND LICENSE RENEWALS AND SHALL CHARGE AND
42 COLLECT ALL FEES PURSUANT TO THIS CHAPTER.

43 D. THE DEPARTMENT MAY DENY, REVOKE OR SUSPEND LICENSES OR RENEWALS
44 OR DENY AN APPLICANT'S REQUEST TO WITHDRAW A LICENSE APPLICATION.

1 E. THE DEPARTMENT SHALL CONDUCT BACKGROUND CHECKS OF EVENT WAGERING
2 OPERATORS, LIMITED EVENT WAGERING OPERATORS, MANAGEMENT SERVICES PROVIDERS
3 AND EVENT WAGERING SUPPLIERS AND MAY MONITOR AND CONDUCT PERIODIC AUDITS
4 OF EVENT WAGERING OPERATIONS AND PROVIDERS.

5 F. HEARINGS SHALL BE CONDUCTED PURSUANT TO TITLE 41, CHAPTER 6,
6 ARTICLE 10. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, ANY
7 PARTY AGGRIEVED BY A FINAL ORDER OR DECISION OF THE DEPARTMENT MAY SEEK
8 JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

9 G. THE DEPARTMENT SHALL OVERSEE EVENT WAGERING AND DEVELOP
10 STANDARDS AND PROCEDURES AND ENGAGE IN OTHER DUTIES AS THE DIRECTOR OF THE
11 DEPARTMENT PRESCRIBES TO FURTHER THE PURPOSES OF THIS CHAPTER, INCLUDING
12 ESTABLISHING AND ENFORCING STANDARDS AND PROCEDURES FOR:

13 1. COLLECTING, DEPOSITING AND DISBURSING ALL APPLICABLE LICENSE
14 FEES AND PAYMENTS AS REQUIRED BY THIS CHAPTER.

15 2. OPERATING EVENT WAGERING AND MAINTAINING, TESTING, INSPECTING,
16 APPROVING AND AUDITING EVENT WAGERING ACCOUNTS, PLATFORMS, HARDWARE,
17 SOFTWARE AND DATA, INCLUDING PLAYER, FINANCIAL, ACCOUNTING AND WAGERING
18 DATA.

19 3. OPERATING EVENT WAGERING FACILITIES, INCLUDING LOCATION,
20 SECURITY AND SURVEILLANCE, DEPARTMENTAL ACCESS, INSPECTIONS AND APPROVALS.

21 4. LICENSING AND REQUIREMENTS FOR THE USE OF GEOLOCATION SERVICES
22 TO REASONABLY ENSURE PERSONS ENGAGING IN EVENT WAGERING ARE LOCATED IN
23 THIS STATE OR ANOTHER DEPARTMENTALLY AUTHORIZED LOCATION ALLOWED BY THIS
24 CHAPTER AT THE TIME OF EVENT WAGERING.

25 5. APPROVING OTHER EVENTS ON WHICH WAGERS MAY BE TAKEN CONSISTENT
26 WITH THIS CHAPTER.

27 6. ESTABLISHING MECHANISMS DESIGNED TO DETECT AND PREVENT THE
28 UNAUTHORIZED USE OF PLAYER ACCOUNTS AND TO DETECT AND PREVENT FRAUD, MONEY
29 LAUNDERING AND COLLUSION, INCLUDING A REQUIREMENT THAT EVENT WAGERING
30 OPERATIONS CONTRACT WITH A DEPARTMENTALLY LICENSED INTEGRITY MONITORING
31 PROVIDER.

32 7. PAYING WINNING WAGERS, REPORTING TAXES AND COLLECTING DEBT
33 SETOFFS FROM A PAYOUT OF WINNINGS THAT TRIGGERS THE LICENSEE'S OBLIGATION
34 TO FILE A FORM W-2G OR A SUBSTANTIALLY EQUIVALENT FORM WITH THE UNITED
35 STATES INTERNAL REVENUE SERVICE, INCLUDING OVERDUE CHILD SUPPORT PAYMENTS,
36 STATE TAX DEBT AND DEBTS AS ESTABLISHED BY THE DEPARTMENT OF ECONOMIC
37 SECURITY.

38 H. THE DEPARTMENT MAY ADOPT RULES AUTHORIZING EVENT WAGERING
39 OPERATORS TO OFFSET LOSS AND MANAGE RISK, DIRECTLY OR WITH A THIRD PARTY
40 APPROVED BY THE DEPARTMENT, THROUGH THE USE OF A LIQUIDITY POOL IN THIS
41 STATE OR ANOTHER JURISDICTION, IF THE EVENT WAGERING OPERATOR OR ITS
42 MANAGEMENT SERVICES PROVIDER IS LICENSED BY SUCH JURISDICTION TO OPERATE
43 AN EVENT WAGERING OR SPORTS BETTING BUSINESS. AN EVENT WAGERING
44 OPERATOR'S USE OF A LIQUIDITY POOL DOES NOT ELIMINATE ITS DUTY TO ENSURE
45 THAT IT HAS SUFFICIENT MONIES AVAILABLE TO PAY BETTORS.

1 5-1303. Event wagering; license required; exception

2 A. EVENT WAGERING MAY BE CONDUCTED ONLY TO THE EXTENT THAT IT IS
3 CONDUCTED IN ACCORDANCE WITH THIS CHAPTER. A PERSON MAY NOT OFFER ANY
4 ACTIVITY IN CONNECTION WITH EVENT WAGERING IN THIS STATE UNLESS ALL
5 NECESSARY LICENSES HAVE BEEN OBTAINED IN ACCORDANCE WITH FEDERAL AND STATE
6 LAW AND ANY APPLICABLE RULES OF THE DEPARTMENT.

7 B. A WAGER PLACED BY A PARTICIPANT IN THIS STATE AND RECEIVED BY AN
8 EVENT WAGERING OPERATOR OR ITS MANAGEMENT SERVICES PROVIDER IN THIS STATE
9 IS CONSIDERED TO BE GAMBLING OR GAMING THAT IS CONDUCTED IN THIS STATE.

10 C. A LAW THAT IS INCONSISTENT WITH THIS CHAPTER DOES NOT APPLY TO
11 EVENT WAGERING AS PROVIDED FOR BY THIS CHAPTER.

12 D. THIS CHAPTER DOES NOT APPLY TO EVENT WAGERING CONDUCTED
13 EXCLUSIVELY ON INDIAN LANDS AS THAT TERM IS DEFINED IN THE INDIAN GAMING
14 REGULATORY ACT (P.L. 100-497; 102 STAT. 2467) BY AN INDIAN TRIBE OPERATED
15 IN ACCORDANCE WITH A TRIBAL-STATE GAMING COMPACT AND ANY AMENDMENTS. FOR
16 PURPOSES OF THIS CHAPTER, EVENT WAGERING IS CONDUCTED EXCLUSIVELY ON
17 INDIAN LANDS ONLY IF THE INDIVIDUAL WHO PLACES THE WAGER IS PHYSICALLY
18 PRESENT ON INDIAN LANDS WHEN THE WAGER IS INITIATED, RECEIVED OR OTHERWISE
19 MADE ON EQUIPMENT THAT IS PHYSICALLY LOCATED ON INDIAN LANDS, AND THE
20 WAGER IS INITIATED, RECEIVED OR OTHERWISE MADE IN CONFORMITY WITH THE SAFE
21 HARBOR REQUIREMENTS AS PROVIDED IN 31 UNITED STATES CODE SECTION
22 5362(10)(C). AN EVENT WAGERING OPERATOR MAY NOT ACCEPT ANY WAGER IF THE
23 INDIVIDUAL WHO PLACES THE WAGER IS PHYSICALLY PRESENT ON INDIAN LANDS WHEN
24 THE WAGER IS INITIATED.

25 E. A PERSON MAY NOT PROVIDE OR MAKE AVAILABLE EVENT WAGERING
26 DEVICES IN A PLACE OF PUBLIC ACCOMMODATION IN THIS STATE, INCLUDING A CLUB
27 OR OTHER ASSOCIATION, TO ENABLE INDIVIDUALS TO PLACE WAGERS EXCEPT AS
28 PROVIDED BY THIS CHAPTER. THIS SUBSECTION DOES NOT APPLY TO AN EVENT
29 WAGERING OPERATOR AGGREGATING, PROVIDING OR MAKING AVAILABLE EVENT
30 WAGERING DEVICES WITHIN ITS OWN EVENT WAGERING FACILITY.

31 F. FOR PURPOSES OF THIS CHAPTER, THE INTERMEDIATE ROUTING OF
32 ELECTRONIC DATA IN CONNECTION WITH EVENT WAGERING, INCLUDING ROUTING
33 ACROSS STATE LINES, DOES NOT DETERMINE THE LOCATION OR LOCATIONS IN WHICH
34 THE WAGER IS INITIATED, RECEIVED OR OTHERWISE MADE.

35 G. AN EVENT WAGERING OPERATOR MAY USE MORE THAN ONE EVENT WAGERING
36 PLATFORM TO OFFER, CONDUCT OR OPERATE EVENT WAGERING. ONLY AN EVENT
37 WAGERING OPERATOR OR ITS MANAGEMENT SERVICES PROVIDER MAY PROCESS, ACCEPT,
38 OFFER OR SOLICIT WAGERS. THE EVENT WAGERING OPERATOR MUST CLEARLY DISPLAY
39 ITS OWN BRAND OR THAT OF AN AFFILIATE ON THE EVENT WAGERING PLATFORM THAT
40 IT USES. THE EVENT WAGERING OPERATOR, IN ITS SOLE DISCRETION, MAY ALSO
41 ELECT TO HAVE THE BRAND OF THE MANAGEMENT SERVICES PROVIDER THAT IT USES
42 BE THE NAME AND LOGOS OF THE EVENT WAGERING PLATFORM PROVIDER IF THE EVENT
43 WAGERING PLATFORM ALSO CLEARLY DISPLAYS THE EVENT WAGERING OPERATOR'S OWN
44 TRADEMARKS AND LOGOS OR THOSE OF AN AFFILIATE.

1 H. AN OWNER, OPERATOR, PROMOTER OR INDIAN TRIBE THAT QUALIFIES FOR
2 AN EVENT WAGERING OPERATOR LICENSE AND APPOINTS A DESIGNEE TO BE LICENSED
3 AS AN EVENT WAGERING OPERATOR IS NOT RESPONSIBLE FOR THE CONDUCT OF ITS
4 DESIGNEE.

5 5-1304. Licensure; application

6 A. THE DEPARTMENT MAY ISSUE NOT MORE THAN TEN EVENT WAGERING
7 OPERATOR LICENSES TO APPLICANTS OTHER THAN AN INDIAN TRIBE. THE
8 DEPARTMENT MAY ISSUE NOT MORE THAN TEN EVENT WAGERING OPERATOR LICENSES TO
9 INDIAN TRIBES IN THIS STATE IF THE INDIAN TRIBE RECEIVING A LICENSE HAS
10 SIGNED THE MOST RECENT TRIBAL-STATE GAMING COMPACT AND ANY APPLICABLE
11 APPENDICES OR AMENDMENTS. THE DEPARTMENT SHALL ISSUE EVENT WAGERING
12 OPERATOR LICENSES ONLY TO APPLICANTS THAT ARE EITHER OF THE FOLLOWING IN
13 COMPLIANCE WITH THIS CHAPTER:

14 1. AN OWNER OF AN ARIZONA PROFESSIONAL SPORTS TEAM OR FRANCHISE,
15 OPERATOR OF A SPORTS FACILITY THAT HOSTS AN ANNUAL TOURNAMENT ON THE PGA
16 TOUR, PROMOTER OF A NATIONAL ASSOCIATION FOR STOCK CAR AUTO RACING
17 NATIONAL TOURING RACE CONDUCTED IN THIS STATE OR THE OWNER'S, OPERATOR'S
18 OR PROMOTER'S DESIGNEE, CONTRACTED TO OPERATE EVENT WAGERING FOR BOTH
19 RETAIL EVENT WAGERING AT A SPORTS FACILITY OR ITS COMPLEX AS PRESCRIBED IN
20 SUBSECTION D OF THIS SECTION AND MOBILE EVENT WAGERING THROUGHOUT THE
21 STATE. IF A DESIGNEE IS USED, THE DESIGNEE SHALL BE CONSIDERED THE
22 APPLICANT AND BE SUBJECT TO ANY REQUIREMENTS OF THE APPLICATION PROCESS
23 RATHER THAN THE OWNER, OPERATOR OR PROMOTER.

24 2. AN INDIAN TRIBE, OR AN ENTITY FULLY OWNED BY AN INDIAN TRIBE, OR
25 ITS DESIGNEE CONTRACTED TO OPERATE ONLY MOBILE EVENT WAGERING OUTSIDE THE
26 BOUNDARIES OF ITS INDIAN LANDS AND THROUGHOUT THE STATE IF IT HAS SIGNED
27 THE MOST RECENT TRIBAL-STATE GAMING COMPACT AND ANY APPLICABLE APPENDICES
28 OR AMENDMENTS.

29 B. AN APPLICANT FOR AN EVENT WAGERING LICENSE SHALL SUBMIT AN
30 APPLICATION IN A FORM PRESCRIBED BY THE DEPARTMENT, INCLUDING ALL OF THE
31 FOLLOWING:

32 1. THE IDENTIFICATION OF THE APPLICANT'S PRINCIPAL OWNERS THAT OWN
33 MORE THAN FIVE PERCENT OF THE COMPANY, THE PARTNERS, THE MEMBERS OF ITS
34 BOARD OF DIRECTORS AND THE OFFICERS, THE IDENTIFICATION OF ANY HOLDING
35 COMPANY, INCLUDING ITS PRINCIPALS, ENGAGED BY THE APPLICANT TO ASSIST IN
36 THE MANAGEMENT OR OPERATION OF EVENT WAGERING, IF APPLICABLE, AND
37 INFORMATION TO VERIFY THAT THE APPLICANT IS QUALIFIED TO HOLD A LICENSE
38 UNDER SUBSECTION A OF THIS SECTION.

39 2. A FULL SET OF FINGERPRINTS FOR THE PURPOSE OF OBTAINING A STATE
40 AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC
41 LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT
42 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION. THE FINGERPRINTS SHALL BE
43 FURNISHED BY THE APPLICANT'S OFFICERS AND DIRECTORS, IF A CORPORATION,
44 MEMBERS, IF A LIMITED LIABILITY COMPANY, AND PARTNERS, IF A PARTNERSHIP.
45 AN APPLICANT CONVICTED OF A DISQUALIFYING OFFENSE MAY NOT BE LICENSED.

1 3. INFORMATION, DOCUMENTATION AND ASSURANCES AS MAY BE REASONABLY
2 REQUIRED TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THE APPLICANT'S
3 GOOD CHARACTER, HONESTY AND INTEGRITY, INCLUDING INFORMATION THAT PERTAINS
4 TO FAMILY CONNECTIONS, CRIMINAL AND ARREST RECORDS, BUSINESS ACTIVITIES,
5 FINANCIAL AFFAIRS AND BUSINESS, PROFESSIONAL AND PERSONAL ASSOCIATES
6 COVERING AT LEAST THE TEN-YEAR PERIOD IMMEDIATELY PRECEDING THE FILING OF
7 THE APPLICATION.

8 4. A NOTICE AND DESCRIPTION OF CIVIL JUDGMENTS OBTAINED AGAINST THE
9 APPLICANT PERTAINING TO ANTITRUST OR SECURITY REGULATION LAWS OF THE
10 FEDERAL GOVERNMENT, OF THIS STATE OR OF ANY OTHER STATE, JURISDICTION,
11 PROVINCE OR COUNTRY.

12 5. IF THE APPLICANT HAS CONDUCTED GAMING OPERATIONS IN A
13 JURISDICTION THAT ALLOWS SUCH ACTIVITY, LETTERS OF COMPLIANCE FROM THE
14 REGULATORY BODY THAT REGULATES EVENT WAGERING, SPORTS WAGERING OR ANY
15 OTHER GAMING ACTIVITY THAT THE APPLICANT IS LICENSED FOR, CONDUCTS OR
16 OPERATES UNDER JURISDICTION OF THE REGULATORY BODY.

17 6. INFORMATION, DOCUMENTATION AND ASSURANCES CONCERNING FINANCIAL
18 BACKGROUND AND RESOURCES OF THE APPLICANT OR ITS MANAGEMENT SERVICES
19 PROVIDER AS MAY BE REQUIRED TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE
20 THE FINANCIAL STABILITY, INTEGRITY AND RESPONSIBILITY OF THE APPLICANT OR
21 ITS MANAGEMENT SERVICES PROVIDER, INCLUDING BANK REFERENCES, BUSINESS AND
22 PERSONAL INCOME AND DISBURSEMENT SCHEDULES, TAX RETURNS AND OTHER REPORTS
23 FILED WITH GOVERNMENTAL AGENCIES, AND BUSINESS AND PERSONAL ACCOUNTING AND
24 CHECK RECORDS AND LEDGERS. EACH APPLICANT OR ITS MANAGEMENT SERVICES
25 PROVIDER, IN WRITING, SHALL AUTHORIZE THE EXAMINATION OF ALL BANK ACCOUNTS
26 AND RECORDS AS MAY BE DEEMED NECESSARY BY THE DEPARTMENT. THE DEPARTMENT
27 MAY CONSIDER ANY RELEVANT EVIDENCE OF FINANCIAL STABILITY. THE APPLICANT
28 IS PRESUMED TO BE FINANCIALLY STABLE IF THE APPLICANT OR ITS MANAGEMENT
29 SERVICES PROVIDER ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT IT
30 MEETS EACH OF THE FOLLOWING STANDARDS:

31 (a) THE ABILITY TO ENSURE THE FINANCIAL INTEGRITY OF EVENT WAGERING
32 OPERATIONS BY MAINTAINING A BANKROLL OR EQUIVALENT PROVISIONS ADEQUATE TO
33 PAY WINNING WAGERS TO BETTORS WHEN DUE. AN APPLICANT IS PRESUMED TO HAVE
34 MET THIS STANDARD IF THE APPLICANT OR ITS MANAGEMENT SERVICES PROVIDER
35 MAINTAINS, ON A DAILY BASIS, A BANKROLL OR EQUIVALENT PROVISIONS IN AN
36 AMOUNT THAT IS AT LEAST EQUAL TO THE AVERAGE DAILY MINIMUM BANKROLL OR
37 EQUIVALENT PROVISIONS, CALCULATED ON A MONTHLY BASIS, FOR THE
38 CORRESPONDING MONTH IN THE PREVIOUS YEAR.

39 (b) THE ABILITY TO MEET ONGOING OPERATING EXPENSES THAT ARE
40 ESSENTIAL TO MAINTAINING CONTINUOUS AND STABLE EVENT WAGERING OPERATIONS.

41 (c) THE ABILITY TO PAY, AS AND WHEN DUE, ALL STATE AND FEDERAL
42 TAXES.

43 7. INFORMATION TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THAT
44 THE APPLICANT OR ITS MANAGEMENT SERVICES PROVIDER HAS SUFFICIENT BUSINESS

1 ABILITY AND GAMING EXPERIENCE AS TO ESTABLISH THE LIKELIHOOD OF CREATING
2 AND MAINTAINING A SUCCESSFUL AND STABLE EVENT WAGERING OPERATION.

3 8. INFORMATION REGARDING THE FINANCIAL STANDING OF THE APPLICANT,
4 INCLUDING EACH PERSON OR ENTITY THAT HAS PROVIDED LOANS OR FINANCING TO
5 THE APPLICANT OR ITS MANAGEMENT SERVICES PROVIDER.

6 9. INFORMATION ON THE AMOUNT OF ADJUSTED GROSS EVENT WAGERING
7 RECEIPTS AND ASSOCIATED ADJUSTED GROSS RECEIPTS THAT THE APPLICANT EXPECTS
8 TO GENERATE.

9 10. A NONREFUNDABLE APPLICATION FEE OR ANNUAL LICENSING FEE AS
10 PRESCRIBED BY SECTION 5-1310.

11 11. ANY ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT TO
12 DETERMINE THE FINANCIAL AND OPERATIONAL ABILITY TO FULFILL ITS OBLIGATIONS
13 AS AN EVENT WAGERING OPERATOR.

14 C. ANY APPLICANT FOR LICENSURE AGREES TO BE SUBJECT TO STATE
15 JURISDICTION TO THE EXTENT NECESSARY TO DETERMINE THE APPLICANT'S
16 QUALIFICATION TO HOLD A LICENSE, INCLUDING ALL NECESSARY ADMINISTRATIVE
17 PROCEDURES, HEARINGS AND APPEALS AS PROVIDED IN TITLE 41, CHAPTER 6 AND
18 DEPARTMENT RULES.

19 D. A LICENSE ISSUED BY THE DEPARTMENT PURSUANT TO THIS SECTION
20 AUTHORIZES AN EVENT WAGERING OPERATOR IDENTIFIED IN SUBSECTION A,
21 PARAGRAPH 2 OF THIS SECTION TO OPERATE ONLY MOBILE EVENT WAGERING OR AN
22 EVENT WAGERING OPERATOR IDENTIFIED IN SUBSECTION A, PARAGRAPH 1 OF THIS
23 SECTION TO OFFER BOTH:

24 1. EVENT WAGERING IN THIS STATE THROUGH AN EVENT WAGERING FACILITY
25 WITHIN A FIVE-BLOCK RADIUS OF THE EVENT WAGERING OPERATOR'S SPORTS
26 FACILITY OR, IN THE CASE OF A DESIGNEE, THE SPORTS FACILITY OR THE
27 DESIGNATING OWNER, OPERATOR OR PROMOTER OF A PROFESSIONAL SPORTS TEAM,
28 EVENT OR FRANCHISE. AN EVENT WAGERING FACILITY WITHIN ONE MILE OF A
29 TRIBAL GAMING FACILITY MUST BE:

30 (a) WITHIN A SPORTS COMPLEX THAT INCLUDES RETAIL CENTERS THAT ARE
31 ADJACENT TO THE SPORTS FACILITY.

32 (b) NOT MORE THAN ONE-FOURTH OF A MILE FROM A SPORTS FACILITY
33 WITHIN THE SPORTS COMPLEX.

34 2. EVENT WAGERING THROUGH A MOBILE PLATFORM AS SPECIFIED BY THE
35 DEPARTMENT. A LICENSED EVENT WAGERING OPERATOR OR ITS DESIGNATED
36 MANAGEMENT SERVICES PROVIDER MAY OFFER EVENT WAGERING THROUGH AN EVENT
37 WAGERING PLATFORM AS SPECIFIED BY THE DEPARTMENT.

38 E. A LICENSE ISSUED UNDER THIS SECTION IS VALID FOR FIVE YEARS IF
39 THE LICENSEE SUBMITS AN ANNUAL LICENSE FEE, MAINTAINS THE QUALIFICATIONS
40 TO OBTAIN A LICENSE UNDER THIS SECTION AND SUBSTANTIALLY COMPLIES WITH
41 THIS CHAPTER AND OTHER LAWS AND RULES RELATING TO EVENT WAGERING. A
42 LICENSEE MAY RENEW ITS LICENSE BY SUBMITTING AN APPLICATION IN A FORM
43 PRESCRIBED BY DEPARTMENT RULE AND THE APPLICATION FEE. A LICENSE MAY NOT
44 BE RENEWED IF IT IS DETERMINED BY THE DEPARTMENT THAT THE EVENT WAGERING
45 OPERATOR HAS NOT SUBSTANTIALLY COMPLIED WITH THIS CHAPTER OR ANY OTHER LAW

1 REGULATING ITS EVENT WAGERING OPERATIONS OR OTHER OPERATIONS LICENSED BY
2 THE DEPARTMENT. A LICENSEE SHALL SUBMIT THE NONREFUNDABLE ANNUAL LICENSE
3 AND APPLICATION FEES PRESCRIBED IN SECTION 5-1310 WITH ITS APPLICATION FOR
4 THE RENEWAL OF ITS LICENSE.

5 F. A PERSON MAY NOT APPLY FOR OR OBTAIN MORE THAN ONE EVENT
6 WAGERING OPERATOR LICENSE. A MANAGEMENT SERVICES PROVIDER MAY OFFER
7 SERVICES TO MORE THAN ONE EVENT WAGERING OPERATOR.

8 5-1305. License review; approval; fees; material change;
9 exemption; display; transferability

10 A. ON RECEIPT OF A COMPLETED APPLICATION AND THE REQUIRED FEE, THE
11 DEPARTMENT SHALL CONDUCT THE NECESSARY BACKGROUND INVESTIGATION TO ENSURE
12 THE APPLICANT IS QUALIFIED FOR LICENSURE. ON COMPLETION OF THE NECESSARY
13 BACKGROUND INVESTIGATION, THE DEPARTMENT SHALL EITHER ISSUE A LICENSE OR
14 DENY THE APPLICATION. IF THE APPLICATION IS DENIED, THE DEPARTMENT SHALL
15 FORWARD A STATEMENT SETTING FORTH THE GROUNDS FOR DENIAL TO THE APPLICANT
16 TOGETHER WITH ALL OTHER DOCUMENTS ON WHICH THE DEPARTMENT RELIED, TO THE
17 EXTENT ALLOWED BY LAW.

18 B. THE DEPARTMENT MAY CONDUCT ADDITIONAL BACKGROUND INVESTIGATIONS
19 OF ANY PERSON REQUIRED TO BE LICENSED AT ANY TIME WHILE THE LICENSE
20 REMAINS VALID. THE ISSUANCE OF A LICENSE DOES NOT CREATE OR IMPLY A RIGHT
21 OF EMPLOYMENT OR CONTINUED EMPLOYMENT. THE EVENT WAGERING OPERATOR OR
22 LIMITED EVENT WAGERING OPERATOR MAY NOT EMPLOY AND, IF ALREADY EMPLOYED,
23 SHALL TERMINATE AN EVENT WAGERING EMPLOYEE IF IT IS DETERMINED THAT THE
24 PERSON MEETS ANY OF THE FOLLOWING CRITERIA:

25 1. HAS BEEN CONVICTED OF ANY GAMING OFFENSE.

26 2. HAS BEEN CONVICTED OF A FELONY IN THE SEVEN YEARS BEFORE
27 SUBMITTING AN APPLICATION UNLESS THAT FELONY HAS BEEN SET ASIDE.

28 3. HAS EVER BEEN CONVICTED OF A FELONY RELATED TO EXTORTION,
29 BURGLARY, LARCENY, BRIBERY, EMBEZZLEMENT, ROBBERY, RACKETEERING, MONEY
30 LAUNDERING, FORGERY, FRAUD, MURDER, VOLUNTARY MANSLAUGHTER, A SEXUAL
31 OFFENSE THAT REQUIRES THE INDIVIDUAL TO REGISTER PURSUANT TO SECTION
32 13-3821 OR KIDNAPPING.

33 4. KNOWINGLY AND WILFULLY PROVIDES MATERIALLY IMPORTANT FALSE
34 STATEMENTS OR INFORMATION OR OMITTS MATERIALLY IMPORTANT INFORMATION ON THE
35 PERSON'S EMPLOYMENT APPLICATION OR BACKGROUND QUESTIONNAIRE.

36 5. IS A PERSON WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF ANY, OR
37 REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC INTEREST
38 OR TO THE EFFECTIVE REGULATION AND CONTROL OF GAMING OR CREATE OR ENHANCE
39 THE DANGERS OF UNSUITABLE, UNFAIR OR ILLEGAL PRACTICES, METHODS AND
40 ACTIVITIES IN THE CONDUCT OF GAMING OR THE CARRYING ON OF THE BUSINESS AND
41 FINANCIAL ARRANGEMENTS INCIDENTAL THERETO.

42 C. NOT LATER THAN SIXTY DAYS AFTER THE DEPARTMENT RECEIVES A
43 COMPLETE APPLICATION, THE DEPARTMENT SHALL ISSUE A LICENSE TO THE
44 APPLICANT UNLESS THE BACKGROUND INVESTIGATION THE DEPARTMENT CONDUCTS
45 DISCLOSES THAT THE APPLICANT HAS A CRIMINAL HISTORY OR UNLESS OTHER

1 GROUNDS SUFFICIENT TO DISQUALIFY THE APPLICANT ARE APPARENT ON THE FACE OF
2 THE APPLICATION. IF MORE THAN TEN APPLICATIONS ARE RECEIVED FOR A
3 PARTICULAR LICENSE TYPE, THE DEPARTMENT SHALL ADOPT A PROCESS FOR ENSURING
4 AN EQUAL OPPORTUNITY FOR ALL QUALIFIED APPLICANTS TO OBTAIN A
5 LICENSE. THE DEPARTMENT SHALL REVIEW AND APPROVE OR DENY AN APPLICATION
6 FOR A LICENSE AS PROVIDED IN TITLE 41, CHAPTER 6, ARTICLE 10.

7 D. FOR EACH APPLICATION FOR LICENSURE OR RENEWAL OF A LICENSE THAT
8 IS APPROVED UNDER THIS SECTION, THE AMOUNT OF THE APPLICATION FEE MUST BE
9 CREDITED TOWARD THE LICENSEE'S LICENSE FEE AND THE LICENSEE SHALL REMIT
10 THE BALANCE OF THE INITIAL LICENSE FEE TO THE DEPARTMENT ON APPROVAL OF A
11 LICENSE. THE FEES COLLECTED FROM LICENSEES UNDER THIS SECTION SHALL BE
12 DEPOSITED IN THE EVENT WAGERING FUND ESTABLISHED BY SECTION 5-1318 AND
13 USED BY THE DEPARTMENT TO PAY THE ACTUAL OPERATING AND ADMINISTRATIVE
14 EXPENSES INCURRED FOR EVENT WAGERING.

15 E. EACH PERSON LICENSED UNDER THIS CHAPTER SHALL GIVE THE
16 DEPARTMENT WRITTEN NOTICE WITHIN THIRTY DAYS AFTER A MATERIAL CHANGE IS
17 MADE TO INFORMATION PROVIDED IN THE LICENSEE'S APPLICATION FOR A LICENSE
18 OR RENEWAL.

19 F. INDIAN TRIBES WITHIN THIS STATE OPERATING EVENT WAGERING
20 EXCLUSIVELY ON INDIAN LANDS ARE EXEMPT FROM THE LICENSURE REQUIREMENTS OF
21 THIS SECTION. EVENT WAGERING ON INDIAN LANDS IS GOVERNED BY THE
22 TRIBAL-STATE GAMING COMPACT, ITS APPENDICES, ANY AMENDMENTS AND THE INDIAN
23 GAMING REGULATORY ACT (P.L. 100-497; 102 STAT. 2467).

24 G. EACH LICENSEE SHALL DISPLAY ITS LICENSE CONSPICUOUSLY IN THE
25 LICENSEE'S PLACE OF BUSINESS OR HAVE THE LICENSE AVAILABLE FOR INSPECTION
26 BY AN AGENT OF THE DEPARTMENT OR A LAW ENFORCEMENT AGENCY. EACH LICENSEE
27 THAT OPERATES AN EVENT WAGERING PLATFORM SHALL CONSPICUOUSLY DISPLAY A
28 NOTICE OF THE LICENSE ON ITS PLATFORM'S LANDING PAGE.

29 H. THE DEPARTMENT SHALL KEEP ALL INFORMATION, RECORDS, INTERVIEWS,
30 REPORTS, STATEMENTS, MEMORANDA OR OTHER DATA SUPPLIED TO OR USED BY THE
31 DEPARTMENT IN THE COURSE OF ITS REVIEW OR INVESTIGATION OF AN APPLICATION
32 FOR AN EVENT WAGERING OPERATOR LICENSE OR RENEWAL OF A LICENSE
33 CONFIDENTIAL. THE MATERIALS DESCRIBED IN THIS SUBSECTION ARE EXEMPT FROM
34 DISCLOSURE PURSUANT TO TITLE 39, CHAPTER 1, ARTICLE 2.

35 I. A LICENSE ISSUED UNDER THIS CHAPTER MAY NOT BE TRANSFERRED TO
36 ANOTHER PERSON OR ENTITY WITHOUT PRIOR APPROVAL OF THE DEPARTMENT. THE
37 DEPARTMENT SHALL WORK WITH APPLICANTS AND LICENSEES TO ENSURE THERE IS NO
38 GAP IN THE VALIDITY OF THE LICENSE.

39 5-1306. License revocation; suspension; denial; grounds;
40 definitions

41 A. THE DEPARTMENT MAY REVOKE, SUSPEND OR DENY A LICENSE WHEN AN
42 APPLICANT OR LICENSEE MEETS ANY OF THE FOLLOWING CRITERIA:

43 1. VIOLATES, FAILS OR REFUSES TO COMPLY WITH THE PROVISIONS,
44 REQUIREMENTS, CONDITIONS, LIMITATIONS OR DUTIES IMPOSED BY THIS CHAPTER
45 AND OTHER LAWS AND RULES, OR IF ANY SUCH VIOLATION HAS OCCURRED ON ANY

- 1 EVENT WAGERING SYSTEM OPERATED BY ANY SUCH PERSON OR OVER WHICH THE PERSON
2 HAS SUBSTANTIAL CONTROL.
- 3 2. KNOWINGLY CAUSES, AIDS, ABETS OR CONSPIRES WITH ANOTHER TO CAUSE
4 ANY PERSON TO VIOLATE ANY OF THE LAWS OF THIS STATE OR THE RULES OF THE
5 DEPARTMENT.
- 6 3. OBTAINS A LICENSE BY FRAUD, MISREPRESENTATION, CONCEALMENT OR
7 THROUGH INADVERTENCE OR MISTAKE.
- 8 4. IS CONVICTED OR FORFEITED BOND ON A CHARGE OF OR PLEADS GUILTY
9 TO:
 - 10 (a) FORGERY, LARCENY, EXTORTION OR CONSPIRACY TO DEFRAUD.
 - 11 (b) WILFUL FAILURE TO MAKE REQUIRED PAYMENT OR REPORTS TO ANY
12 TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY, FILING FALSE REPORTS WITH
13 ANY TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY OR ANY SIMILAR OFFENSE OR
14 OFFENSES.
 - 15 (c) BRIBING OR OTHERWISE UNLAWFULLY INFLUENCING A PUBLIC OFFICIAL
16 OF THIS STATE OR ANY OTHER STATE OR JURISDICTION.
 - 17 (d) ANY CRIME, WHETHER A FELONY OR MISDEMEANOR, INVOLVING ANY
18 GAMING ACTIVITY, PHYSICAL HARM TO AN INDIVIDUAL OR MORAL TURPITUDE.
- 19 5. MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL FACT TO THE
20 DEPARTMENT.
- 21 6. FAILS TO PROVE, BY CLEAR AND CONVINCING EVIDENCE, THAT THE
22 PERSON IS QUALIFIED FOR LICENSURE.
- 23 7. IS SUBJECT TO CURRENT PROSECUTION OR PENDING CHARGES OR A
24 CONVICTION THAT IS UNDER APPEAL FOR ANY OF THE OFFENSES INCLUDED IN THIS
25 SUBSECTION. AT THE REQUEST OF AN APPLICANT FOR AN ORIGINAL LICENSE, THE
26 DEPARTMENT MAY DEFER DECISION ON THE APPLICATION DURING THE PENDENCY OF
27 THE PROSECUTION OR APPEAL.
- 28 8. HAS HAD A GAMING LICENSE ISSUED BY ANY JURISDICTION IN THE
29 UNITED STATES REVOKED OR DENIED.
- 30 9. DEMONSTRATES A WILFUL DISREGARD FOR COMPLIANCE WITH GAMING
31 REGULATORY AUTHORITY IN ANY JURISDICTION, INCLUDING SUSPENSION, REVOCATION
32 OR DENIAL OF AN APPLICATION FOR A LICENSE OR FORFEITURE OF A LICENSE.
- 33 10. HAS PURSUED OR IS PURSUING ECONOMIC GAIN IN AN OCCUPATIONAL
34 MANNER OR CONTEXT IN VIOLATION OF THE CRIMINAL LAWS OF ANY STATE IF THE
35 PURSUIT CREATES PROBABLE CAUSE TO BELIEVE THAT THE PERSON'S PARTICIPATION
36 IN GAMING OR RELATED ACTIVITIES WOULD BE DETRIMENTAL TO THE PROPER
37 OPERATION OF AN AUTHORIZED GAMING OR RELATED ACTIVITY IN THIS STATE.
- 38 11. IS A CAREER OFFENDER OR A MEMBER OF A CAREER OFFENDER
39 ORGANIZATION OR AN ASSOCIATE OF A CAREER OFFENDER OR CAREER OFFENDER
40 ORGANIZATION THEREBY ESTABLISHING PROBABLE CAUSE TO BELIEVE THAT THE
41 ASSOCIATION IS OF SUCH A NATURE AS TO BE DETRIMENTAL TO THE PROPER
42 OPERATION OF THE AUTHORIZED GAMING OR RELATED ACTIVITIES IN THIS STATE.
- 43 12. IS A PERSON WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF ANY,
44 REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC INTEREST
45 OF THIS STATE OR TO THE EFFECTIVE REGULATION AND CONTROL OF EVENT

1 WAGERING, CREATES OR ENHANCES THE DANGERS OF UNSUITABLE, UNFAIR OR ILLEGAL
2 PRACTICES, METHODS AND ACTIVITIES IN THE CONDUCT OF EVENT WAGERING OR THE
3 CARRYING ON OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL THERETO.

4 13. FAILS TO PROVIDE ANY INFORMATION REQUESTED BY THE DEPARTMENT
5 WITHIN SEVEN DAYS AFTER THE REQUEST FOR THE INFORMATION, EXCEPT FOR GOOD
6 CAUSE AS DETERMINED BY THE DEPARTMENT.

7 B. ANY APPLICANT FOR LICENSURE OR HOLDER OF A LICENSE SHALL BE
8 ENTITLED TO A FULL HEARING ON ANY FINAL ACTION BY THE DEPARTMENT THAT MAY
9 RESULT IN THE REVOCATION, SUSPENSION OR DENIAL OF LICENSURE. THE HEARING
10 SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROCEDURES AS PROVIDED IN TITLE
11 41, CHAPTER 6 AND THE DEPARTMENT'S RULES.

12 C. THE DEPARTMENT MAY SUMMARILY SUSPEND ANY LICENSE IF THE
13 CONTINUED LICENSING OF THE PERSON CONSTITUTES AN IMMEDIATE THREAT TO THE
14 PUBLIC HEALTH, SAFETY OR WELFARE.

15 D. FOR THE PURPOSES OF THIS SECTION:

16 1. "CAREER OFFENDER" MEANS ANY INDIVIDUAL WHO BEHAVES IN AN
17 OCCUPATIONAL MANNER OR CONTEXT FOR THE PURPOSES OF ECONOMIC GAIN BY
18 VIOLATING FEDERAL LAW OR THE LAWS AND PUBLIC POLICY OF THIS STATE.

19 2. "CAREER OFFENDER ORGANIZATION" MEANS ANY GROUP OF INDIVIDUALS
20 WHO OPERATE TOGETHER AS CAREER OFFENDERS.

21 3. "OCCUPATIONAL MANNER OR CONTEXT" MEANS THE SYSTEMATIC PLANNING,
22 ADMINISTRATION, MANAGEMENT OR EXECUTION OF AN ACTIVITY FOR FINANCIAL GAIN.

23 5-1307. Limited event wagering operator licenses; definition

24 A. AN EVENT WAGERING OPERATOR MAY PARTNER WITH A RACETRACK
25 ENCLOSURE OR ADDITIONAL WAGERING FACILITY THAT HOLDS A PERMIT THAT IS
26 ISSUED BY THE DIVISION OF RACING TO OBTAIN A LIMITED EVENT WAGERING
27 LICENSE FOR EVENT WAGERING ONLY AT ONE SPECIFIC PHYSICAL LOCATION. ON
28 APPLICATION, THE DEPARTMENT MAY ISSUE A TOTAL OF UP TO TEN LIMITED EVENT
29 WAGERING LICENSES TO AUTHORIZE EVENT WAGERING AT TEN SPECIFIC PHYSICAL
30 LOCATIONS.

31 B. AN ENTITY SEEKING A LIMITED EVENT WAGERING LICENSE SHALL PROVIDE
32 THE FOLLOWING INFORMATION TO THE DEPARTMENT IN ITS APPLICATION:

33 1. A COPY OF ITS CURRENT APPROVAL BY THE DIVISION OF RACING TO
34 CONDUCT RACING MEETINGS OR APPROVAL AS AN ADDITIONAL WAGERING FACILITY.

35 2. A LETTER FROM AN EVENT WAGERING OPERATOR OF ITS PARTNERSHIP FOR
36 THE PURPOSES OF EVENT WAGERING.

37 3. AN ATTESTATION AND MAP DEMONSTRATING THAT THE SPECIFIC PHYSICAL
38 LOCATION OF THE EVENT WAGERING FACILITY IS LOCATED AT LEAST FIVE MILES
39 FROM:

40 (a) A TRIBAL GAMING FACILITY.

41 (b) THE SPECIFIC EVENT WAGERING FACILITY LOCATION OPERATED BY AN
42 EVENT WAGERING OPERATOR.

43 (c) THE SPECIFIC EVENT WAGERING FACILITY LOCATION OPERATED BY
44 ANOTHER LIMITED EVENT WAGERING OPERATOR.

1 C. THE DEPARTMENT SHALL ISSUE A LIMITED EVENT WAGERING LICENSE IF
2 THE FOLLOWING CONDITIONS ARE MET:
3 1. THE APPLICANT IS IN COMPLIANCE WITH ALL DIVISION OF RACING RULES
4 REGARDING ITS RACING OR ADDITIONAL WAGERING FACILITY OPERATIONS.
5 2. THE APPLICANT HAS A CURRENT LICENSE WITH THE DIVISION OF RACING.
6 3. THE APPLICANT IS NOT CURRENTLY THE SUBJECT OF AN INVESTIGATION
7 BY THE DIVISION OF RACING FOR A VIOLATION OF DIVISION RULES.
8 4. THE APPLICANT SUBMITS FEES AS REQUIRED BY THE DEPARTMENT.
9 D. A LIMITED EVENT WAGERING LICENSE ALLOWS THE LICENSEE TO CONDUCT
10 EVENT WAGERING ONLY IN ACCORDANCE WITH THIS CHAPTER AND ANY APPLICABLE
11 RULES ADOPTED BY THE DEPARTMENT.
12 E. A LIMITED EVENT WAGERING OPERATOR SHALL BE LICENSED BY THE
13 DEPARTMENT BEFORE THE COMMENCEMENT OF OPERATION AND EVERY TWO YEARS
14 THEREAFTER. THE LICENSE SHALL INCLUDE EACH PRINCIPAL, THE PRIMARY
15 MANAGEMENT OFFICIAL AND KEY EMPLOYEES.
16 F. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
17 35-147, THE FEES COLLECTED FROM LICENSES UNDER THIS SECTION IN THE EVENT
18 WAGERING FUND ESTABLISHED BY SECTION 5-1318.
19 G. FOR THE PURPOSES OF THIS SECTION, "ADDITIONAL WAGERING FACILITY"
20 HAS THE SAME MEANING PRESCRIBED IN SECTION 5-101.
21 5-1308. Supplier license
22 A. THE DEPARTMENT MAY ISSUE A SUPPLIER LICENSE TO A PERSON THAT
23 MANUFACTURES, DISTRIBUTES, SELLS OR LEASES EVENT WAGERING EQUIPMENT,
24 SYSTEMS OR OTHER GAMING ITEMS TO CONDUCT EVENT WAGERING AND OFFERS
25 SERVICES RELATED TO THE EQUIPMENT OR OTHER GAMING ITEMS AND DATA TO AN
26 EVENT WAGERING OPERATOR OR LIMITED EVENT WAGERING OPERATOR WHILE THE
27 LICENSE IS ACTIVE. THE DEPARTMENT MAY ACCEPT A LICENSE ISSUED BY ANOTHER
28 JURISDICTION THAT THE DEPARTMENT DETERMINES TO HAVE SIMILAR LICENSURE
29 REQUIREMENTS AS EVIDENCE THE APPLICANT MEETS SUPPLIER LICENSURE
30 REQUIREMENTS.
31 B. THE DEPARTMENT MAY ADOPT RULES THAT ESTABLISH ADDITIONAL
32 REQUIREMENTS FOR A SUPPLIER AND ANY SYSTEM OR OTHER EQUIPMENT USED FOR
33 EVENT WAGERING.
34 C. AN APPLICANT FOR A SUPPLIER LICENSE SHALL DEMONSTRATE THAT THE
35 EQUIPMENT, SYSTEM OR SERVICES THAT THE APPLICANT PLANS TO OFFER TO THE
36 EVENT WAGERING OPERATOR CONFORM TO STANDARDS ESTABLISHED BY THE DEPARTMENT
37 AND APPLICABLE STATE LAW. THE DEPARTMENT MAY ACCEPT APPROVAL BY ANOTHER
38 JURISDICTION THAT THE DEPARTMENT DETERMINES HAS SIMILAR EQUIPMENT
39 STANDARDS AS EVIDENCE THE APPLICANT MEETS THE STANDARDS ESTABLISHED BY THE
40 DEPARTMENT AND APPLICABLE STATE LAW.
41 D. AN APPLICANT SHALL PAY TO THE DEPARTMENT A NONREFUNDABLE LICENSE
42 AND APPLICATION FEE AS PRESCRIBED BY SECTION 5-1310. A LICENSE IS VALID
43 FOR TWO YEARS. THE DEPARTMENT SHALL GRANT A RENEWAL OF A SUPPLIER LICENSE
44 IF THE RENEWAL APPLICANT HAS CONTINUED TO COMPLY WITH ALL APPLICABLE
45 STATUTORY AND REGULATORY REQUIREMENTS, SUBMITS THE RENEWAL APPLICATION ON

1 A DEPARTMENT-ISSUED RENEWAL FORM AND PAYS THE RENEWAL FEE PRESCRIBED BY
2 SECTION 5-1310. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146
3 AND 35-147, THE FEES COLLECTED FROM LICENSEES UNDER THIS SUBSECTION IN THE
4 EVENT WAGERING FUND ESTABLISHED BY SECTION 5-1318.

5 E. A SUPPLIER SHALL SUBMIT TO THE DEPARTMENT A LIST OF ALL EVENT
6 WAGERING EQUIPMENT AND SERVICES SOLD, DELIVERED OR OFFERED TO AN EVENT
7 WAGERING OPERATOR IN THIS STATE, AS REQUIRED BY THE DEPARTMENT, ALL OF
8 WHICH MUST BE TESTED AND APPROVED BY AN INDEPENDENT TESTING LABORATORY
9 APPROVED BY THE DEPARTMENT. AN EVENT WAGERING OPERATOR OR LIMITED EVENT
10 WAGERING OPERATOR MAY CONTINUE TO USE SUPPLIES ACQUIRED FROM A LICENSED
11 SUPPLIER, EVEN IF A SUPPLIER'S LICENSE EXPIRES OR IS OTHERWISE CANCELED,
12 UNLESS THE DEPARTMENT FINDS A DEFECT IN THE SUPPLIES.

13 5-1309. Management services provider license

14 A. AN EVENT WAGERING OPERATOR MAY CONTRACT WITH AN ENTITY TO
15 CONDUCT EVENT WAGERING IN ACCORDANCE WITH THE RULES OF THE DEPARTMENT AND
16 THIS CHAPTER. THE ENTITY SHALL OBTAIN A LICENSE FROM THE DEPARTMENT AS A
17 MANAGEMENT SERVICES PROVIDER PURSUANT TO THIS CHAPTER AND ANY RULES
18 ADOPTED BY THE DEPARTMENT BEFORE THE EXECUTION OF ANY SUCH CONTRACT. A
19 MANAGEMENT SERVICES PROVIDER MAY PROVIDE SERVICES TO MORE THAN ONE EVENT
20 WAGERING OPERATOR OR LIMITED EVENT WAGERING OPERATOR UNDER ITS LICENSE.

21 B. EACH APPLICANT FOR A MANAGEMENT SERVICES PROVIDER LICENSE SHALL
22 MEET ALL REQUIREMENTS FOR LICENSURE AND PAY A NONREFUNDABLE LICENSE AND
23 APPLICATION FEE AS PRESCRIBED BY SECTION 5-1310. THE DEPARTMENT MAY ADOPT
24 RULES ESTABLISHING ADDITIONAL REQUIREMENTS FOR A MANAGEMENT SERVICES
25 PROVIDER. THE DEPARTMENT MAY ACCEPT A LICENSE ISSUED BY ANOTHER
26 JURISDICTION THAT THE DEPARTMENT DETERMINES TO HAVE SIMILAR LICENSURE
27 REQUIREMENTS AS EVIDENCE THE APPLICANT MEETS MANAGEMENT SERVICES PROVIDER
28 LICENSURE REQUIREMENTS. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO
29 SECTIONS 35-146 AND 35-147, THE FEES COLLECTED FROM LICENSEES UNDER THIS
30 SUBSECTION IN THE EVENT WAGERING FUND ESTABLISHED BY SECTION 5-1318.

31 C. MANAGEMENT SERVICES PROVIDER LICENSES SHALL BE RENEWED EVERY TWO
32 YEARS TO LICENSEES WHO CONTINUE TO BE IN COMPLIANCE WITH ALL REQUIREMENTS
33 AND WHO PAY THE RENEWAL FEE.

34 5-1310. License fees; bond

35 A. THE DEPARTMENT SHALL ESTABLISH AND COLLECT FEES FOR
36 APPLICATIONS, INITIAL LICENSES AND RENEWALS OF THE FOLLOWING:

- 37 1. EVENT WAGERING OPERATOR LICENSES.
- 38 2. LIMITED EVENT WAGERING OPERATOR LICENSES.
- 39 3. MANAGEMENT SERVICES PROVIDER LICENSES.
- 40 4. SUPPLIER LICENSES.

41 B. IF ACTUAL COSTS INCURRED BY THE DEPARTMENT TO INVESTIGATE THE
42 BACKGROUND OF AN APPLICANT EXCEED THE FEES PURSUANT TO SUBSECTION A OF
43 THIS SECTION, THOSE COSTS MAY BE ASSESSED TO THE APPLICANT DURING THE
44 INVESTIGATION PROCESS. PAYMENT IN FULL TO THE DEPARTMENT SHALL BE
45 REQUIRED BEFORE THE DEPARTMENT ISSUES A LICENSE. THE DEPARTMENT MAY

1 REQUIRE EVENT WAGERING OPERATORS, LIMITED EVENT WAGERING OPERATORS AND
2 SUPPLIERS APPLYING FOR LICENSURE TO POST A BOND SUFFICIENT TO COVER THE
3 ACTUAL COSTS THAT THE DEPARTMENT ANTICIPATES WILL BE INCURRED IN
4 CONDUCTING A BACKGROUND INVESTIGATION OF THE APPLICANT.

5 5-1311. License restrictions; prohibited licensees;
6 violation; classification

7 A. THE FOLLOWING PERSONS OR THEIR IMMEDIATE FAMILY MEMBERS MAY NOT
8 APPLY FOR OR OBTAIN A LICENSE UNDER THIS CHAPTER:

- 9 1. AN EMPLOYEE OF THE DEPARTMENT.
10 2. AN EMPLOYEE OF ANY PROFESSIONAL SPORTS TEAM.
11 3. A COACH OF OR PLAYER FOR A COLLEGIATE, PROFESSIONAL OR OLYMPIC
12 SPORTS TEAM OR SPORT.

13 4. AN INDIVIDUAL WHO HAS BEEN CONVICTED OF A CRIME RELATED TO
14 SPORTS OR EVENT WAGERING ON A SPORTS EVENT OR OTHER EVENT, CHEATING,
15 EXTORTION, BURGLARY, LARCENY, BRIBERY, EMBEZZLEMENT, ROBBERY,
16 RACKETEERING, MONEY LAUNDERING, FORGERY OR FRAUD.

17 5. AN INDIVIDUAL WHO HAS THE ABILITY TO DIRECTLY AFFECT THE OUTCOME
18 OF A SPORTS EVENT OR OTHER EVENT FOR WHICH WAGERS ARE ALLOWED.

19 6. ANY OTHER CATEGORY OF INDIVIDUALS THAT, IF LICENSED, WOULD
20 NEGATIVELY AFFECT THE INTEGRITY OF EVENT WAGERING IN THIS STATE.

21 B. A LICENSEE MAY NOT:

- 22 1. ALLOW A PERSON UNDER TWENTY-ONE YEARS OF AGE TO PLACE A WAGER.
23 2. OFFER, ACCEPT OR EXTEND CREDIT TO A BETTOR.
24 3. TARGET MINORS IN ADVERTISING OR PROMOTIONS.

25 4. OFFER OR ACCEPT A WAGER ON ANY EVENT, OUTCOME OR OCCURRENCE,
26 INCLUDING A HIGH SCHOOL SPORTS EVENT OFFERED, SPONSORED OR PLAYED IN
27 CONNECTION WITH A PUBLIC OR PRIVATE INSTITUTION THAT OFFERS EDUCATION AT
28 THE SECONDARY LEVEL, OTHER THAN A SPORTS EVENT OR OTHER EVENT.

29 5. ACCEPT A WAGER FROM A PERSON WHO IS ON THE DEPARTMENT'S LIST OF
30 SELF-EXCLUDED PERSONS CREATED AND MAINTAINED BY AN INDIAN TRIBE OR THE
31 DEPARTMENT.

32 6. ACCEPT A WAGER FROM A PROHIBITED PARTICIPANT.

33 C. A VIOLATION OF THIS SECTION IS:

- 34 1. FOR A FIRST OFFENSE, A CLASS 3 MISDEMEANOR.
35 2. FOR A SECOND OR SUBSEQUENT OFFENSE, A CLASS 1 MISDEMEANOR.

36 5-1312. Reporting

37 A. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT SHALL
38 PREPARE AND SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE
39 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND SHALL PROVIDE
40 A COPY TO THE SECRETARY OF STATE THAT CONTAINS THE FOLLOWING INFORMATION:

- 41 1. THE NUMBER OF ACTIVE LICENSEES BY TYPE.
42 2. THE AGGREGATE GROSS AND NET REVENUE OF ALL LICENSEES.
43 3. THE NUMBER OF INVESTIGATIONS CONDUCTED TO ENFORCE THIS CHAPTER.
44 4. THE FINANCIAL IMPACT ON THIS STATE OF THE EVENT WAGERING
45 INDUSTRY IN THIS STATE.

1 B. THE REPORT MAY BE INCLUDED WITH OTHER INFORMATION REQUIRED TO BE
2 SUBMITTED BY THE DEPARTMENT ANNUALLY. A REPORT SUBMITTED UNDER SUBSECTION
3 A OF THIS SECTION MAY BE SUBMITTED ELECTRONICALLY.

4 5-1313. Escrow account; insurance; cash-on-hand; financial
5 practices; audit; post-employment restrictions

6 A. THE DEPARTMENT SHALL ESTABLISH:

7 1. THE AMOUNT OF A BOND IN ESCROW AND THE AMOUNT OF CASH THAT MUST
8 BE KEPT ON HAND TO ENSURE THAT ADEQUATE RESERVES EXIST FOR PAYOUTS.

9 2. ANY INSURANCE REQUIREMENTS FOR A LICENSEE.

10 3. MINIMUM REQUIREMENTS BY WHICH EACH LICENSEE MUST EXERCISE
11 EFFECTIVE CONTROL OVER ITS INTERNAL FISCAL AFFAIRS, INCLUDING REQUIREMENTS
12 FOR ALL OF THE FOLLOWING:

13 (a) SAFEGUARDING ASSETS AND REVENUES, INCLUDING EVIDENCE OF
14 INDEBTEDNESS.

15 (b) MAINTAINING RELIABLE RECORDS RELATING TO ACCOUNTS,
16 TRANSACTIONS, PROFITS AND LOSSES, OPERATIONS AND EVENTS.

17 (c) RISK MANAGEMENT.

18 4. REQUIREMENTS FOR INTERNAL AND INDEPENDENT AUDITS OF LICENSEES.

19 5. THE MANNER IN WHICH PERIODIC FINANCIAL REPORTS MUST BE SUBMITTED
20 TO THE DEPARTMENT FROM EACH LICENSEE, INCLUDING THE FINANCIAL INFORMATION
21 TO BE INCLUDED IN THE REPORTS.

22 6. THE TYPE OF INFORMATION DEEMED CONFIDENTIAL FINANCIAL OR
23 PROPRIETARY INFORMATION THAT IS NOT SUBJECT TO ANY REPORTING REQUIREMENTS
24 UNDER THIS SUBSECTION.

25 7. POLICIES, PROCEDURES AND PROCESSES DESIGNED TO MITIGATE THE RISK
26 OF FRAUD, CHEATING OR MONEY LAUNDERING.

27 8. ANY POST-EMPLOYMENT RESTRICTIONS FOR DEPARTMENT EMPLOYEES
28 NECESSARY TO MAINTAIN THE INTEGRITY OF EVENT WAGERING IN THIS STATE.

29 B. THE LICENSEE MAY MAINTAIN THE BOND AT ANY BANK LAWFULLY
30 OPERATING IN THIS STATE OR ANOTHER ENTITY AS APPROVED BY THE DEPARTMENT,
31 AND THE LICENSEE MUST BE THE BENEFICIARY OF ANY INTEREST ACCRUED ON THE
32 BOND.

33 5-1314. Event wagering authorized

34 A. NOTWITHSTANDING ANY OTHER LAW RELATING TO WAGERING EXCEPT FOR
35 TITLE 5, CHAPTER 1 AND TITLE 13, CHAPTER 33, THE OPERATION OF EVENT
36 WAGERING IS LAWFUL ONLY IF THE EVENT WAGERING IS CONDUCTED IN ACCORDANCE
37 WITH THIS CHAPTER AND ANY OTHER RELEVANT LAWS AND RULES.

38 B. NOTWITHSTANDING SECTION 5-112, WAGERS ON RACING MEETINGS OR
39 SIMULCASTED RACES MAY BE MADE, OFFERED OR RECEIVED THROUGH THE MEANS THAT
40 OTHER WAGERS ALLOWED BY THIS CHAPTER ARE MADE, OFFERED OR RECEIVED UNLESS
41 OTHERWISE PROHIBITED BY FEDERAL LAW.

42 C. EACH EVENT WAGERING OPERATOR SHALL ADOPT AND ADHERE TO A
43 WRITTEN, COMPREHENSIVE POLICY OUTLINING THE HOUSE RULES GOVERNING THE
44 ACCEPTANCE OF WAGERS AND PAYOUTS. THE POLICY AND RULES MUST BE APPROVED
45 BY THE DEPARTMENT BEFORE THE EVENT WAGERING OPERATOR ACCEPTS WAGERS. THE

1 POLICY AND RULES MUST BE READILY AVAILABLE TO A BETTOR AT ANY EVENT
2 WAGERING FACILITY LOCATION AND ON ANY EVENT WAGERING PLATFORM.

3 D. THE DEPARTMENT SHALL ADOPT RULES REGARDING:

4 1. THE MANNER IN WHICH AN EVENT WAGERING OPERATOR ACCEPTS WAGERS
5 FROM AND ISSUES PAYOUTS TO BETTORS, INCLUDING PAYOUTS IN EXCESS OF
6 \$10,000.

7 2. REPORTING REQUIREMENTS NECESSARY TO COMPLY WITH THE BANK SECRECY
8 ACT (P.L. 91-508; 84 STAT. 1114) AND PATRIOT ACT (P.L. 107-56; 115 STAT.
9 272) AND FOR ANY OTHER APPLICABLE LAWS AND RULES GOVERNING REPORTING
10 SUSPICIOUS WAGERS.

11 E. EACH WAGER PLACED IN ACCORDANCE WITH THIS CHAPTER IS DEEMED TO
12 BE AN ENFORCEABLE CONTRACT UNDER LAW.

13 F. IF THE GOVERNING BODY OF A SPORT OR SPORTS LEAGUE, ORGANIZATION
14 OR ASSOCIATION OR OTHER AUTHORIZED ENTITY THAT MAINTAINS OFFICIAL LEAGUE
15 DATA OPTS TO PROVIDE OFFICIAL LEAGUE DATA FOR THE PURPOSES OF EVENT
16 WAGERING, AN EVENT WAGERING OPERATOR SHALL EXCLUSIVELY USE OFFICIAL LEAGUE
17 DATA FOR PURPOSES OF TIER TWO SPORTS WAGERS UNLESS THE EVENT WAGERING
18 OPERATOR CAN DEMONSTRATE TO THE DEPARTMENT THAT THE GOVERNING BODY OF A
19 SPORT OR SPORTS LEAGUE, ORGANIZATION OR ASSOCIATION OR OTHER AUTHORIZED
20 ENTITY CANNOT PROVIDE A FEED OF OFFICIAL LEAGUE DATA FOR TIER TWO SPORTS
21 WAGERS IN ACCORDANCE WITH COMMERCIALLY REASONABLE TERMS, AS DETERMINED BY
22 THE DEPARTMENT.

23 5-1315. Prohibited wagers

24 A. A PERSON MAY NOT WAGER ON ANY OF THE FOLLOWING:

25 1. INJURIES, PENALTIES AND OTHER TYPES OR FORMS OF EVENT WAGERING
26 UNDER THIS CHAPTER THAT ARE CONTRARY TO LAW.

27 2. INDIVIDUAL ACTIONS, EVENTS, OCCURRENCES OR NONOCCURRENCES TO BE
28 DETERMINED DURING A COLLEGIATE SPORTS EVENT, INCLUDING ON THE PERFORMANCE
29 OR NONPERFORMANCE OF A TEAM OR INDIVIDUAL PARTICIPANT DURING A COLLEGIATE
30 SPORTS EVENT. THIS PARAGRAPH DOES NOT PROHIBIT WAGERS ON THE OVERALL
31 OUTCOME OF A COLLEGIATE SPORTS EVENT OR SEASONAL AWARDS BASED ON A
32 PLAYER'S CUMULATIVE OVERALL PLAY.

33 B. AN EVENT WAGERING OPERATOR MAY OFFER ONLY PARLAY AND PROPOSITION
34 BETS OF THE TYPE OR CATEGORY AS PRESCRIBED BY THE DEPARTMENT. THE
35 DEPARTMENT SHALL PRESCRIBE THE TYPES AND CATEGORIES OF PARLAY AND
36 PROPOSITION BETS THAT MAY BE OFFERED IN THIS STATE, IF ANY.

37 C. AN EVENT WAGERING OPERATOR, PROFESSIONAL SPORTS TEAM, LEAGUE,
38 ASSOCIATION OR INSTITUTION OF HIGHER EDUCATION MAY SUBMIT TO THE
39 DEPARTMENT IN WRITING A REQUEST TO PROHIBIT A TYPE OR FORM OF EVENT
40 WAGERING, OR TO PROHIBIT A CATEGORY OF PERSONS FROM EVENT WAGERING, IF THE
41 EVENT WAGERING OPERATOR, TEAM, LEAGUE, ASSOCIATION OR INSTITUTION BELIEVES
42 THAT SUCH EVENT WAGERING BY TYPE, FORM OR CATEGORY IS CONTRARY TO PUBLIC
43 POLICY, UNFAIR TO CONSUMERS OR AFFECTS THE INTEGRITY OR PERCEIVED
44 INTEGRITY OF A PARTICULAR SPORT OR THE SPORTS BETTING INDUSTRY. SUCH A
45 REQUEST SHALL PROVIDE A REASONABLE AMOUNT OF TIME FOR THE DEPARTMENT TO

1 CONDUCT DUE DILIGENCE BEFORE DECISION-MAKING, ABSENT THE NEED TO PROCEED
2 ON AN EMERGENCY BASIS.

3 D. THE DEPARTMENT SHALL REVIEW A REQUEST MADE PURSUANT TO
4 SUBSECTION C OF THIS SECTION TO DETERMINE IF GOOD CAUSE EXISTS TO GRANT
5 THE REQUEST. IN MAKING A DETERMINATION UNDER THIS SECTION, THE DEPARTMENT
6 SHALL SEEK INPUT FROM LICENSEES UNLESS THE EMERGENCY NATURE OF THE MATTER
7 DOES NOT PROVIDE SUFFICIENT TIME FOR SUCH DUE DILIGENCE. THE DEPARTMENT
8 SHALL RESPOND TO THE REQUEST CONCERNING A PARTICULAR EVENT BEFORE THE
9 START OF THE EVENT, OR IF IT IS NOT FEASIBLE TO RESPOND BEFORE THE START
10 OF THE EVENT, AS SOON AS PRACTICABLE.

11 5-1316. Integrity; reporting prohibited or suspicious
12 conduct; investigations

13 A. ALL LICENSEES UNDER THIS CHAPTER SHALL IMMEDIATELY REPORT TO THE
14 DEPARTMENT AND THE RELEVANT SPORTS GOVERNING BODY THAT HAS REQUESTED TO
15 RECEIVE IT ANY INFORMATION RELATING TO ANY OF THE FOLLOWING:

16 1. ABNORMAL BETTING ACTIVITY OR PATTERNS THAT MAY INDICATE A
17 CONCERN WITH THE INTEGRITY OF A SPORTS EVENT OR EVENTS, OR ANY OTHER
18 CONDUCT THAT CORRUPTS A BETTING OUTCOME OF A SPORTS EVENT OR EVENTS FOR
19 PURPOSES OF FINANCIAL GAIN, INCLUDING MATCH FIXING.

20 2. ANY POTENTIAL BREACH OF A SPORTS GOVERNING BODY'S INTERNAL RULES
21 AND CODES OF CONDUCT PERTAINING TO EVENT WAGERING.

22 3. CONDUCT THAT CORRUPTS THE BETTING OUTCOME OF EVENT WAGERING FOR
23 PURPOSES OF FINANCIAL GAIN, INCLUDING MATCH FIXING.

24 4. SUSPICIOUS OR ILLEGAL EVENT WAGERING ACTIVITIES, INCLUDING
25 CHEATING, THE USE OF MONIES DERIVED FROM ILLEGAL ACTIVITY, WAGERS TO
26 CONCEAL OR LAUNDER MONIES DERIVED FROM ILLEGAL ACTIVITY, USING AGENTS TO
27 PLACE WAGERS OR USING FALSE IDENTIFICATION.

28 B. LICENSEES SHALL REPORT TO THE DEPARTMENT, IN REAL TIME AND AT
29 THE ACCOUNT LEVEL, INFORMATION REGARDING A BETTOR, THE AMOUNT AND TYPE OF
30 BET, THE TIME THE BET WAS PLACED, THE LOCATION OF THE BET, INCLUDING THE
31 INTERNET PROTOCOL ADDRESS IF APPLICABLE, THE OUTCOME OF THE BET AND
32 RECORDS RELATED TO SUBSECTION A OF THIS SECTION. INFORMATION REPORTED
33 UNDER THIS SUBSECTION MUST BE SUBMITTED IN THE FORM AND MANNER ESTABLISHED
34 BY THE DEPARTMENT.

35 C. IF A SPORTS GOVERNING BODY HAS NOTIFIED THE DEPARTMENT THAT
36 REAL-TIME INFORMATION SHARING FOR WAGERS PLACED ON ITS SPORTS EVENTS IS
37 NECESSARY AND DESIRABLE, LICENSEES SHALL SHARE THE SAME INFORMATION WITH
38 THE SPORTS GOVERNING BODY OR ITS DESIGNEE WITH RESPECT TO WAGERS ON ITS
39 SPORTS EVENTS. SUCH INFORMATION MAY BE PROVIDED IN ANONYMIZED FORM AND
40 MAY BE USED BY A SPORTS GOVERNING BODY SOLELY FOR INTEGRITY PURPOSES.

41 D. THE DEPARTMENT AND LICENSEES SHALL MAKE COMMERCIALY REASONABLE
42 EFFORTS TO COOPERATE WITH INVESTIGATIONS CONDUCTED BY SPORTS GOVERNING
43 BODIES, INCLUDING USING COMMERCIALY REASONABLE EFFORTS TO PROVIDE OR
44 FACILITATE THE PROVISION OF BETTING INFORMATION FOR THE PURPOSES OF
45 INVESTIGATIONS.

1 E. THE DEPARTMENT SHALL ESTABLISH A HOTLINE OR OTHER METHOD OF
2 COMMUNICATION THAT ALLOWS ANY PERSON TO CONFIDENTIALLY REPORT TO THE
3 DEPARTMENT INFORMATION ABOUT PROHIBITED CONDUCT.

4 F. THE DEPARTMENT SHALL INVESTIGATE ALLEGATIONS AND REFER TO
5 PROSECUTORIAL ENTITIES PROHIBITED CONDUCT UNDER THIS CHAPTER.

6 G. THE IDENTITY OF ANY REPORTING PERSON SHALL REMAIN CONFIDENTIAL
7 UNLESS THAT PERSON AUTHORIZES DISCLOSURE OF THE PERSON'S IDENTITY OR UNTIL
8 SUCH TIME AS THE ALLEGATION OF PROHIBITED CONDUCT IS REFERRED TO A
9 PROSECUTORIAL ENTITY.

10 H. IF THE DEPARTMENT RECEIVES A COMPLAINT OF PROHIBITED CONDUCT BY
11 AN ATHLETE, THE DEPARTMENT SHALL NOTIFY THE APPROPRIATE SPORTS GOVERNING
12 BODY TO REVIEW THE COMPLAINT FOR APPROPRIATE ACTION.

13 I. NOTWITHSTANDING ANY CONFIDENTIALITY PROVISIONS OF THIS CHAPTER,
14 THE DEPARTMENT MAY PROVIDE OR FACILITATE ACCESS TO INFORMATION REGARDING
15 ACCOUNT-LEVEL BETTING INFORMATION AND DATA FILES RELATING TO PERSONS
16 PLACING WAGERS ON NOTIFICATION BY A SPORTS GOVERNING BODY OF AN OFFICIAL
17 INVESTIGATION BEING CONDUCTED INTO A PERSON OR PERSONS WHO ARE PROHIBITED
18 BY THAT BODY FROM PARTICIPATING IN WAGERING OR WHO ARE BELIEVED TO HAVE
19 TAKEN ACTION THAT AFFECTS THE INTEGRITY OR PERCEIVED INTEGRITY OF THE
20 SPORT IT GOVERNS. ANY INFORMATION OBTAINED BY A SPORTS GOVERNING BODY
21 SHALL BE KEPT CONFIDENTIAL UNLESS THE INFORMATION HAS BEEN MADE PUBLIC
22 THROUGH A CRIMINAL PROCEEDING OR BY A COURT ORDER.

23 5-1317. Sports governing body agreements

24 THIS CHAPTER DOES NOT PROHIBIT A SPORTS GOVERNING BODY ON WHOSE
25 EVENTS THE DEPARTMENT HAS AUTHORIZED WAGERING FROM ENTERING INTO
26 AGREEMENTS WITH LICENSEES IN WHICH THE SPORTS GOVERNING BODY MAY SHARE IN
27 THE AMOUNT BET FROM SPORTS WAGERING ON THE EVENTS OF THE SPORTS GOVERNING
28 BODY. A SPORTS GOVERNING BODY IS NOT REQUIRED TO OBTAIN A LICENSE OR ANY
29 OTHER APPROVAL FROM THE DEPARTMENT TO LAWFULLY ACCEPT SUCH AMOUNTS.

30 5-1318. Fees; event wagering fund

31 A. THE DEPARTMENT SHALL ESTABLISH A FEE FOR THE PRIVILEGE OF
32 OPERATING EVENT WAGERING. IN DETERMINING THE FEE, THE DEPARTMENT SHALL
33 CONSIDER THE HIGHEST PERCENTAGE OF REVENUE SHARE THAT AN INDIAN TRIBE PAYS
34 TO THIS STATE PURSUANT TO THE TRIBAL-STATE GAMING COMPACT. THE EVENT
35 WAGERING OPERATOR OR DESIGNEE HAS THE OPTION TO CHOOSE EITHER THE CASH
36 ACCRUAL OR MODIFIED ACCRUAL BASIS METHOD OF ACCOUNTING FOR PURPOSES OF
37 CALCULATING THE AMOUNT OF THE FEE OWED BY THE EVENT WAGERING OPERATOR OR
38 DESIGNEE. THE FEES REQUIRED PURSUANT TO THIS SECTION ARE DUE AND PAYABLE
39 TO THE DEPARTMENT NOT LATER THAN THE TWENTY-FIFTH DAY OF THE MONTH
40 FOLLOWING THE CALENDAR MONTH IN WHICH THE ADJUSTED GROSS EVENT WAGERING
41 RECEIPTS WERE RECEIVED AND THE OBLIGATION WAS ACCRUED.

42 B. THE EVENT WAGERING FUND IS ESTABLISHED CONSISTING OF MONIES
43 DEPOSITED PURSUANT TO THIS CHAPTER OR FROM ANY OTHER SOURCE. THE
44 DEPARTMENT SHALL ADMINISTER THE FUND. EXCEPT AS OTHERWISE PROVIDED IN
45 THIS CHAPTER, THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146

1 AND 35-147, ALL MONIES COLLECTED UNDER THIS CHAPTER IN THE EVENT WAGERING
2 FUND. ON THE TWENTY-FIFTH OF EACH MONTH, ANY MONIES REMAINING IN THE
3 EVENT WAGERING FUND SHALL BE TRANSFERRED TO THE STATE GENERAL FUND. ON
4 NOTICE FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST AND DIVEST
5 MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM
6 INVESTMENT SHALL BE CREDITED TO THE FUND.

7 C. UNLESS OTHERWISE DETERMINED BY THE LEGISLATURE, THE DEPARTMENT
8 MAY SPEND NOT MORE THAN TEN PERCENT OF MONIES ON THE DEPARTMENT'S ANNUAL
9 COSTS OF REGULATING AND ENFORCING THIS CHAPTER, AND ANY REMAINING MONIES
10 IN THE FUND REVERT TO THE STATE GENERAL FUND.

11 5-1319. Financial responsibility

12 ON OR BEFORE JULY 1 OF EACH YEAR, A LICENSED EVENT WAGERING OPERATOR
13 AND MANAGEMENT SERVICES PROVIDER SHALL CONTRACT WITH A CERTIFIED PUBLIC
14 ACCOUNTANT TO PERFORM AN INDEPENDENT AUDIT, IN ACCORDANCE WITH GENERALLY
15 ACCEPTED ACCOUNTING PRINCIPLES PUBLISHED BY THE AMERICAN INSTITUTE OF
16 CERTIFIED PUBLIC ACCOUNTANTS, THE FINANCIAL CONDITION OF THE LICENSED
17 EVENT WAGERING OPERATOR'S OR MANAGEMENT SERVICES PROVIDER'S TOTAL
18 OPERATION FOR THE PREVIOUS FISCAL YEAR AND TO ENSURE COMPLIANCE WITH THIS
19 CHAPTER AND FOR ANY OTHER PURPOSE AS PRESCRIBED BY RULE. NOT LATER THAN
20 ONE HUNDRED EIGHTY DAYS AFTER THE END OF THE EVENT WAGERING OPERATOR'S OR
21 MANAGEMENT SERVICES PROVIDER'S FISCAL YEAR, A LICENSED EVENT WAGERING
22 OPERATOR OR MANAGEMENT SERVICE PROVIDER SHALL SUBMIT THE AUDIT RESULTS
23 UNDER THIS SECTION TO THE DEPARTMENT. THE RESULTS OF AN AUDIT SUBMITTED
24 TO THE DEPARTMENT UNDER THIS SECTION ARE CONFIDENTIAL AND PRIVILEGED AND
25 ARE NOT SUBJECT TO DISCLOSURE AS PROVIDED IN TITLE 39, CHAPTER 1,
26 ARTICLE 2.

27 5-1320. Problem gambling; self-exclusion list; program;
28 liabilities

29 A. A LICENSEE SHALL DEVELOP A PROCEDURE TO INFORM PLAYERS THAT HELP
30 IS AVAILABLE IF A PERSON HAS A PROBLEM WITH GAMBLING AND, AT A MINIMUM,
31 PROVIDE THE STATEWIDE TOLL-FREE HELPLINE TELEPHONE NUMBER, TEXT MESSAGE
32 AND WEBSITE INFORMATION ESTABLISHED BY THE DEPARTMENT.

33 B. THE DEPARTMENT AND LICENSEES SHALL COMPLY WITH THE FOLLOWING
34 REQUIREMENTS TO ALLOW PROBLEM GAMBLERS TO VOLUNTARILY EXCLUDE THEMSELVES
35 FROM EVENT WAGERING STATEWIDE:

36 1. THE DEPARTMENT SHALL ESTABLISH A LIST OF PERSONS WHO, BY
37 ACKNOWLEDGING IN A MANNER TO BE ESTABLISHED BY THE DEPARTMENT THAT THEY
38 ARE PROBLEM GAMBLERS, VOLUNTARILY SEEK TO EXCLUDE THEMSELVES FROM EVENT
39 WAGERING STATEWIDE. THE DEPARTMENT SHALL ESTABLISH PROCEDURES FOR THE
40 PLACEMENT ON AND REMOVAL FROM THE LIST OF SELF-EXCLUDED PERSONS. A PERSON
41 OTHER THAN THE PERSON SEEKING VOLUNTARY SELF-EXCLUSION MAY NOT INCLUDE
42 THAT PERSON'S NAME ON THE SELF-EXCLUSION LIST OF THE DEPARTMENT.

43 2. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
44 LIMITED EVENT WAGERING OPERATORS SHALL ESTABLISH PROCEDURES FOR ADVISING
45 PERSONS WHO INQUIRE ABOUT SELF-EXCLUSION AND OFFER SELF-EXCLUSION

1 APPLICATION FORMS PROVIDED BY THE DEPARTMENT TO THOSE PERSONS WHEN
2 REQUESTED.

3 3. THE DEPARTMENT SHALL COMPILE IDENTIFYING INFORMATION CONCERNING
4 SELF-EXCLUDED PERSONS. SUCH INFORMATION SHALL CONTAIN, AT A MINIMUM, THE
5 FULL NAME AND ANY ALIASES OF THE PERSON, A PHOTOGRAPH OF THE PERSON, THE
6 SOCIAL SECURITY OR DRIVER'S LICENSE NUMBER OF THE PERSON AND THE CURRENT
7 PHYSICAL AND ELECTRONIC CONTACT INFORMATION, INCLUDING MAILING ADDRESS, OF
8 THE PERSON.

9 4. THE DEPARTMENT SHALL PROVIDE THE COMPILED INFORMATION TO EVENT
10 WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND LIMITED EVENT
11 WAGERING OPERATORS ON A WEEKLY BASIS. EVENT WAGERING OPERATORS,
12 COMMERCIAL SPORTS LICENSE HOLDERS AND LIMITED EVENT WAGERING OPERATORS
13 SHALL TREAT THE INFORMATION RECEIVED FROM THE DEPARTMENT UNDER THIS
14 SECTION AS CONFIDENTIAL, AND THE INFORMATION SHALL NOT BE DISCLOSED EXCEPT
15 TO VENDORS APPROVED BY THE DEPARTMENT FOR PURPOSES OF COMPLYING WITH THIS
16 SECTION, APPROPRIATE LAW ENFORCEMENT AGENCIES IF NEEDED IN CONDUCTING AN
17 OFFICIAL INVESTIGATION OR UNLESS ORDERED BY A COURT OF COMPETENT
18 JURISDICTION.

19 5. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
20 LIMITED EVENT WAGERING OPERATORS SHALL CHECK THE MOST RECENT SELF-EXCLUDED
21 PERSONS LIST PROVIDED BY THE DEPARTMENT BEFORE CREATING A PLAYER ACCOUNT.
22 THE EVENT WAGERING OPERATOR, COMMERCIAL SPORTS LICENSE HOLDER OR LIMITED
23 EVENT WAGERING OPERATOR SHALL REVOKE A PLAYER ACCOUNT AND REMOVE ALL
24 SELF-EXCLUDED PERSONS FROM ALL MAILING LISTS OF THE EVENT WAGERING
25 OPERATOR, COMMERCIAL SPORTS LICENSE HOLDER OR LIMITED EVENT WAGERING
26 OPERATOR.

27 6. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
28 LIMITED EVENT WAGERING OPERATORS SHALL TAKE COMMERCIALY REASONABLE STEPS
29 TO ENSURE THAT PERSONS ON THE DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS
30 ARE DENIED ACCESS TO ALL EVENT WAGERING.

31 7. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
32 LIMITED EVENT WAGERING OPERATORS SHALL TAKE COMMERCIALY REASONABLE STEPS
33 TO IDENTIFY SELF-EXCLUDED PERSONS. IF A SELF-EXCLUDED PERSON PARTICIPATES
34 IN EVENT WAGERING, THE EVENT WAGERING OPERATOR, COMMERCIAL SPORTS LICENSE
35 HOLDER AND LIMITED EVENT WAGERING OPERATOR SHALL REPORT TO THE DEPARTMENT,
36 AT A MINIMUM, THE NAME OF THE SELF-EXCLUDED PERSON, THE DATE OF
37 PARTICIPATION, THE AMOUNT OR VALUE OF ANY MONIES, PRIZES OR AWARDS
38 FORFEITED, IF ANY, AND ANY OTHER ACTION TAKEN. THE REPORT SHALL BE
39 PROVIDED TO THE DEPARTMENT WITHIN TWENTY-FOUR HOURS OF DISCOVERY.

40 C. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
41 LIMITED EVENT WAGERING OPERATORS MAY NOT PAY ANY PRIZE OR AWARD TO A
42 PERSON WHO IS ON THE DEPARTMENT'S SELF-EXCLUSION LIST. ANY PRIZE OR AWARD
43 WON BY A PERSON ON THE SELF-EXCLUSION LIST SHALL BE FORFEITED AND SHALL BE
44 DONATED BY THE EVENT WAGERING OPERATOR, COMMERCIAL SPORTS LICENSE HOLDER
45 OR LIMITED EVENT WAGERING OPERATOR TO THE DEPARTMENT'S DIVISION OF PROBLEM

1 GAMBLING ON A QUARTERLY BASIS BY THE TWENTY-FIFTH DAY OF THE FOLLOWING
2 MONTH.

3 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE
4 DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS IS NOT OPEN TO PUBLIC
5 INSPECTION.

6 E. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
7 LIMITED EVENT WAGERING OPERATORS SHALL DEVELOP AND MAINTAIN A PROGRAM TO
8 MITIGATE PROBLEM GAMBLING AND CURTAIL COMPULSIVE GAMBLING, WHICH MAY BE IN
9 CONJUNCTION WITH THE DEPARTMENT.

10 F. BEFORE PAYING A PERSON A PAYOUT OF WINNINGS THAT TRIGGERS THE
11 LICENSEE'S OBLIGATION TO FILE A FORM W-2G OR A SUBSTANTIALLY EQUIVALENT
12 FORM WITH THE UNITED STATES INTERNAL REVENUE SERVICE, THE EVENT WAGERING
13 FACILITY OPERATOR SHALL CHECK TO DETERMINE IF THE PERSON IS IDENTIFIED AS
14 HAVING A PAST-DUE, SETOFF OBLIGATION IN THE INFORMATION PROVIDED TO THE
15 DEPARTMENT OF GAMING ON A WEEKLY BASIS BY THE ADMINISTRATIVE OFFICE OF THE
16 COURTS OR IN THE INFORMATION PROVIDED ON A MONTHLY BASIS BY THE DEPARTMENT
17 OF ECONOMIC SECURITY DIVISION OF CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF
18 ECONOMIC SECURITY SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE
19 OVERPAYMENT AND THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
20 ADMINISTRATION. THE DEPARTMENT OF GAMING SHALL PROVIDE TO THE EVENT
21 WAGERING FACILITY OPERATOR INFORMATION OF PERSONS WITH OUTSTANDING
22 OBLIGATIONS. SUBSEQUENT TO STATUTORY STATE AND FEDERAL TAX WITHHOLDING,
23 IF A PERSON RECEIVES A PAYOUT OF WINNINGS THAT TRIGGERS THE LICENSEE'S
24 OBLIGATION TO FILE A FORM W-2G OR A SUBSTANTIALLY EQUIVALENT FORM WITH THE
25 UNITED STATES INTERNAL REVENUE SERVICE AND IS IDENTIFIED, THE EVENT
26 WAGERING FACILITY OPERATOR SHALL WITHHOLD THE FULL AMOUNT OF THE WINNINGS
27 OR SUCH PORTION OF THE WINNINGS THAT SATISFIES THE PERSON'S PAST-DUE,
28 SETOFF OBLIGATION AND FORWARD THOSE MONIES TO THE IDENTIFYING AGENCY. THE
29 EVENT WAGERING FACILITY OPERATOR SHALL DISBURSE TO THE PERSON ONLY THAT
30 PORTION OF THE PRIZE, IF ANY, REMAINING AFTER THE PERSON'S IDENTIFIED
31 OBLIGATIONS HAVE BEEN SATISFIED. IF THE IDENTIFIED PERSON IS ALSO
32 SELF-EXCLUDED, TAX LIABILITIES AND SETOFF OBLIGATIONS ARE TO BE SATISFIED
33 BEFORE ANY MONIES ARE DONATED TO THE DEPARTMENT'S DIVISION OF PROBLEM
34 GAMBLING. IF THE IDENTIFIED PERSON HAS MULTIPLE LIABILITIES, THEY SHALL
35 BE SATISFIED IN THIS ORDER:

- 36 1. CHILD SUPPORT ENFORCEMENT.
- 37 2. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE
38 OVERPAYMENT.
- 39 3. THE COURTS.
- 40 4. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

41 G. THIS SECTION DOES NOT WAIVE AN INDIAN TRIBE'S SOVEREIGN IMMUNITY
42 FROM A SUIT BY A PERSON LISTED AND WHOSE WINNINGS ARE WITHHELD FOR AN
43 IDENTIFIED OBLIGATION.

1 5-1321. Conditional enactment; notice

2 A. THIS CHAPTER DOES NOT BECOME EFFECTIVE UNLESS AND BEFORE EACH
3 INDIAN TRIBE WITH A GAMING FACILITY IN PIMA COUNTY AND EACH INDIAN TRIBE
4 WITH A GAMING FACILITY IN THE PHOENIX METROPOLITAN AREA, AS DEFINED IN THE
5 2021 COMPACT AMENDMENT, HAS ENTERED INTO A 2021 GAMING COMPACT AMENDMENT
6 AND NOTICE OF THE UNITED STATES SECRETARY OF THE INTERIOR'S APPROVAL OR
7 APPROVAL BY OPERATION OF LAW HAS BEEN PUBLISHED IN THE FEDERAL REGISTER.

8 B. THE DEPARTMENT SHALL NOTIFY THE DIRECTOR OF THE ARIZONA
9 LEGISLATIVE COUNCIL IN WRITING OF THE DATE ON WHICH THE CONDITION WAS MET.

10 Sec. 5. Section 13-3301, Arizona Revised Statutes, is amended to
11 read:

12 13-3301. Definitions

13 In this chapter, unless the context otherwise requires:

14 1. "Amusement gambling" means gambling involving a device, game or
15 contest ~~which~~ THAT is played for entertainment if all of the following
16 apply:

17 (a) The player or players actively participate in the game or
18 contest or with the device.

19 (b) The outcome is not in the control to any material degree of any
20 person other than the player or players.

21 (c) The prizes are not offered as a lure to separate the player or
22 players from their money.

23 (d) Any of the following:

24 (i) No benefit is given to the player or players other than an
25 immediate and unrecorded right to replay, which is not exchangeable for
26 value.

27 (ii) The gambling is an athletic event and no person other than the
28 player or players derives a profit or chance of a profit from the money
29 paid to gamble by the player or players.

30 (iii) The gambling is an intellectual contest or event, the money
31 paid to gamble is part of an established purchase price for a product, no
32 increment has been added to the price in connection with the gambling
33 event and no drawing or lottery is held to determine the winner or
34 winners.

35 (iv) Skill and not chance is clearly the predominant factor in the
36 game and the odds of winning the game based ~~upon~~ ON chance cannot be
37 altered, provided the game complies with any licensing or regulatory
38 requirements by the jurisdiction in which it is operated, no benefit for a
39 single win is given to the player or players other than a merchandise
40 prize ~~which~~ THAT has a wholesale fair market value of less than ~~ten~~
41 ~~dollars~~ \$10 or coupons ~~which~~ THAT are redeemable only at the place of play
42 and only for a merchandise prize ~~which~~ THAT has a fair market value of
43 less than ~~ten dollars~~ \$10 and, regardless of the number of wins, no
44 aggregate of coupons may be redeemed for a merchandise prize with a

1 wholesale fair market value of greater than ~~five hundred fifty dollars~~
2 \$550.

3 2. "Conducted as a business" means gambling that is engaged in with
4 the object of gain, benefit or advantage, either direct or indirect,
5 realized or unrealized, but not ~~when~~ IF incidental to a bona fide social
6 relationship.

7 3. "Crane game" means an amusement machine ~~which~~ THAT is operated
8 by player controlled buttons, control sticks or other means, or a
9 combination of the buttons or controls, which is activated by coin
10 insertion into the machine and where the player attempts to successfully
11 retrieve prizes with a mechanical or electromechanical claw or device by
12 positioning the claw or device over a prize.

13 4. "EVENT WAGERING" HAS THE SAME MEANING PRESCRIBED IN SECTION
14 5-1301.

15 5. "FANTASY SPORTS CONTEST" HAS THE SAME MEANING PRESCRIBED IN
16 SECTION 5-1201.

17 ~~4.~~ 6. "Gambling", ~~or~~ "gamble" OR "WAGER" means one act of risking
18 or giving something of value for the opportunity to obtain a benefit from
19 a game or contest of chance or skill or a future contingent event but does
20 not include bona fide business transactions ~~which~~ THAT are valid under the
21 law of contracts including contracts for the purchase or sale at a future
22 date of securities or commodities, contracts of indemnity or guarantee,
23 ~~and~~ life, health or accident insurance AND FANTASY SPORTS CONTESTS AS
24 DEFINED IN SECTION 5-1201 AND CONDUCTED PURSUANT TO TITLE 5, CHAPTER 10.

25 ~~5.~~ 7. "Player" means a natural person who participates in
26 gambling.

27 ~~6.~~ 8. "Regulated gambling" means either:

28 (a) Gambling conducted in accordance with a tribal-state gaming
29 compact or otherwise in accordance with the requirements of the Indian
30 gaming regulatory act of 1988 (P.L. 100-497; 102 Stat. 2467; 25 United
31 States Code sections 2701 through 2721 and 18 United States Code sections
32 1166 through 1168); or

33 (b) Gambling to which all of the following apply:

34 (i) It is operated and controlled in accordance with a statute,
35 rule or order of this state or of the United States.

36 (ii) All federal, state or local taxes, fees and charges in lieu of
37 taxes have been paid by the authorized person or entity on any activity
38 arising out of or in connection with the gambling.

39 (iii) If conducted by an organization which is exempt from taxation
40 of income under section 501 of the internal revenue code, the
41 organization's records are open to public inspection.

42 (iv) ~~Beginning on June 1, 2003,~~ None of the players is under
43 twenty-one years of age.

44 (c) EVENT WAGERING THAT IS CONDUCTED PURSUANT TO TITLE 5,
45 CHAPTER 11.

1 ~~7.~~ 9. "Social gambling" means gambling that is not conducted as a
2 business and that involves players who compete on equal terms with each
3 other in a gamble if all of the following apply:

4 (a) No player receives, or becomes entitled to receive, any
5 benefit, directly or indirectly, other than the player's winnings from the
6 gamble.

7 (b) No other person receives or becomes entitled to receive any
8 benefit, directly or indirectly, from the gambling activity, including
9 benefits of proprietorship, management or unequal advantage or odds in a
10 series of gambles.

11 (c) ~~Until June 1, 2003, none of the players is below the age of~~
12 ~~majority. Beginning on June 1, 2003,~~ None of the players is under
13 twenty-one years of age.

14 (d) Players "compete on equal terms with each other in a gamble"
15 when no player enjoys an advantage over any other player in the gamble
16 under the conditions or rules of the game or contest.

17 Sec. 6. Section 13-3305, Arizona Revised Statutes, is amended to
18 read:

19 13-3305. Betting and wagering; classification

20 A. Subject to the exceptions ~~contained~~ PRESCRIBED in section 5-112
21 AND TITLE 5, CHAPTER 11, no person may engage for a fee, property, salary
22 or reward in the business of accepting, recording or registering any bet,
23 purported bet, wager or purported wager or engage for a fee, property,
24 salary or reward in the business of selling wagering pools or purported
25 wagering pools with respect to the result or purported result of any race,
26 sporting event, contest or other game of skill or chance or any other
27 unknown or contingent future event or occurrence whatsoever.

28 B. SUBJECT TO THE EXCEPTIONS PRESCRIBED IN TITLE 5, CHAPTER 11, a
29 person shall not directly or indirectly knowingly accept for a fee,
30 property, salary or reward anything of value from another to be
31 transmitted or delivered for wagering or betting on the results of a race,
32 sporting event, contest or other game of skill or chance or any other
33 unknown or contingent future event or occurrence whatsoever conducted
34 within or without this state or anything of value as reimbursement for the
35 prior making of such a wager or bet on behalf of another person.

36 C. A person who violates this section is guilty of a class 1
37 misdemeanor.

38 Sec. 7. Exemption from rulemaking

39 For the purposes of this act, the department of gaming is exempt
40 from the rulemaking requirements of title 41, chapter 6, Arizona Revised
41 Statutes, for one year after the effective date of this act. The
42 department of gaming shall initiate rulemaking and adopt rules to
43 effectuate this act within sixty days after the effective date of this
44 act.

1 Sec. 8. Legislative intent

2 The legislature recognizes the promotion of public safety is an
3 important consideration for sports leagues, teams, players and fans at
4 large. All persons who present sporting contests or other events where
5 wagers are allowed are encouraged to take reasonable measures to ensure
6 the safety and security of all involved or attending such events. Persons
7 who present sporting contests or other events where wagers are allowed are
8 encouraged to establish codes of conduct that forbid all persons
9 associated with the sporting contest from engaging in violent and unlawful
10 behavior and to hire, train and equip safety and security personnel to
11 enforce those codes of conduct. Persons who present sporting contests or
12 other events where wagers are allowed are further encouraged to provide
13 public notice of those codes of conduct.

14 Sec. 9. Emergency

15 This act is an emergency measure that is necessary to preserve the
16 public peace, health or safety and is operative immediately as provided by
17 law.

APPROVED BY THE GOVERNOR APRIL 15, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 15, 2021.

ARIZONA DEPARTMENT OF GAMING

Title 19, Chapter 4, Articles 2



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - ONE-YEAR REVIEW REPORT

MEETING DATE:

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

FROM: Council Staff

DATE: 10/13/2022

SUBJECT: ARIZONA DEPARTMENT OF GAMING
Title 19, Chapter 4, Article 2, Fantasy Sports

Summary

This One-Year Review Report (1YRR) from the Arizona Department of Gaming (Department) relates to Title 19, Chapter 4, Article 2 regarding Fantasy Sports. Amendments to these rules were adopted in an exempt rulemaking pursuant to A.R.S. §§ 5-1201 through 5-1213 and Sec. 7 of HB2772 which granted the Department a one-time exemption from the Administrative Procedures Act (APA) in Title 41, Chapter 6 of the Arizona Revised Statutes. A copy of the Notice of Exempt Rulemaking is included with the final materials for the Council's reference.

This rule establishes the Fantasy Sports Contest Fund created for the regulation and enforcement of fantasy sports in Arizona.

The Department submitted this 1YRR pursuant to A.R.S. § 41-1095.

1. Has the agency analyzed whether the rules are authorized by statute?

Yes. The Department cites both general and specific statutory authority for these rules.

2. Summary of the agency's economic impact comparison and identification of stakeholders:

The Department states that pursuant to A.R.S. § 5-1212, the Fantasy Sports Contest Fund is established. The Department states that the rules, authorized by statute, set the privilege fee rate as well as the business and employee license fees. The Department indicates that the rules create classifications of business licensing which allows for ease of access to the supplier market for small businesses and local/regional vendors.

The Department believes that, most importantly, the rules bring a regulated sports betting market to the citizens of Arizona. Further, with consumer protection clearly outlined, bettors can feel comfortable knowing they are depositing money, placing wagers, and requesting monetary withdrawal with operators regulated by the Arizona Department of Gaming. Stakeholders include the Department and operators regulated by the Arizona Department of Gaming.

3. 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 the Fantasy Sports Contest Fund is established by statute. The appropriated fund allocated \$145,000 per annum for the regulation and enforcement of fantasy sports in Arizona. Further, In-State Entry Fees generated for fantasy sports through June 2022 in the amount of \$30,589,161 and privilege fees were collected in the amount of \$179,390.

4. Has the agency received any written criticisms of the rules since the rule was adopted?

No, the Department has not received any written criticisms of the rules since the rule was adopted.

5. Has the agency analyzed the rules' clarity, conciseness, and understandability?

Yes, the Department indicates the rules are overall clear, concise, and understandable.

6. Has the agency analyzed the rules' consistency with other rules and statutes?

Yes, the Department indicates the rules are consistent with other rules and statutes.

7. Has the agency analyzed the rules' effectiveness in achieving its objectives?

Yes, the Department indicates the rules are effective in achieving their objectives.

8. Has the agency analyzed the current enforcement status of the rules?

Yes, the Department indicates the rules are enforced as written.

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

The Professional and Amateur Sports Protection Act of 1992 was struck down the the Supreme Court on May 14, 2018, allowing individual states to determine whether to and how to legalize sports betting.

10. Has the agency completed any additional process required by law?

No additional process was required.

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

Yes, the Department’s licensing rules comply with A.R.S. § 41-1037, except where the following occurs:

R19-4-205 fall within the allowable exceptions to A.R.S. § 41- 1037(A)(2), which states, “the issuance of an alternative type of permit, license, or authorization is specifically authorized by state statute”, and (3) which states, “the issuance of a general permit is not technically feasible or would not meet the applicable statutory requirements.”

12. Conclusion

Council staff finds that the Board submitted an adequate report pursuant to A.R.S. § 41-1095. The Department is not proposing any additional action, but requests placement on the five year review timeline moving forward as any further rulemaking revisions will comply with all regular rulemaking requirements. For this reason, Council staff recommends approval of the report.

August 23, 2022

VIA EMAIL: grrc@azdoa.gov
Nicole Sornsin, Chair
Governor's Regulatory Review Council
100 North 15th Avenue, Suite 305
Phoenix, Arizona 85007

RE: Arizona Department of Gaming 19 A.A.C., Chapter 4, Article 2, Fantasy Sports, One Year Rule Report

Dear Nicole Sornsin:

Please find enclosed the One Year Review Report of Arizona Department of Gaming for 19 A.A.C., Chapter 4, Article 2, which is due on November 23, 2022.

Arizona Department of Gaming hereby certifies compliance with A.R.S. 41-1091.

For questions about this report, please contact Aiden Fleming at afleming@azgaming.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Aiden Fleming". The signature is fluid and cursive, with a horizontal line underneath.

Aiden Fleming
Assistant Director

Arizona Department of Gaming

19 A.A.C., Chapter 4, Article 2

Fantasy Sports

1 Year Review Report

08/22/2022

1. **Authorization of the rule by existing statutes**

A.R.S. §§ 5-1201 through 5-1213. Further, Sec. 7 of HB2772 provides authorization for emergency exempt rulemaking and states: “the Department of Gaming (“ADG” or the “Department”) is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.”

2. **The objective of each rule:**

Rule	Objective
R19-4-201	Definitions: This rule provides commonly used definitions to be used throughout the Article for ease of reference.
R19-4-202	Fantasy Sports Contests Permitted: The rule states that fantasy sports contests in the State, except those which are permitted pursuant to A.R.S. Title 13, Chapter 33, shall only be conducted by licensed responsible parties who operate in compliance with and meet the terms of the Act and this Article.
R19-4-203	Power and Authority: The rule states that the Department reserves all powers, duties, and authority granted to it by the Act and in this Article.
R19-4-204	License Categories: The rule states that Fantasy Sports operators and management companies are subject to the licensing requirements of the Act and this Article. This rule also provides that a fantasy contest operator and/or management company shall identify any holding company which holds an ownership interest of 10% or more of their operation. Further, the rule requires that suppliers obtain a license from the Department prior to providing goods and/or services and responsible parties must provide to the Department a list of names of their suppliers on a quarterly basis.
R19-4-205	Procedures for Licensing: The rule states that every applicant for a license shall submit a complete application in the form prescribed by the Department, which shall include all information and documentation required by the Department, along with the non-refundable initial license fee. The rule also states that within 5 days of receipt of an application, the Department shall issue a temporary license. If a party is applying for a license renewal, the party must submit the application and applicable fee 30 days prior to the expiration of their current license. Finally, the rule requires that new key employees submit a complete application.

R19-4-206	Responsible Advertising: The rule states that advertising, marketing, and promoting shall not target persons under 21 years of age; be misleading or contain false information; promote irresponsible or excessive participation; occur at event venues where most of the audience is reasonably expected to be under 21 years of age; put logos, messages, trademarks, or brands on clothing, toys, games, or game equipment intended for persons under 21 years of age; or be promoted or advertised in college or university-owned news assets or campuses.
R19-4-207	Internal Control System: The rule states that responsible parties shall operate fantasy sports contests pursuant to a written internal control system approved by the Department. Further, the rule provides that the internal control system shall be designed to reasonably assure that assets are safeguarded; liabilities are properly recorded and disclosed; financial records are accurate; transactions are appropriately authorized; assets are accessed in accordance with the responsible party's specific authorization; appropriate actions are taken for any asset discrepancies; and functions, duties, and responsibilities are conducted in accordance with sound practices. Also, per the rule, responsible parties shall obtain written approval of the internal control system or for any changes from the Department prior to implementation. Under this rule, responsible parties shall maintain accurate records and shall maintain bank accounts that are separate and distinct from all other corporate accounts unless otherwise agreed to by the Department. Finally, the rule requires that responsible parties notify the Department in writing of their fiscal year end or any changes within 10 days of the fiscal year end.
R19-4-208	Privilege Fee: The rule states that per A.R.S. § 5-1211(A), the established fee for operating fantasy sports contests shall be 5% of fantasy sports contest adjusted revenues and the calculation of fantasy sports contest adjusted revenues shall be reported in a format required by the Department.
R19-4-209	Servers and Cloud Storage: The rule states that responsible parties shall provide the Department with the physical location of each server that accepts fantasy sports contest entries and that the servers shall have physical and logical security. The rule further allows the responsible party to utilize cloud storage upon written approval from the Department.
R19-4-210	Geofencing: The rule states that a responsible party shall utilize a geofence system to monitor the physical location of a player attempting to pay an entry fee on a fantasy sports contest platform, that the geofence provider shall perform a geolocation check prior to each payment of an entry fee in an authorized session, that if a player is in a location where fantasy sports activity is not permitted the player shall be blocked and notified of the geolocation failure, and that attempts to pay the entry fee from unauthorized locations shall be entered into a log that shall be available to the Department upon request.
R19-4-211	Fantasy Sport and Contest Platform: The rule states that fantasy sports contest platforms shall be designed to ensure the integrity and confidentiality of all player communications, data, personal, and financial information; that the responsible party shall notify the Department in writing prior to the installation of a fantasy sports platform that it meets the design and geofence requirements; and that the responsible

	party shall notify the Department in writing prior to installation and annually thereafter that the platform properly calculates entry fees and payouts.
R19-4-212	Fantasy Sports Contest Platform Communication: The rule states that if the fantasy sports contest platform is unable to accept a fantasy sports contest entry, or validate a winning entry, for more than two hours, the responsible party shall notify the Department as soon as practically possible.
R19-4-213	Fees and Entry Rules: The rule states that entry fees shall be paid from funds in a player account and transacted through the fantasy sports contest platform. Additionally, the rule requires that an electronic fantasy sports contest entry immediately be issued upon acceptance of the entry fee. Further, the rule requires that an entry shall not be accepted from a person who is purchasing the entry for the benefit of another for compensation, nor will an entry be accepted if the entry is in violation of tribal, state, or federal law. The rule requires that winnings shall be immediately deposited into the player account upon verification. The rule states that entries shall only be purchased from verified player accounts and shall not be accepted upon an event whose outcome has already been determined. Finally, the rule provides that if a player cancels prior to the start of the contest, the entry fee shall be refunded upon approval from the responsible party.
R19-4-214	Events and Fantasy Sports Contests: The rule states that the responsible party shall submit a catalog to the Department of events and fantasy sports contests it intends to offer, including any changes. The rule also states that the Department shall publish an authorized list of events and contests on its website and may prohibit a particular event or contest if it does not comply with A.R.S. § 5-1201(6).
R19-4-215	House Rules: The rule states that house rules shall be conspicuously displayed on fantasy sports platforms and submitted to the Department prior to implementation. The rule requires that any proposed changes be approved by the Department. The rule requires that the house rules address the types of fees accepted, minimum and maximum amounts accepted, maximum number of entries, method for calculation and payment, scheduling changes or canceled events, process for handling incorrectly posted results, method of funding an account and redeeming winnings, process for canceling entries, process for submitting questions or complaints, notice of dispute process, and notification of self-exclusion process.
R19-4-216	Player Account Registration: The rule lists the parameters for responsible parties in creating and maintaining fantasy sports players' accounts. For instance, the responsible parties shall verify a player's age and identity before allowing the player to utilize the player account to purchase entries, prohibit a fantasy sports contest player from having more than one player account, establish and maintain a player file, notify players of the establishment of an account, and re-verify a player's ID if there is reasonable suspicion that the player's ID has been compromised.

R19-4-217	Player Account Terms and Conditions: The rule provides that player account terms and conditions shall include the name of the responsible party with whom the player enters into contract, the player's consent to have the responsible party confirm the player's age and identity, the player's rules and obligations regarding another person accessing their player account, the privacy policy, the legal age policy, the rules for player account suspension, the rules for dormant player accounts, the rules for closing player accounts, and the availability of player account statements.
R19-4-218	Player Account Maintenance: The rule states that the player account must be maintained by the responsible party, that a player shall be allowed to withdraw funds from his/her account, and that the responsible party shall consider a player account to be dormant if the player has not logged into the account for at least 3 years, in which case the account shall be closed by the responsible party and attempts shall be made to contact the player to return any unclaimed funds. The rule provides that, if after 120 days the account holder cannot be reached regarding unclaimed funds, the funds shall be remitted to the Arizona Department of Revenue as required by A.R.S. § 44-307.
R19-4-219	Promotions and Bonuses: The rule states that responsible parties may offer promotions and/or bonuses. The rule requires that responsible parties make promotion/bonus rules and advertisements available to the Department upon request; make promotion/bonus rules clear, unambiguous, and available to eligible players; and clearly disclose material facts, terms, and conditions. Further, the rule provides that promotions/bonuses shall not restrict the player from withdrawing their own funds.
R19-4-220	Information Technology: The rule states that responsible parties shall ensure the quality, reliability, and accuracy of all computer systems used in the operation; ensure that information technology duties are adequately segregated and monitored; maintain the environment and infrastructure in a secured location restricted to authorized employees; and test recovery procedures of the fantasy sports contest platform at specified intervals at least annually and make the results available to the Department.
R19-4-221	Annual Audit: The rule states that the responsible party shall be audited on the responsible party's financial condition and compliance standing not less than annually at its own expense.
R19-4-222	Reporting Requirements: The rule states that the responsible party shall report any violation or suspected violation of the Act or this Article in writing to the Department within 72 hours.
R19-4-223	Remedies: The rule states that the Department may place conditions on a license, fine, or otherwise sanction licensees for a violation of this Statute or the administrative rules of the Department.
R19-4-224	Player Disputes: The rule states that when there is a dispute between the responsible party and a player that is unresolved, the responsible shall notify the player of their

	right to file a written complaint, with the notification providing the procedure for filing a written complaint and the complaint resolution process.
R19-4-225	Barred Persons: The rule states that the Department shall establish a list of persons barred from fantasy sports contests and provide that list to responsible parties on a monthly basis. The rule further requires that the responsible party prohibit barred persons from participating in fantasy sports contests
R19-4-226	Self- Exclusion and Responsible Gaming: The rule states that as part of procedures and programs to mitigate problem gambling and curtail compulsive gambling, responsible parties shall conspicuously post the statewide helpline information.
R19-4-227	Debt Setoff: The rule states that if the responsible party is required to file a 1099-MISC form they must check to determine if the player has a past due setoff obligation, and if so the responsible party must withhold the amount of any past due setoff obligations from funds held in the player account at the time the form is issued. The rule states that the Department shall supply the responsible party with the lists of outstanding obligations as provided by certain Arizona agencies for this express purpose.
R19-4-228	Retention of Records: The rule states that the responsible party shall require that all books, records, and data relating to the operation and management of fantasy sports contests are maintained for at least three (3) years from the date of creation.
R19-4-229	Calculation of Time: The rule states that in computing any period prescribed or allowed by the Act or this Article, the day of the act, event, or default from which the designated period begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or legal holiday. The rule states that when the time prescribed is less than 11 days, Saturdays, Sundays, and legal holidays must be excluded from the computation period.

3. **Are the rules effective in achieving their objective?** YES NO
4. **Are the rules consistent with other rules and statutes?** YES NO
5. **Are the rules enforced as written?** YES NO
6. **Are the rules clear, concise, and understandable?** YES NO
7. **Has the agency received written criticisms of the rules within the last year?**
YES NO

Pursuant to Laws 2021, Chapter 234-E, The Department was provided a rulemaking exemption that expired on April 15, 2022, one year from the date of the emergency enactment of the bill. The Department solicited written feedback from stakeholders, took the feedback into account when revising rules, and submitted changes to the rules to the Secretary of State for publication on April 14, 2022.

8. **Economic, small business, and consumer impact comparison**

There will be substantial economic benefit from the growth of regulated fantasy sports contests. These rules, authorized by statute, set the privilege fee rate as well as the business and employee license fees. Combined Event Wagering and Fantasy Sports fees will bring revenues to the State of Arizona in the range of \$12-\$17M per annum. Additionally, these newly regulated activities have created between 100-200 jobs statewide. Fantasy Sports Privilege fees were collected in the amount of \$170,390 for the state's fiscal year ending 6/30/2022.

The rules create classifications of business licensing which allow for ease of access to the supplier market for small businesses and local/regional vendors. The costs for entry into the supplier market have been set conservatively with minimally invasive backgrounding based on the requirements of the statute. The costs for entry into the operator market have been set moderately, in-line with other fantasy sports contest jurisdictions, to allow for the creation of revenue for the State of Arizona.

Most importantly, the rules helped bring a regulated sports betting market to the citizens of Arizona. With consumer protection rules clearly outlined, bettors can feel comfortable knowing they are depositing money, placing wagers, and requesting monetary withdrawal with operators regulated by the Arizona Department of Gaming.

9. **Has the agency received any business competitiveness analyses of the rules?**

YES _____ NO ✓

10. **Has the agency completed the course of action indicated in the agency’s previous one-year-review report?** YES ___ NO ✓

N/A. This is our first one year review report.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

Pursuant to A.R.S. § 5-1212, the Fantasy Sports Contest Fund is established. The appropriated fund allocated \$145,000 per annum for the regulation and enforcement of fantasy sports in Arizona. In-State Entry Fees generated for fantasy sports through June 2022 in the amount of \$30,589,161 and privilege fees were collected in the amount of \$170,390.

12. **Are the rules more stringent than corresponding federal laws**

YES ___ NO ✓

The Professional and Amateur Sports Protection Act (“PASPA”), enacted by Congress in 1992, was struck down by the United States Supreme Court on May 14, 2018. This ruling cleared the way for individual states to determine whether to and how to legalize sports betting and fantasy sports.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S § 41-1037 or explain why the agency believes an exception applies:**

R19-4-205 provides procedures for licensing and states that every applicant for a license shall submit a complete application in the form prescribed by the Department, which shall include all information and documentation required by the Department, along with the non-refundable initial license fee.

This rule is authorized under A.R.S. § 5-1202(E) - (J), which also specifically provides licensing parameters, requirements, durations, and so forth. A.R.S. § 41-1037(A)(2) states, “The issuance of an alternative type of permit, license or authorization is specifically authorized by state statute.” The licenses required for Fantasy Sports Contests under the authorizing statute (A.R.S. § 5-1202) and regulations (R19-4-205) above fall into the exemption as being “specifically authorized by state statute”.

14. **Proposed course of action:**

No additional course of action; however, the Department requests that the Governor’s Regulatory Review Council place these rules on a 5 year review timeline going forward, as any further rulemaking revisions will comply with all regular rulemaking requirements.

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Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-150. Self-Exclusion and Responsible Gaming

- A. As part of their procedures and programs to mitigate problem gaming and curtail compulsive gambling, responsible parties shall:
1. Post at all public entrances and exits of the retail wagering area signage in English and Spanish stating that help is available if a person has a problem with gambling, to include the statewide toll-free helpline telephone number, text message, website information established by the Department, and any other information as directed by the Department.
 2. Display on each event wagering platform and/or kiosk, obvious and easily accessible messaging stating that help is available if a person has a problem with gambling, to include the statewide toll-free helpline telephone number, text message, website information established by the Department, and any other information as directed by the Department.
 3. Include a responsible gaming message with the Department's statewide toll-free crisis helpline telephone number, or another toll-free crisis helpline telephone number as approved by the Department, on all advertisements for event wagering, including on television, radio, internet, printed advertisements, and billboards.
- B. The self-exclusion list shall not be provided to any licensed supplier without the written approval of the Department. Approval shall only be granted by the Department when sharing of the list is deemed necessary to effectuate the terms of the Act and this Article.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-151. Debt Setoff

- A. If a responsible party is required to file a form W2G or a substantially similar form, regardless of whether those winnings are claimed at a retail wagering area or on an event wagering platform, the responsible party shall check to determine if the player has a past due, setoff obligation.
- B. The responsible party shall withhold past due, setoff obligations from those winnings which triggered the filing of a form W2G or a substantially similar form.
- C. The Department shall supply the responsible party with the lists of outstanding obligations as provided by the Arizona Department of Economic Security, Child Support Enforcement, Supplemental Nutrition Assistance Program and Assistance Overpayment, the Arizona Supreme Court, the Arizona Health Care Cost Containment System, and the Arizona Department of Revenue (State tax debt) on a monthly basis.
- D. The outstanding obligation lists shall not be provided to any licensed supplier without the written approval of the Department. Approval shall only be granted by the Department when sharing of the list is deemed necessary to effectuate the terms of the Act and this Article.
- E. The responsible party shall provide a receipt to the patron for any funds withheld for outstanding obligations.
- F. Any funds withheld by the responsible party shall be remitted to the Department within seven days in a format provided by the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-152. Retention of Records

The responsible party shall require that all books, records, and data relating to the operation and management of event wagering in the State are maintained for at least five years from the date of creation. Upon written approval of the Department, books, records, and/or data may be destroyed prior to passage of the required five year retention period.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-153. Calculation of Time

In computing any period prescribed or allowed by the Act or this Article, the day of the act, event, or default from which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday under state law or federal law. When the time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays under state law or federal law shall be excluded from the computation period.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1167, with an immediate effective date of July 26, 2021 (Supp. 21-3).

ARTICLE 2. FANTASY SPORTS**R19-4-201. Definitions**

- A. The definitions in A.R.S. § 5-1201 apply to this Article.
- B. Additionally, in this Article and in the Act, unless the context requires:
1. "Act" means Title 5, Arizona Revised Statutes, Chapter 10.
 2. "Article" means *Arizona Administrative Code*, Title 19, Chapter 4, Article 2.
 3. "Cash Equivalent" means, for the purposes of this Article 2 only, an electronic funds transfer, credit card, debit card, check, wire transfer, winnings, promotional or bonus credit, and any other form of payment as approved by the Department.
 4. "Fantasy Sports Contest Entry" means the method to participate in a fantasy sports contest.
 5. "Geofence Provider" means a person who creates a virtual perimeter for a real geographic location.
 6. "Internal Control System" means the minimum level of operational controls developed by a responsible party to ensure the integrity of fantasy sports contests.
 7. "Licensee" includes any person licensed by the Department under this Article.
 8. "Responsible Party" means the fantasy sports contest operator or the management company who is responsible for the operation of fantasy sports contests.
 9. "State" means the State of Arizona not to include the Indian lands within its exterior boundaries.
 10. "Supplier" means persons who provide goods or services to a responsible party in connection with fantasy sports contests pursuant to the Act, to include:
 - a. Fantasy sports contest platform providers;
 - b. Identity verification service providers;
 - c. Payment processors;
 - d. Geofence providers; and

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- e. Any other person as determined by the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-202. Fantasy Sports Contests Permitted

Fantasy sports contests in the State, except those which are permitted pursuant to A.R.S. Title 13, Chapter 33, shall only be conducted by licensed responsible parties who operate in compliance with, and meet the terms of, the Act and this Article.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-203. Power and Authority

- A. The Department reserves all powers, duties, and authority granted to it by the Act and in this Article.
- B. As a condition of holding a license, all licensees agree to be subject to State jurisdiction for purposes of compliance with, and enforcement of, the Act and this Article.
- C. The Department shall monitor licensees, audit compliance with this Act and Article, and investigate suspected violations of any provision in the Act or this Article and may, at any time:
1. Access and inspect all, or any part of, any fantasy sports contest platform;
 2. Access and inspect any fantasy sports contest server; and
 3. Access, review, and/or copy all books, records, and/or data maintained by a licensee related to fantasy sports contests in the State.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-204. License Categories

- A. Fantasy sports contest operators are subject to the licensing requirements of the Act and this Article. Fantasy sports contest operators shall have obtained from the Department a renewal of the license every two years thereafter before continuing to operate fantasy sports contests.
- B. Management companies are subject to the licensing requirements of the Act and this Article. Management companies shall have obtained from the Department a renewal of the license every two years thereafter before continuing to offer management services.
- C. A fantasy contest operator and/or management company shall identify any holding company which holds an ownership interest or voting rights of 10% or more of their operation. The Department, in its sole discretion, may require a holding company to obtain licensure in order to preserve the integrity of fantasy sports contests.
- D. Suppliers shall have obtained a license from the Department prior to providing goods and/or services. The supplier license shall be in effect for two years and the supplier shall have obtained a renewal from the Department thereafter before continuing to provide goods and/or services.
- E. On a quarterly basis, responsible parties shall provide to the Department a list of the names and addresses of their suppliers for fantasy sports contests in the State.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-205. Procedures for Licensure

- A. Every applicant for a license shall submit a complete application in the form prescribed by the Department, which shall include all information and documentation required by the Department, along with the non-refundable initial license fee.
- B. The fees for licensure shall be the following:
- | | |
|-----------------------------|----------|
| 1. Fantasy Contest Operator | |
| a. Initial License Fee | \$ 2,000 |
| b. Renewal | \$ 1,000 |
| 2. Management Company | |
| a. Initial License Fee | \$ 2,000 |
| b. Renewal | \$ 1,000 |
| 3. Holding Company | |
| a. Initial License Fee | \$ 500 |
| b. Renewal | \$ 250 |
| 4. Suppliers | |
| a. Initial License Fee | \$ 250 |
| b. Renewal | \$ 125 |
- C. Within five days following its receipt of a complete application for licensure of a supplier, the Department shall issue a temporary license to the applicant unless the Department does not believe that the applicant will qualify for licensure. If the supplier does not receive a response from the Department regarding the approval or denial of the applicant's temporary license by the close of the fifth day following the receipt of a complete application for licensure then the applicant's temporary license shall be deemed approved by the Department. The results of a Department background investigation shall not be required prior to the issuance of a temporary license. The temporary license shall become void and be of no effect upon either the issuance of licensure or upon the issuance of notice of denial.
- D. If fantasy sports contest operators, management companies, holding companies, or suppliers are applying for license renewal, fantasy sports contest operators, management companies, holding companies, and suppliers shall submit their completed renewal application along with the license renewal fee to the Department at least 30 days prior to the expiration date of their license. An applicant for renewal may continue to be engaged under their expired license until action is taken on the renewal application by the Department.
- E. If a fantasy sports contest operator changes key employees, each new key employee shall file a complete disclosure application within 15 days after the change.
- F. If a fantasy sports contest operator, management company, and/or holding company has a change of principals, directors, officers, and/or individual owners of 10% or more, each individual shall file a complete disclosure application within 30 days after the change, appointment, or election.
- G. Applicants and licensees may appeal a summary suspension or a determination by the Department of a revocation, suspension, or denial of licensure.
- H. An applicant for licensure, or renewal that wishes to withdraw an application shall submit a request to the Department in writing. The application shall not be considered withdrawn without the written permission of the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-206. Responsible Advertising

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- A. Advertising, marketing, and promoting of fantasy sports contests shall not target, or otherwise be of a kind that specifically appeals to, persons under 21 years of age.
- B. Advertising, marketing, and promoting of fantasy sports contests shall not be misleading or contain false information.
- C. Advertising, marketing, and promotion of fantasy sports contests shall not promote irresponsible or excessive participation in fantasy sports contests, or suggest that social, financial, or personal success is guaranteed by engaging in fantasy sports contests.
- D. Advertising, marketing, and promoting of fantasy sports contests shall not occur at event venues where most of the audience at many of the events at the venue is reasonably expected to be under 21 years of age.
- E. Fantasy sports contest messages, including logos, trademarks, or brands, shall not be used, or licensed for use, on clothing, toys, games, or game equipment intended primarily for persons under 21 years of age.
- F. Fantasy sports contests shall not be promoted or advertised in college or university-owned news assets, including digital news assets.
- G. Fantasy sports contests shall not be promoted or advertised on college or university campuses, except for generally available advertising, including television, radio, and digital advertising.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 925 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-207. Internal Control System

- A. Responsible parties shall operate fantasy sports contests pursuant to a written internal control system approved by the Department. The internal control system shall be designed to reasonably assure that for the purposes of fantasy sports contests offered in the State:
 - 1. Assets are safeguarded and accountability over assets is maintained;
 - 2. Liabilities are properly recorded and contingent liabilities are properly disclosed;
 - 3. Financial records including records relating to revenues, expenses, assets, liabilities, and equity/fund balances are accurate and reliable;
 - 4. Transactions are performed in accordance with the responsible party's general or specific authorization;
 - 5. Access to assets is permitted only in accordance with the responsible party's specific authorization;
 - 6. Recorded accountability for assets is compared with actual assets at frequent intervals and appropriate action is taken with respect to any discrepancies; and
 - 7. Functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by qualified personnel.
- B. The internal control system shall include:
 - 1. A description of, and the inter-relationships and dependencies of, the fantasy sports contest platform, hardware, software, and all integrated supplier platforms;
 - 2. Procedures for verifying geolocation services and establishing a fantasy sports contest player's geographic location;
 - 3. Procedures for monitoring, investigating, resolving, documenting, and reporting security incidents associated with information technology systems;
 - 4. Procedures for the access to, and use of scripts;
 - 5. Procedures for the mitigation of risk of fraud, cheating, and/or money laundering;
 - 6. Procedures for the identification of highly experienced fantasy sports contest players;
 - 7. Procedures to mitigate problem gambling and curtail compulsive gambling;
 - 8. A responsible gaming training and education program;
 - 9. Procedures for the identification, notice, and removal of self-excluded or barred persons from fantasy sports contest platforms;
 - 10. Procedures for accepting entry fees, canceling fantasy sports contest entries, paying out prizes or awards, and issuing tax or other required forms;
 - 11. Procedures for the recording and reconciliation of all fantasy sports contest transactions to fantasy sports contest platform reports;
 - 12. Procedures for the reconciliation of assets contained in player accounts;
 - 13. Procedures for the verification of player identification;
 - 14. Procedures for the issuance and acceptance of promotional and/or bonus credit for fantasy sports contests;
 - 15. Procedures for handling fantasy sports contest player disputes;
 - 16. Procedures for creating, updating, adjusting, and closing player accounts;
 - 17. Procedures for the retention of fantasy sports contest records; and
 - 18. Procedures for the identification and prohibition of prohibited participants from participation in fantasy sports contests.
- C. Responsible parties shall have obtained written approval of the internal control system, or any changes deemed material by the responsible party, from the Department prior to implementation. The Department shall review the system, or any material changes, and issue a written approval or disapproval of the system.
 - 1. Prior to the commencement of operations in the State, the responsible party shall have obtained written approval from the Department for the internal control system.
 - 2. After the commencement of operations in the State, the responsible party shall submit any material changes to the internal control system to the Department for review and approval. If, after five days, the responsible party has not received a response from the Department regarding the material changes to the internal control system, then the material changes shall be deemed approved by the Department.
- D. For fantasy sports contests under the Act, responsible parties shall maintain:
 - 1. Accurate, complete, legible and permanent records of all transactions in a manner suitable for audit under the standards of the American Institute of Certified Public Accountants;
 - 2. General accounting records using a double entry system of accounting with transactions recorded on a basis consistent with generally accepted accounting principles;
 - 3. Detailed supporting and subsidiary records;
 - 4. Detailed records identifying revenues, expenses, assets, liabilities and fund balances or equity;
 - 5. All records required by the internal control system including, but not limited to, those relating to any fantasy sports contest activity authorized by the Act;
 - 6. Journal entries;
 - 7. Detailed records sufficient to accurately reflect gross income and expenses relating to its operations; and

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8. Records of any proposed or adjusting entries made by an independent certified public accountant.
- E. The responsible party shall maintain bank account or accounts that are separate and distinct from all other corporate accounts, unless otherwise agreed to by the Department. The account or accounts shall be used for all player deposits, receipts, and disbursements relating to its operation of fantasy sports contests under the Act. The responsible party shall utilize a software accounting system that separates and distinguishes all receipts and disbursements regarding or in any way relating to fantasy sports contest activity under the Act.
- F. Responsible parties shall notify the Department in writing of their fiscal year end and any changes to the fiscal year end within 10 days after deciding on a fiscal year end or a change to that year end.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-208. Privilege Fee

- A. As per A.R.S. § 5-1211(A), the established fee for the privilege of operating fantasy sports contests shall be 5% of fantasy sports contest adjusted revenues.
- B. The responsible party has the option to choose either the cash accrual or modified accrual basis method of accounting for purposes of calculating the amount of the privilege fee.
- C. The calculation of fantasy sports contest adjusted revenues shall be reported in a format required by the Department. The responsible party shall submit all necessary supporting documentation as directed by the Department to confirm the calculation of fantasy sports contest adjusted revenues. The report and supporting documentation shall be submitted to the Department no later than the 25th day of each month for the preceding month.
1. Fees paid pursuant to the Act and this Article shall be paid to the Department in the manner prescribed by the Department.
 2. Following the Department's receipt of the annual audit pursuant to A.R.S. § 5-1204, any overpayment of fees by the responsible party shall be credited to the responsible party's next monthly fee payment. Any underpayment of fees shall be paid by the responsible party within 30 days of the Department's receipt of the annual audit.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 925 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R19-4-209. Servers and Cloud Storage

- A. Responsible parties shall provide the Department with the physical location of each server that accepts fantasy sports contest entries. The server or servers shall have physical and logical security.
- B. The responsible party may utilize cloud storage upon written approval by the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-210. Geofencing

- A. The responsible party shall utilize a geofence system to dynamically monitor the physical location of a player attempting to pay an entry fee on a fantasy sports contest platform.
- B. The geofence system shall perform a geolocation check prior to each payment of an entry fee in an authorized session.
- C. If a geolocation check determines that a player is not located in the State or another jurisdiction where fantasy sports contests are legal and the activity is permitted, the player shall be blocked from paying an entry fee on the fantasy sports contest platform.
- D. The responsible party or the geofence provider shall implement a means to notify a player of a geolocation failure.
- E. Attempts to pay an entry fee from unauthorized locations within the State shall be entered into a log by the geofence provider and/or the responsible party. The log shall be available to the Department upon request.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-211. Fantasy Sports Contest Platform

- A. The fantasy sports contest platform shall be designed to ensure the integrity and confidentiality of all player communications, security and confidentiality of player data including personal and financial information, and the proper identification of the sender and receiver of all communications.
- B. The responsible party shall notify the Department in writing prior to the installation of a fantasy sports contest platform that the platform meets the design requirements of R19-4-211(A) and the geofence requirements of R19-4-210(A) through (D).
- C. The responsible party shall notify the Department in writing prior to the installation of a fantasy sports contest platform, and annually thereafter, that the platform properly calculates entry fees and payouts.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-212. Fantasy Sports Contest Platform Communication

If the fantasy sports contest platform is unable to accept a fantasy sports contest entry or validate a winning entry for more than two hours, the responsible party shall notify the Department as soon as practically possible.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-213. Fees and Entry Rules

- A. Entry fees shall be paid from funds in a player account deposited by cash or cash equivalent.
- B. All entry fees shall be transacted through the fantasy sports contest platform.
- C. Upon acceptance of an entry fee, an electronic fantasy sports contest entry shall be immediately issued.
- D. Upon verification, winnings from fantasy sports contest entries shall be immediately deposited into the player account.
- E. A fantasy sports contest entry shall only be purchased from a verified player account.
- F. A fantasy sports contest entry shall not be accepted upon an event whose outcome has already been determined.
- G. If a player cancels a fantasy sports contest entry prior to the start of the fantasy sports contest, and the cancel request is

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approved by the responsible party, the fantasy sports contest entry fee shall be refunded to the player account after verification by the fantasy sports contest platform.

- H. An entry fee shall not be accepted from a person who is purchasing the fantasy sports contest entry for the benefit of another for compensation or is purchasing the fantasy sports contest entry in violation of tribal, state, or federal law.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-214. Events and Fantasy Sports Contests

- A. The responsible party shall submit a catalogue of the events and fantasy sports contests it intends to offer. The catalogue and any changes shall be submitted to the Department prior to implementation.
- B. The Department shall publish a list of authorized events and fantasy sports contests on its website.
- C. The Department may prohibit a particular event or fantasy sports contest if it does not comply with A.R.S. § 5-1201(6).

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-215. House Rules

- A. The house rules shall be conspicuously displayed on the fantasy sports contest platform. House rules shall address:
1. Types of entry fees accepted;
 2. Minimum and maximum fantasy sports contest entry amounts accepted;
 3. The maximum number of entries a player may have in a fantasy sports contest;
 4. Method for calculation and payment of winnings;
 5. Effect of scheduling changes and/or cancelled events;
 6. Process for handing incorrectly posted results;
 7. Methods of funding an account;
 8. Methods for redeeming winnings;
 9. Policy and process for canceling fantasy sports contest entries;
 10. Process for fantasy sports contest players to submit questions and/or complaints;
 11. Notification of the fantasy sports contest player dispute process; and
 12. Notification of the self-exclusion process.
- B. Responsible parties shall submit the house rules to the Department prior to implementation. The Department shall review the house rules and issue a written approval or disapproval of them. Any proposed changes to the house rules shall be approved by the Department prior to implementation. If, after five days, the responsible party has not received a response from the Department regarding the house rules, or any changes to them, then the house rules shall be deemed approved by the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-216. Player Account Creation

- A. Responsible parties shall verify a fantasy sports contest player's age and identity before allowing that player to utilize a player account to purchase fantasy sports contest entries.

- B. Responsible parties may utilize an identity verification service provider to confirm a fantasy sports contest player's age and identity.
- C. Responsible parties shall prohibit a fantasy sports contest player from having more than one player account and username for each fantasy sports contest platform.
- D. Responsible parties shall establish and maintain each player account file with the following:
1. Player's legal or full name;
 2. Player's date of birth;
 3. Player's account number or username;
 4. Player's residential address;
 5. Player's e-mail address;
 6. The method used to verify the player's identity;
 7. The date of verification; and
 8. Acknowledgement of fantasy sports contest terms and conditions, including any subsequent updates.
- E. Responsible parties shall notify players of the establishment of a player account and the associated terms and conditions.
- F. Responsible parties shall re-verify a player's identification upon reasonable suspicion that the player's identification has been compromised or the player account has been misused, or upon any suspicious activity involving the player or player account.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-217. Player Account Terms and Conditions

Player account terms and conditions shall include the following:

1. Name of the responsible party with whom the player is entering into a contractual relationship;
2. Player's consent to have the responsible party confirm the player's age and identity;
3. Rules and obligations applicable to the player with regard to allowing any other person to access or use his or her player account;
4. Player's consent to the monitoring and recording by the responsible party of any fantasy sports contest entry communication and geographic location information;
5. Privacy policy;
6. Legal age policy;
7. Rules for player account suspension;
8. Rules for dormant player accounts;
9. Rules for closing player accounts; and
10. Availability of player account statements.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-218. Player Account Maintenance

- A. All adjustments to a player account shall be authorized by the responsible party and periodically reviewed by an employee independent of the adjustment.
- B. A player shall be allowed to withdraw the funds maintained in his or her player account.
1. Upon verification by the responsible party, the player's requests to withdraw funds shall be honored within seven days of the request.
 2. The responsible party may decline to honor a player request to withdraw funds if the responsible party believes that the player engaged in either fraudulent conduct or other conduct that would put the responsible party

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in violation of the law or this Article. In such cases, the responsible party shall:

- a. Provide notice to the player of the delay in honoring the request to withdraw funds from the player account;
 - b. Investigate in an expedient fashion; and
 - c. Notify the player and the Department of the results of the investigation within two days of the completion of the investigation.
- C. The responsible party shall consider a player account to be dormant if the player has not logged into the player account for at least three years. A dormant account shall be closed by the responsible party. Upon closure of a dormant account, the responsible party shall make reasonable efforts to contact the account holder to return any unclaimed funds as required by A.R.S. § 44-307(E).
- D. After 120 days of attempting to contact the account holder, the unclaimed funds in a dormant account shall be presumed abandoned. Responsible parties shall remit all abandoned funds to the Arizona Department of Revenue as required by A.R.S. § 44-307.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-219. Promotions and Bonuses

- A. Responsible parties may offer promotions and/or bonuses.
- B. Responsible parties shall make promotion and/or bonus rules and advertisements available to the Department upon request.
- C. The promotion and/or bonus rules shall be clear and unambiguous, and include:
 1. Date and time the promotion or bonus is active and expires;
 2. Rules of play;
 3. Nature and value of prizes or awards;
 4. Eligibility restrictions or limitations;
 5. Participation requirements and limitations;
 6. Eligible fantasy sports contests;
 7. Cancellation requirements; and
 8. Terms and conditions that are full, accurate, concise, transparent, and do not contain misleading information.
- D. Promotions and/or bonuses described as free shall clearly disclose material facts, terms, and conditions.
- E. Promotions and/or bonuses shall not restrict the player from withdrawing their own funds, or withdrawing winnings from fantasy sports contest entries purchased with their own funds.
- F. Responsible parties shall make the promotion or bonus rules available to eligible players.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-220. Information Technology

- A. Responsible parties shall ensure the quality, reliability, and accuracy of all computer systems used in the operation.
- B. Responsible parties shall ensure that information technology duties are adequately segregated and monitored to detect procedural errors, unauthorized access to financial transactions and assets, and to prevent the concealment of fraud.
- C. The information technology environment and infrastructure shall be maintained in a secured physical location that is restricted to authorized employees.
- D. Responsible parties shall test the recovery procedures of the fantasy sports contest platform on a sample basis at specified

intervals at least annually. The results shall be documented and available to the Department upon request.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-221. Annual Audit

The responsible party shall be audited not less than annually, at its own expense, on its financial condition and compliance standing.

1. Financial statements, or a specific element financial statement related to fantasy sports contests in the State, shall be audited at the responsible party's fiscal year end by an independent certified public accountant. The audit shall include or be supplemented with an attestation from the independent certified public accountant that fantasy sports contest adjusted revenues are accurately reported. The Department shall be authorized to confer with the independent certified public accountant at the conclusion of the audit process and to review all the work papers and documentation relating to the responsible party.
2. The responsible party shall submit an annual compliance audit, prepared by an independent test laboratory, or another professional service provider as approved by the Department, to verify compliance with the operational aspects of the Act and this Article. The compliance audit shall include testing of the internal control system, verification of the integrity of the fantasy sports contest platform, and the geofence system.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-222. Reporting Requirements

- A. The responsible party shall report to the Department any violation or suspected violation of the Act or this Article, security breaches, breaches of confidentiality of a player's personal information, suspicious activity, and any other activity as required by the Department.
- B. Responsible parties shall report the information listed above to the Department in writing within 72 hours of discovery.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-223. Remedies

The Department may place conditions on a license, fine, or otherwise sanction, licensees, for violations of this Statute, or the administrative rules of the Department. The Department's ability to impose sanctions is subject to the following:

1. The Department shall notify the responsible party of the results of its investigation or investigations and any administrative proceedings. The results of any investigation shall not be disclosed if such disclosure will compromise ongoing law enforcement investigations or activities, or would violate applicable state and federal law.
2. All monetary fines collected by the Department, including any interest earned thereon, shall be deposited in the fantasy sports contest fund established by A.R.S. § 5-1212(A).

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Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-224. Player Disputes

- A.** Whenever the responsible party refuses payment of alleged winnings to a player or there is otherwise a dispute with a player regarding their player account, entries, wins, or losses from fantasy sports contests, and the responsible party and the player are unable to resolve the dispute to the satisfaction of the player, the responsible party shall notify the player of their right to file a written complaint. The notice shall include the procedure for filing a written complaint and the complaint resolution process.
- B.** Upon receipt of a complaint, the responsible party shall investigate and provide a written response to the player within 10 days. The response shall include a statement that if the dispute is not resolved to the satisfaction of the player, the player may submit their complaint in writing to the Department.
1. If the Department receives a written complaint from a player with regard to an unresolved dispute, the responsible party shall provide to the Department a written response to the player's complaint.
 2. The Department, in its sole discretion, may investigate the dispute and reach a final decision which may include a requirement for appropriate corrective action.
 3. The Department shall provide a written response to the responsible party and the player of the results of its investigation and the corrective action it directs, if any, within five days of the completion of its investigation.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-225. Barred Persons

The Department shall establish a list of persons barred from fantasy sports contests because their conduct, criminal history, and association with career offenders or career offender organizations poses a threat to the integrity of fantasy sports contests or to the public health, safety, or welfare. The responsible party shall prohibit barred persons from participating in fantasy sports contests. To the extent not previously provided, the Department shall send a copy of its list on a monthly basis to the responsible party, along with detailed information regarding why the person has been barred. Such persons shall be barred from all fantasy sports contests within the State.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-226. Self-Exclusion and Responsible Gaming

- A.** As part of their procedures and programs to mitigate problem gambling and curtail compulsive gambling, responsible parties shall:
1. Display on the fantasy sports contest platform, obvious and easily accessible messaging stating that help is available if a person has a problem with gambling, to include the statewide toll-free helpline telephone number, text message, website information established by the Department, and any other information as directed by the Department.
 2. Include a responsible gaming message with the Department's statewide toll-free crisis helpline telephone num-

ber, or another toll-free crisis helpline telephone number as approved by the Department, on all advertisements for fantasy sports contests, including on television, radio, internet, printed advertisements, and billboards.

- B.** The self-exclusion list shall not be provided to any licensed supplier without the written approval of the Department. Approval shall only be granted by the Department when sharing of the list is deemed necessary to effectuate the terms of the Act and this Article.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-227. Debt Setoff

- A.** If a responsible party is required to file a form 1099-MISC or other substantially similar form, the responsible party shall check to determine if the player has a past due, setoff obligation.
- B.** The responsible party shall withhold past due, setoff obligations from funds held in a player account at the time the form 1099-MISC or other substantially similar form is issued.
- C.** The Department shall supply the responsible party with the lists of outstanding obligations as provided by the Arizona Department of Economic Security, Child Support Enforcement, Supplemental Nutrition Assistance Program and Assistance Overpayment, the Arizona Supreme Court, and the Arizona Health Care Cost Containment System on an annual basis.
- D.** The outstanding obligation lists shall not be provided to any licensed supplier without the written approval of the Department. Approval shall only be granted by the Department when sharing of the list is deemed necessary to effectuate the terms of the Act and this Article.
- E.** The responsible party shall provide a receipt to the player for any funds withheld for outstanding obligations.
- F.** Any funds withheld by the responsible party shall be remitted to the Department within seven days in a format provided by the Department.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-228. Retention of Records

The responsible party shall require that all books, records, and data relating to the operation and management of fantasy sports contests are maintained for at least three years from the date of creation. Upon written approval of the Department, books, records, and/or data may be destroyed prior to passage of the required three-year retention period.

Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

R19-4-229. Calculation of Time

In computing any period prescribed or allowed by the Act or this Article, the day of the act, event, or default from which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday under state law or federal law. When the time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays under state law or federal law shall be excluded from the computation period.

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Historical Note

Section made by final exempt rulemaking at 27 A.A.R. 1186, with an immediate effective date of July 26, 2021 (Supp. 21-3).

§ 5-1201. Definitions

In this chapter, unless the context otherwise requires:

1. "Applicant" means any person that has applied for a License as a fantasy sports contest operator or that has been approved for any Act related to fantasy sports contests.
2. "Application" means a request to issue a license as a fantasy sports contest operator or to approve any act related to fantasy sports contests.
3. "Athletic event":
 - (a) Means a real-world professional, collegiate or nationally recognized sports game, contest or competition that involves the physical exertion and skill of the participating individual athletes who are each physically present at the location in which the sports game, contest or competition occurs, and the outcome of the sports game, contest or competition is directly dependent on the performance of the participating athletes.
 - (b) Includes events involving motor vehicles.
4. "Department" means the Department of Gaming.
5. "Entry fee" means cash or cash equivalent that is paid by a participant to a fantasy sports contest operator to participate in a fantasy sports contest.
6. "Fantasy sports contest" means a simulated game or contest that is offered to the public with an entry fee and that meets all of the following conditions:
 - (a) No fantasy sports contest team is composed of the entire roster of a real-world sports team.
 - (b) No fantasy sports contest team is composed entirely of individual athletes who are members of the same real-world sports team.
 - (c) Each prize or award or the value of all prizes or awards offered to winning fantasy sports contest players is made known to the fantasy sports contest players in advance of the fantasy sports contest.
 - (d) Each winning outcome reflects the relative knowledge and skill of the fantasy sports contest players and is determined by the aggregated statistical results of the performance of multiple individual athletes or participants selected by the fantasy sports contest player to form the fantasy sports contest team, whose individual performances in the fantasy sports contest

directly correspond with the actual performance of those athletes or participants in the athletic events in which those individual athletes or participants participated.

(e) A winning outcome is not based on randomized or historical events or on the score, point spread or performance in an athletic event of a single real-world sports team, a single athlete or any combination of Real-world sports teams.

(f) The fantasy sports contest does not constitute or involve and is not based on any of the following:

(i) Racing that involves animals.

(ii) A game or contest ordinarily offered by a horse track or casino for money, credit or any representative of value, including any races, games or contests that involve horses or that are played with cards or dice.

(iii) A slot machine or other mechanical, electromechanical or electronic device, equipment or machine.

(iv) Poker, blackjack, faro, monte, keno, bingo, fan-tan, Twenty-one, seven and a half, klondike, craps, chuck-a-luck, chinese Chuck-a-luck, wheel of fortune, chemin de fer, baccarat, pai gow, beat the Banker, panguingue, roulette or other banking or percentage Games.

(v) Any other game or device that is authorized or that is not authorized by this state.

(vi) A high school or youth sporting event or any event that is not an athletic event.

(vii) A contest that involves or results in betting on a race, a game, a contest or a sport that constitutes event wagering as defined in section 5-1301.

7. "Fantasy sports contest adjusted revenues" means the amount equal to the total of all entry fees that a fantasy sports contest operator collects from all fantasy sports contest players minus the total of all sums paid out as prizes or awards to all fantasy sports contest players, multiplied by the in-state percentage.

8. "Fantasy sports contest operator" or "operator" means a person that is engaged in the business of professionally conducting paid fantasy sports contests for cash or other prizes or awards for members of the general public that requires cash or cash equivalent as an entry fee to be paid by a member of the general public who participates in a paid fantasy sports contest.

9. "Fantasy sports contest platform" means the hardware, software, firmware, communications technology or other equipment, including operator procedures implemented to allow player participation in digital or online fantasy sports contests, and if supported, the corresponding equipment related to the display of the outcomes, and other similar information necessary to facilitate player participation in which a player is provided with the means to establish a Player Account and the fantasy sports contest operator is provided with the means to review Player Accounts, suspend fantasy sports contests, generate various financial transaction and account reports, input outcomes for fantasy sports contests and set any configurable parameters.

10. "Fantasy sports contest player" or "player" means an individual who participates in a fantasy sports contest offered by a fantasy sports contest operator.

11. "Fantasy sports contest team" means the simulated team composed of multiple individual athletes, each of whom is a member of a real-world sports team that a fantasy sports contest player selects to compete in a fantasy sports contest.

12. "Highly experienced player" means a fantasy sports contest player who has done at least one of the following:

(a) Entered more than one thousand fantasy sports contests offered by a single fantasy sports contest operator.

(b) Won more than three prizes or awards valued at \$1,000 each or more from a single fantasy sports contest operator.

13. "Holding company" means a corporation, firm, partnership, limited partnership, limited liability company, trust or other form of business organization that is not an individual and that directly or indirectly does either of the following:

(a) Holds an ownership interest of ten percent or more, as determined by the holding company's board, in a fantasy sports contest operator.

(b) Holds voting rights with the power to vote ten percent or more of the outstanding voting rights of a fantasy sports contest operator.

14. "In-state percentage" means for each fantasy sports contest, the percentage, rounded to the nearest tenth of a percent, equal to the total entry fees collected from all in-state participants divided by the total entry fees collected from all participants in the fantasy sports contest, unless otherwise prescribed by the Department.

15. "Key employee" means an employee of a fantasy sports contest operator who has the power to exercise significant influence over decisions concerning the fantasy sports contest operator.
16. "License" means an approval that is issued by the Department to any Person or entity to be involved in a Fantasy Sports Operation.
17. "Management company" means a person retained by a fantasy sports contest operator to manage a fantasy sports contest platform and provide general administration and other operational services.
18. "Person" means an individual, partnership, corporation, association, limited liability company, federally recognized Indian tribe or other legal entity.
19. "Player Account" means an account that is established by a patron for the purpose of participating in fantasy sports contests, including deposits, withdrawals, entry fees and payouts.
20. "Prize or award" means anything of value or any amount of cash or cash equivalents.
21. "Protected information" means information related to playing fantasy sports contests by a fantasy sports contest player that is not readily available to the general public and that is obtained as a result of a person's employment in relation to a fantasy sports contest.
22. "Script" means a list of commands that a fantasy contest-related computer program can execute and that is created by a fantasy sports contest player or by a third party for a fantasy sports contest player to automate processes on a fantasy sports contest platform.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

Related Legislative Provision:

See L. 2021, ch. 234, s. 8.

See L. 2021, ch. 234, s. 7.

§ 5-1202. Fantasy sports contests; exceptions; rules; licensure

A. Except as otherwise provided in this section, a person may not offer fantasy sports contests in this state unless the person is licensed by the Department as a fantasy sports contest operator.

B. An individual may offer one or more fantasy sports contests if all of the following apply:

1. The fantasy sports contests are not made available to the general public.
2. Each of the fantasy sports contests is limited to not more than fifteen total fantasy sports contest players.
3. The individual collects not more than \$10,000 in total entry fees for all fantasy sports contests offered in a calendar year, at least ninety-five percent of which are awarded to the fantasy sports contest players.

C. An Indian tribe that lawfully conducts class III gaming pursuant to a Tribal-State Gaming Compact with this state, directly or through a third-party operator, may offer and conduct fantasy sports contests without applying for or holding a license pursuant to this section if all activities of the fantasy sports contest occur within the boundary of its Indian Lands and the Indian tribe complies with any regulations that are included in the Compact or its appendices regarding fantasy sports contests.

D. To ensure the integrity of fantasy sports contests, the Department has jurisdiction over each person involved in conducting a fantasy sports contest. The Department may adopt rules related to conducting fantasy sports contests, including rules prescribing penalties for violating this chapter or any rules adopted under this chapter.

E. Every Applicant for licensure shall submit a completed Application, along with any required information, to the Department. The Department shall determine the form and content of the Application. Each Application shall be accompanied by the Applicant's current photograph and the fee required by the Department. The applicant must also submit a full set of fingerprints to the department 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.

F. The information required by the department shall include documentation of all of the following:

1. The name of the applicant.

2. The location of the applicant's principal place of business.
3. The applicant's telephone number.
4. The applicant's Social Security number or, if applicable, the applicant's federal tax identification number.
5. The name and address of each individual that holds a ten percent or more ownership interest in the applicant or in shares of the applicant.
6. The applicant's criminal record, if any, or if the applicant is a business entity, on request, any criminal record of an individual who is a director, officer or key employee of, or any individual who has a ten percent or more ownership interest in, the applicant.
7. Any ownership interest that a director, officer, key employee or individual owner of ten percent or more of the applicant holds in a person that is or was a fantasy sports contest operator or similar entity in any jurisdiction.
8. An identification of any business, including, if applicable, the state of incorporation or registration, in which an applicant, director, officer, key employee or individual owner of ten percent or more of the applicant, has an equity interest of five percent or more.
9. Whether an applicant, director, officer, key employee or individual owner of ten percent or more of the applicant has ever applied for or been granted any license, registration or certificate issued by a licensing authority in this state or any other jurisdiction for a gaming activity.
10. Whether an applicant, director, officer, key employee or individual owner of ten percent or more of the applicant has filed or been served with a complaint or other notice filed by a public body regarding the delinquency in payment of or dispute over filings concerning the payment of any tax required under federal, state or local law, including the amount of tax, the type of tax, the taxing agency and the time periods involved.
11. A description of any physical facility operated by the applicant in this state, the employees who work at the facility and the nature of the business conducted at the facility.
12. Information sufficient to show, as determined by the department, that the applicant can meet the requirements of procedures submitted by the applicant under section 5-1203 and under any rules adopted under this chapter.

G. The department may require licensure of a holding company, a Management Company or any other person it considers sufficiently connected to the fantasy sports contest operator if that licensure is necessary to preserve the integrity of fantasy sports contests and protect fantasy sports contest players.

H. A license issued under this section is valid for two years. The department shall renew a license biennially if the applicant demonstrates continued eligibility for licensure under this chapter and pays the renewal fee. Notwithstanding this subsection, the department may investigate a licensee at any time the department determines it is necessary to ensure that the licensee remains in compliance with this chapter and the rules adopted pursuant to this chapter.

I. The department shall establish The initial license fee and The license renewal fee. The department may assess investigative costs if the cost of a licensure investigation exceeds the amount of the initial license or renewal fee.

J. On receipt of a completed Application and the required fee, the Department shall conduct the necessary background investigation to determine if the Applicant meets the qualifications for licensure. On completion of the necessary background investigation, the Department shall either issue a license or deny the Application. If the Application for licensure is denied, a statement setting forth the grounds for denial shall be forwarded to the applicant together with all other documents relied on by the Department, to the extent allowed by law.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1203. Prohibited employees; procedures and controls

A. The Fantasy Sports Contest Operator may not employ an individual and, if already employed, shall terminate an employee who is identified through regulations issued by the department if the Individual meets any of the following criteria:

1. Has been convicted of any gaming offense.
2. Has been convicted of a felony in the seven years before submission of the employment application unless that felony has been set aside.
3. Has ever been convicted of a felony related to extortion, burglary, larceny, bribery, embezzlement, robbery, racketeering, money laundering, forgery, fraud, murder, voluntary manslaughter or a sexual offense that requires the individual to register pursuant to section 13-3821.
4. Has knowingly and wilfully provided materially important false statements or information or omitted materially important information on the individual's employment Application or background questionnaire.
5. Is an individual whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation and control of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in conducting gaming or carrying on the business and financial arrangements incidental to gaming.

B. As a condition of licensure, a fantasy sports contest operator must submit to and receive approval from the department for commercially reasonable procedures and internal controls intended to do all of the following:

1. Prevent the fantasy sports contest operator or its owners, directors, officers and employees and any relative of any of these individuals living in the same household from participating in a fantasy sports contest offered to the public.
2. Prevent the employees or agents of the fantasy sports contest operator from sharing protected information with third parties unless the protected information is otherwise made publicly available.
3. Prevent participants and officials in an athletic event from participating in a fantasy sports contest that is based on the athletic event.
4. Establish the number of entries a single fantasy sports contest player may enter in a single fantasy sports contest and take reasonable steps to prevent

fantasy sports contest players from submitting more than the allowable number of entries.

5. Identify each highly experienced player by a symbol attached to the highly experienced player's username.

6. Offer some fantasy sports contests that are open only to players other than highly experienced players.

7. Either of the following:

(a) Segregate the deposits in the fantasy sports contest players' accounts from operational money.

(b) Maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond or a combination of these, the aggregate amount of which exceeds the total dollar value amount of deposits in the fantasy sports contest players' accounts. The reserve may not be used for operational activities.

8. Ensure compliance with the applicable state and federal requirements to protect the privacy and online security of a fantasy sports contest player and the fantasy sports contest player's account.

9. Otherwise ensure the integrity of fantasy sports contests.

C. A licensed fantasy sports contest operator shall comply with the procedures and internal controls that are submitted to and approved by the department under subsection B of this section. A licensed fantasy sports contest operator may make technical adjustments to its procedures and internal controls if the adjustments are not material and it notifies the department within twenty-one days of the changes becoming effective and continues to meet or exceed the standards required by this chapter and any rules adopted by the department.

D. Procedures submitted to the department under subsection B of this section are confidential and privileged and are not subject to disclosure under title 39, chapter 1, article 2.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1204. Financial responsibility

On or before July 1 of each year, a licensed fantasy sports contest operator shall contract with a certified public accountant to perform an independent audit in accordance with generally accepted accounting principles of the financial condition of the licensed fantasy sports contest operator's total operation for the previous fiscal year and to ensure compliance with this chapter and for any other purpose as prescribed by rule. not later than one hundred eighty days after the end of the fantasy sports contest operator's fiscal year, A licensed fantasy sports contest operator shall submit the audit results under this section to the department. The results of an audit submitted to the department under this section are confidential and privileged and are not subject to disclosure as provided in title 39, chapter 1, article 2.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1205. Prohibitions; exception

A. A fantasy sports contest operator shall prohibit an individual who is under twenty-one years of age from participating in a fantasy sports contest.

B. A licensed fantasy sports contest operator may not do any of the following:

1. Allow the use of a script that provides a fantasy sports contest player with an unfair competitive advantage. A script made readily available to all fantasy sports contest players does not provide a fantasy sports contest player with an unfair competitive advantage and may not be determined otherwise.

2. Use false, deceptive or misleading advertising or advertising that is not based on fact.

3. Target, in advertising or promotions, either of the following:

(a) Individuals who have restricted themselves from entering a fantasy sports contest under the procedures established by the department pursuant to section 5-1206.

(b) Individuals who are under twenty-one years of age.

C. A fantasy sports contest may not be offered on, at or from any of the following:

1. A kiosk or machine open to public use and physically located in a retail business location, bar, restaurant or other commercial establishment.

2. A kiosk or machine open to public use and physically located in a place of public accommodation, except that a fraternal organization or VETERANS' organization as defined in section 5-401 or a licensed racetrack may operate up to two kiosks for the sole purpose of offering fantasy sports.

D. This section does not apply to a federally recognized Indian tribe operating under its Tribal-State Gaming Compact and any amendments.

History:

Added by L. 2021, ch. 234, s. 3, eff. 4/15/2021.

**§ 5-1206. Problem gambling; self-exclusion list; program;
liabilities**

A. A Fantasy Sports Contest Operator shall develop a procedure to inform fantasy sports contest players that help is available if an individual has a problem with gambling and, at a minimum, provide the statewide toll-free helpline telephone number, text message and website information established by the Department.

B. The Department and the Fantasy Sports Contest Operator shall comply with the following requirements to allow problem gamblers to voluntarily exclude themselves from Fantasy Sports Contests statewide:

1. The Department shall establish a list of Persons who acknowledge, in a manner to be established by rule, that they have a compulsive play problem and voluntarily seek to exclude themselves from Fantasy Sports Contests statewide. The Department shall establish procedures for the placement on and removal from the list of self-excluded Persons. Only a Person seeking voluntary self-exclusion shall be allowed to include the Person's name on the self-exclusion list of the Department.

2. The Fantasy Sports Contest Operator shall establish procedures for advising Persons who inquire about self-exclusion and offer self-exclusion application forms provided by the Department to those Persons when requested.

3. The Department shall compile identifying information concerning self-excluded Persons. Such information shall contain, at a minimum, the full name and any aliases of the Person, a photograph of the Person, the social security or driver's license number of the Person and the current physical and electronic contact information, including mailing address, of the Person.

4. The Department, on a weekly basis, shall provide the compiled information to Fantasy Sports Contest Operators. Fantasy Sports Contest Operators shall treat the information received from the Department under this Section as confidential, and the information may not be disclosed except to vendors approved by the Department for purposes of complying with this Section, appropriate law enforcement agencies if needed in conducting an official investigation, or unless ordered by a court of competent jurisdiction.

5. A Fantasy Sports Contest Operator shall check the most recent self-excluded Persons list provided by the Department before creating a Player Account for any self-excluded Person. A Fantasy Sports Contest Operator shall revoke a Player Account and remove all self-excluded Persons from all marketing lists of the Fantasy Sports Contest Operator.

6. A Fantasy Sports Contest Operator shall take reasonable steps to ensure that Persons on the Department's list of self-excluded Persons are denied access to all Fantasy Sports Contests.

7. A Fantasy Sports Contest Operator shall take reasonable steps to identify self-excluded Persons.

8. If a self-excluded person participates in a fantasy sports contest, the Fantasy Sports Contest Operator shall report to the Department, at a minimum, the name of the self-excluded person, the date of participation, the amount or value of any monies, prizes or awards forfeited, if any, and any other action taken. The report shall be provided to the Department within twenty-four hours of discovery.

C. A Fantasy Sports Contest Operator may not pay any prize or award to a Person who is on the Department's self-exclusion list. Any prize or award won by a Person on the self-exclusion list shall be forfeited and shall be donated by the Fantasy Sports Contest Operator to the Department's Division of Problem Gambling on a quarterly basis by the twenty-fifth day of the following month.

D. Notwithstanding any other provision of this chapter, the Department's list of self-excluded Persons is not open to public inspection.

E. A Fantasy Sports Contest Operator shall develop and maintain a program to mitigate compulsive play and curtail compulsive play, which may be in conjunction with the Department.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1207. Department of gaming; authority

The department shall adopt rules to implement this chapter as provided in Title 41, Chapter 6, including rules that do all of the following:

1. Require a fantasy sports contest operator to implement commercially reasonable procedures to prohibit access to both of the following:
 - (a) Individuals who request to restrict themselves from playing fantasy sports contests.
 - (b) Individuals who are under twenty-one years of age.
2. Prescribe requirements related to beginning players and highly experienced players.
3. Suspend the account of a fantasy sports contest player who violates this chapter or a rule adopted under this chapter.
4. Provide a fantasy sports contest player with access to information on playing responsibly and how to ask for assistance for compulsive play behavior.
5. Require an applicant for a fantasy sports contest operator license to designate at least one key employee as a condition of obtaining a license.
6. Include any other rule the department determines is necessary to ensure the integrity of fantasy sports contests.

History:

Added by L. 2021, ch. 234, s. 3, eff. 4/15/2021.

§ 5-1208. Requirements

A. After a Fantasy Sports Contest Operator is licensed, the fantasy sports contest operator shall report any change to the information regarding ownership included in its application with the Department within thirty days after the change is effective. The Fantasy Sports Contest Operator's license shall remain valid unless the Department determines that the Fantasy Sports Contest Operator is no longer qualified to maintain the license due to the change.

B. A licensed fantasy sports contest operator shall retain and maintain in a place secure from theft, loss or destruction all of the records required to be maintained under this chapter and the rules adopted under this chapter for at least three years after the date the record is created.

C. A licensed fantasy sports contest operator shall organize all records under subsections A and B of this section in a manner that enables the licensed fantasy sports contest operator to provide the department with the records.

D. Information obtained under this section is confidential and privileged and is not subject to disclosure as provided in title 39, chapter 1, article 2.

E. If a fantasy sports contest operator is required to file a form 1099-misc or other substantially equivalent form with the united states internal revenue service for a person who is identified by the Arizona administrative office of the courts, the department of economic security division of child support enforcement, the department of economic security supplemental nutrition assistance program and assistance overpayment or the Arizona health care cost containment system administration as owing an obligation, the fantasy sports contest operator shall withhold from the person's account the amount of obligations owed at the time the form 1099-misc or a substantially equivalent form is issued, if the fantasy sports operator has been notified by this state of the obligation. At that time, the fantasy sports contest operator shall transmit the amount withheld for obligations to the department of gaming and shall also transmit any INFORMATION requested by the department of gaming. The department of gaming shall provide information to the fantasy sports contest operator of persons with outstanding obligations. If the identified person is also self-excluded, tax liabilities and setoff obligations shall be satisfied before any monies are donated to the department of gaming division of problem gambling pursuant to section 5-1206. If the identified person has MULTIPLE liabilities, those liabilities shall be satisfied in the following order:

1. Child support enforcement.

2. Supplemental nutrition assistance program and assistance overpayment.
3. The courts.
4. The Arizona health care cost containment system administration.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1209. Revocation, suspension or denial of license; grounds; definitions

A. The department may revoke, suspend or deny a license if an applicant or licensee meets any of the following criteria:

1. Violates, fails or refuses to comply with the provisions, requirements, conditions, limitations or duties imposed by law or rule, or if any such violation occurs on any fantasy sports contest platform operated by any such person or over which the person has substantial control.

2. Knowingly causes, aids, abets or conspires with another to cause any person to violate any of the laws of this state or the rules of the department.

3. Obtains a license by fraud, misrepresentation, concealment or through inadvertence or mistake.

4. Is convicted of or forfeited bond on a charge of or pleads guilty to:

(a) Forgery, larceny, extortion or conspiracy to defraud.

(b) Wilful failure to make required payment or reports to any tribal, state or federal governmental agency, filing false reports with any tribal, state or federal governmental agency or any similar offense or offenses.

(c) Bribing or otherwise unlawfully influencing a public official of this state or any other state or jurisdiction.

(d) Any crime, whether a felony or misdemeanor, involving any gaming activity, physical harm to an individual or moral turpitude.

5. Makes a misrepresentation of or fails to disclose a material fact to the department.

6. Fails to prove, by clear and convincing evidence, that the person is qualified for licensure.

7. Is subject to current prosecution or pending charges or a conviction that is under appeal for any of the offenses included in this subsection. At the request of an applicant for an original license, the department may defer decision on the application during the pendency of the prosecution or appeal.

8. Has had a gaming license issued by any jurisdiction in the United States revoked or denied.

9. Demonstrates a wilful disregard for compliance with gaming regulatory authority in any jurisdiction, including suspension, revocation or denial of an application for a license or forfeiture of a license.
 10. Has pursued or is pursuing economic gain in an occupational manner or context in violation of the criminal laws of any state if the pursuit creates probable cause to believe that the person's participation in gaming or related activities would be detrimental to the proper operation of authorized gaming or a related activity in this state.
 11. Is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization thereby establishing probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of authorized gaming or related activities in this state.
 12. Is a person whose prior activities, criminal record, if any, habits and associations pose a threat to the public interest of this state or to the effective regulation and control of fantasy sports contests, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of fantasy sports contests, or the carrying on of the business and financial arrangements incidental thereto.
 13. Fails to provide any information requested by the department within seven days of the request for the information.
- B. The department, pursuant to the laws of this state, may summarily suspend a license issued pursuant to this chapter if the continued licensure of a person constitutes an immediate threat to the public health, safety or welfare.
- C. Any applicant for licensure agrees by making such application to be subject to state jurisdiction to the extent necessary to determine the applicant's qualification to hold such license, including all necessary administrative procedures, hearings and appeals pursuant to title 41, chapter 6 and the department's rules.
- D. An applicant for licensure may not withdraw an application without the department's written permission. The department may not unreasonably withhold permission to withdraw an application.
- E. For the purposes of this section:
1. "Career offender" means any individual who behaves in an occupational manner or context for the purposes of economic gain by violating federal law or the laws and public policy of this state.

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definitions (Arizona Revised Statutes (2022 Edition))**

2. "Career offender organization" means any group of individuals who operate together as career offenders.
3. "Occupational manner or context" means the systematic planning, administration, management or execution of an activity for financial gain.

History:

Amended by L. 2022, ch. 59,s. 8, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1210. Violations; classification; penalties

A. A person may not do any of the following:

1. Except as otherwise provided in this chapter, offer a fantasy sports contest in this state unless the person is licensed by the department.
2. Knowingly make a false statement on an application for a license under this chapter.
3. Knowingly provide false testimony to the department or any authorized representative of the department.

B. The department may not issue a license under this chapter to a person that violates subsection A of this section.

C. A person that violates subsection A, paragraph 1 of this section is guilty of a crime as follows:

1. For the first or second violation, the person is guilty of a class 3 misdemeanor.
2. For a third or subsequent violation, the person is guilty of a class 1 misdemeanor.

D. The department may issue a cease and desist order and obtain injunctive relief against a person that violates this chapter.

E. The Department may impose a civil penalty of not more than \$10,000 for a violation of this chapter, a rule adopted under this chapter or an order of the Department. A civil penalty imposed under this section is payable to this State and may be collected in a civil action brought by the Department.

F. The department may suspend, revoke or restrict the license of a fantasy sports contest operator that violates this chapter, a rule adopted under this chapter or an order of the department.

History:

Added by L. 2021, ch. 234, s. 3, eff. 4/15/2021.

§ 5-1211. Fees; penalty

A. The department shall establish a fee for the privilege of operating fantasy sports contests. In determining the fee, the department shall consider the highest percentage of revenue share that an Indian tribe pays to this state pursuant to the tribal-state gaming compacts and any amendments. the fee may not exceed ten percent of the fantasy sports contest operator's adjusted revenues. A fantasy sports contest operator shall report to the department and pay the fee from its monthly fantasy sports contest adjusted revenues, on a form and in the manner prescribed by the department. This subsection does not apply to an individual who offers a fantasy sports contest under section 5-1202, subsection B.

B. The fee established pursuant to subsection A of this section is due and payable to the department by the twenty-fifth day of each month and shall be based on monthly fantasy sports contest adjusted revenue derived during the previous month.

C. The department shall deposit, pursuant to sections 35-146 and 35-147, the fees collected pursuant to this section in the fantasy sports contest fund established by section 5-1212.

D. A licensed fantasy sports contest operator who fails to remit to the department the fees required under this section is liable, in addition to any sanction or penalty imposed under this chapter, for the payment of a penalty of five percent per month up to a maximum of twenty-five percent of the amounts ultimately found to be due, to be recovered by the department. Penalties imposed and collected by the department under this subsection must be deposited in the fantasy sports contest fund established by section 5-1212.

History:

Amended by L. 2022, ch. 306,s. 1, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1212. Fantasy sports contest fund

A. The fantasy sports contest fund is established consisting of monies deposited pursuant to section 5-1211 or from any other source. The department shall administer the fund. Monies in the fund are subject to legislative appropriation.

B. On notice from the department, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. The department may spend not more than ten percent of monies on the department's annual costs of regulating and enforcing this chapter unless otherwise provided by the legislature. at the end of each fiscal year, any revenues collected in excess of the amount appropriated from the fund shall be transferred to the state general fund.

History:

Amended by L. 2022, ch. 306,s. 2, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1213. Conditional enactment; notice

A. This chapter does not become effective unless and before each Indian tribe with a gaming facility in Pima county and each Indian tribe with a gaming facility in the Phoenix metropolitan area, as defined in the 2021 compact amendment, has entered into a 2021 gaming compact amendment and notice of the United States secretary of the interior's approval or approval by operation of law has been published in the federal register.

B. The department shall notify the director of the Arizona legislative council in writing of the date on which the condition was met.

History:

Added by L. 2021, ch. 234,s. 3, eff. 4/15/2021.

§ 5-1301. Definitions

In this chapter, unless the context otherwise requires:

1. "Adjusted gross event wagering receipts" means an event wagering operator's gross wagering receipts, excluding voided bets, minus winnings paid to authorized participants and any federal excise tax. A deduction from adjusted gross event wagering receipts equal to the value of free bets or promotional credits redeemed by authorized participants may be taken as provided in this paragraph. The deduction under this paragraph for free bets or promotional credits is limited to the first five years following the effective date of this section as follows:

(a) For years one and two, a deduction not to exceed Twenty percent of an event wagering operator's gross wagering Receipts.

(b) For year three, a deduction not to exceed fifteen percent of an event wagering operator's gross wagering receipts.

(c) For years four and five, a deduction not to exceed ten percent of an event wagering operator's GROSS wagering receipts.

(d) For year six and each year thereafter, a deduction of Free bets is not allowed. January 1 following the year in which the event Wagering operator begins event wagering operations is considered the first year Of event wagering for the purposes of this paragraph. An event wagering Operator may deduct up to twenty percent of an event wagering operator's gross Wagering receipts during any period that the operator conducts event wagering Before January 1 of the first year of event wagering Operations.

2. "Department" means the Department of Gaming.

3. "E-sport" means an organized, multiplayer video game competition, particularly between professional players, individually or as teams.

4. "Event wagering":

(a) Means accepting wagers on sports events or other events, portions of sports events or other events, the individual performance statistics of athletes in a sports event or combination of sports events or the individual performance of individuals in other events or a combination of other events by any system or method of wagering, including in person or over the Internet through websites and on mobile devices.

(b) Does not include a fantasy sports contest as defined in section 5-1201.

5. "Event wagering employee" means an employee of an event wagering operator, sports facility, management services provider or limited event wagering operator who is directly involved in the management or control of the conduct of event wagering under this chapter in this state.
6. "Event wagering facility" means a facility at which event wagering is conducted under this chapter.
7. "Event wagering operator" means either:
 - (a) An owner or operator of an Arizona professional sports team or franchise, an operator of a sports facility in this state that hosts an annual tournament on the PGA tour or a promoter of a National association for stock car auto racing national touring race in this state, or the designee of such an owner, operator or promoter, who is licensed to offer event wagering under this chapter. If an owner, operator or promoter that qualified for an event wagering operator license appoints a designee, the designee will be considered the event wagering operator and the licensee with respect to the applicable license for the purposes of this chapter.
 - (b) An arizona indian tribe or an entity fully owned by an Arizona indian tribe, or its designee, licensed to operate only mobile event Wagering outside the boundaries of its indian lands and throughout this state If it has signed the most recent tribal-state gaming compact and any applicable Appendices or amendments. If an indian tribe that qualified for an event Wagering operator license appoints a designee, the designee will be considered The event wagering operator and the licensee with respect to the applicable License for the purposes of this chapter.
8. "Limited event wagering operator" means a racetrack enclosure or additional wagering facility that holds a permit issued by the division of racing to offer wagers on horseracing and that is licensed under this chapter.
9. "Official league data" means statistics, results, outcomes and other data related to a sports event or other event obtained pursuant to an agreement with the relevant sports governing body or an entity expressly authorized by the sports governing body to provide such information to licensees that authorizes the use of such data for determining the outcome of sports wagers on sports events or other events.
10. "Licensee" means a person that holds an event wagering operator license, limited event wagering license, supplier license or management services provider license.

11. "Management services provider" means a person that Operates, manages or controls event wagering authorized by this chapter on Behalf of an event wagering operator or limited event wagering operator, Including developing or operating event wagering platforms and providing odds, Lines and global risk management, and may provide services to more than one Licensed event wagering operator or licensed limited event wagering Operator.

12. "Other event" means a competition of relative skill or an event authorized by the Department under this chapter.

13. "Person" means an individual, partnership, committee, association, corporation, Indian tribe or an entity fully owned by an Indian tribe, or any other organization or group of persons.

14. "Professional sport" means a sport conducted at the highest level league or organizational play for its respective sport and includes baseball, basketball, football, golf, hockey, soccer and motorsports.

15. "Prohibited conduct" includes any statement, action or other communication intended to unlawfully influence, manipulate or control a betting outcome of a sports event or other event of any individual occurrence or performance in a sports event or other event in exchange for financial gain or to avoid financial or physical harm.

16. "Prohibited participant" means:

(a) Any individual whose participation may undermine the integrity of the wagering, the sports event or the other event.

(b) Any individual who is prohibited from placing a wager as an agent, proxy or because of self-exclusion.

(c) Any individual who is an athlete, coach, referee, player, trainer or personnel of a sports organization in any sports event or other event overseen by that individual's sports organization who, based on information that is not publicly available, has the ability to determine or to unlawfully influence the outcome of a wager.

(d) An individual who holds a position of authority or influence sufficient to exert influence over the participants in a sporting contest, including coaches, managers, handlers and athletic trainers, such that their actions can affect the outcome of a wager.

(e) An individual with access to exclusive information on any sports event or other event overseen by that individual's sports governing body that is not

publicly available information or any individual identified by any lists provided by the sports governing body to the Department.

17. "Sports event" means a professional sport or athletic event, a collegiate sport or athletic event, a motor race event, an e-sport event or an Olympic event.

18. "Sports facility" means a facility that is owned by a commercial, state or local government or quasi-governmental entity that hosts professional sports events and that holds a seating capacity of more than ten thousand persons at its primary facility, one location in this state that hosts an annual golf tournament on the PGA tour and one location that holds an outdoor motorsports facility that hosts a national association for stock car auto racing national touring race.

19. "Sports governing body" means an organization headquartered in the United States that prescribes final rules and enforces codes of conduct with respect to a sports event and participants in a sports event.

20. "Tier one sports wager" means a sports wager that is determined solely by the final score or final outcome of the sports event and that is placed before the sports event has begun.

21. "Tier two sports wager" means a sports wager that is not a tier one sports wager.

22. "Supplier" means a person that manufactures, distributes or supplies event wagering equipment or software, including event wagering systems.

23. "Wager":

(a) Means a sum of money or thing of value risked on an uncertain occurrence.

(b) Includes tier one and tier two sports wagers, single-game bets, teaser bets, parlays, over-under bets, moneyline bets, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, straight bets and other wagers approved by the Department.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1302. Department of gaming; powers; duties

- A. The department shall enforce this chapter and supervise compliance with laws and rules relating to regulating and controlling event wagering in this state.
- B. The department may adopt rules in accordance with this chapter and Title 41, Chapter 6.
- C. The department shall evaluate all applicants to Determine suitability for issuing all event wagering operator licenses, limited Event wagering operator licenses, supplier licenses and management services Provider licenses and license renewals and shall charge and collect all fees Pursuant to this chapter.
- D. The department may deny, revoke or suspend licenses or renewals or deny an applicant's request to withdraw a license application.
- E. The department shall conduct background checks of event wagering operators, limited event wagering operators, management services providers and event wagering suppliers and may monitor and conduct periodic audits of event wagering operations and providers.
- F. Hearings shall be conducted pursuant to title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, any party aggrieved by a final order or decision of the department may seek judicial review pursuant to title 12, chapter 7, article 6.
- G. The department shall oversee event wagering and develop standards and procedures and engage in other duties as the director of the department prescribes to further the purposes of this Chapter, including establishing and enforcing standards and procedures for:
1. Collecting, depositing and disbursing all applicable license fees and payments as required by this Chapter.
 2. Operating event wagering and maintaining, testing, inspecting, approving and auditing event wagering accounts, platforms, hardware, software and data, including player, financial, accounting and wagering data.
 3. Operating event wagering facilities, including location, security and surveillance, departmental access, inspections and approvals.
 4. Licensing and requirements for the use of geolocation services to reasonably ensure persons engaging in event wagering are located in this

State or another departmentally authorized location allowed by this Chapter at the time of event wagering.

5. Approving other events on which wagers may be taken consistent with this Chapter.

6. Establishing mechanisms designed to detect and prevent the unauthorized use of player accounts and to detect and prevent fraud, money laundering and collusion, including a requirement that event wagering operations contract with a departmentally licensed integrity monitoring provider.

7. Paying winning wagers, reporting taxes and collecting debt setoffs from a payout of winnings that triggers the licensee's obligation to file a form w-2g or a substantially equivalent form with the united states internal REVENUE service, including overdue child support payments, State tax debt and debts as established by the Department of Economic Security.

H. The department may adopt rules authorizing event Wagering operators to offset loss and manage risk, directly or with a third Party approved by the department, through the use of a liquidity pool in this State or another jurisdiction, if the event wagering operator or its management Services provider is licensed by such jurisdiction to operate an event wagering Or sports betting business. An event wagering operator's use of a liquidity Pool does not eliminate its duty to ensure that it has sufficient monies Available to pay bettors.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1303. Event wagering; license required; exception

A. Event wagering may be conducted only to the extent that it is conducted in accordance with this chapter. A person may not offer any activity in connection with event wagering in this State unless all necessary licenses have been obtained in accordance with federal and state law and any applicable rules of the Department.

B. A wager placed by a participant in this state and received by an event wagering operator or its management services provider in this state is considered to be gambling or gaming that is conducted in this state.

C. A law that is inconsistent with this chapter does not apply to event wagering as provided for by this chapter.

D. This chapter does not apply to event wagering conducted exclusively on Indian lands as that term is defined in the Indian gaming regulatory act (P.L. 100-497; 102 Stat. 2467) by an Indian tribe operated in accordance with a Tribal-State Gaming Compact and any amendments. For purposes of this chapter, event wagering is conducted exclusively on Indian lands only if the individual who places the wager is physically present on Indian lands when the wager is initiated, received or otherwise made on equipment that is physically located on Indian lands, and the wager is initiated, received or otherwise made in conformity with the safe harbor requirements as provided in 31 United States Code section 5362 (10)(C). An event wagering operator may not accept any wager if the individual who places the wager is physically present on Indian lands when the wager is initiated.

E. A person may not provide or make available event wagering devices in a place of public accommodation in this state, including a club or other association, to enable individuals to place wagers except as provided by this chapter. This subsection does not apply to an event wagering operator aggregating, providing or making available event wagering devices within its own event wagering facility.

F. For purposes of this chapter, the intermediate routing of electronic data in connection with event wagering, including routing across state lines, does not determine the location or locations in which the wager is initiated, received or otherwise made.

G. An event wagering operator may use more than one event wagering platform to offer, conduct or operate event wagering. Only an event wagering operator or its management services provider may process, accept, offer or solicit wagers. The event wagering operator must clearly display its own brand or that of an affiliate on the event wagering platform that it uses.

The event wagering operator, in its sole discretion, may also elect to have the brand of the management services provider that it uses be the name and logos of the event wagering platform provider if the event wagering platform also clearly displays the event wagering operator's own trademarks and logos or those of an affiliate.

H. An owner, operator, promoter or Indian tribe that qualifies for an event wagering operator license and appoints a designee to be licensed as an event wagering operator is not responsible for the conduct of its designee.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1304. Licensure; application

A. The department may issue not more than ten event wagering operator licenses to applicants other than an Indian tribe. The department may issue not more than ten event wagering operator licenses to Indian tribes in this state if the Indian tribe receiving a license has signed the most recent tribal-state gaming compact and any applicable appendices or amendments. The department shall issue event wagering operator licenses only to applicants that are either of the following in compliance with this chapter:

1. An owner of an Arizona professional sports team or franchise, operator of a sports facility that hosts an annual tournament on the PGA tour, promoter of a national association for stock car auto racing national touring race conducted in this state or the owner's, operator's or promoter's designee, contracted to operate event wagering for both retail event wagering at a sports facility or its complex as prescribed in subsection D of this section and mobile event wagering throughout the state. If a designee is used, the designee shall be considered the applicant and be subject to any requirements of the application process rather than the owner, operator or promoter.
2. An Indian tribe, or an entity fully owned by an Indian tribe, or its designee contracted to operate only mobile event wagering outside the boundaries of its Indian lands and throughout the state if it has signed the most recent tribal-state gaming compact and any applicable appendices or amendments.

B. An applicant for an event wagering license shall submit an application in a form prescribed by the department, including all of the following:

1. The identification of the applicant's principal owners that own more than five percent of the company, the partners, the members of its board of directors and the officers, the identification of any holding company, including its principals, that is engaged by the applicant to assist in the management or operation of event wagering, if applicable, and information to verify that the applicant is qualified to hold a license under subsection A of this section.
2. A full set of fingerprints 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. The fingerprints shall be furnished by the applicant's officers and directors, if a corporation, members, if a limited liability company, and partners, if a partnership. An applicant convicted of a disqualifying offense may not be licensed.

3. A notice and description of civil judgments obtained against the applicant pertaining to antitrust or security regulation laws of the federal government, of this state or of any other state, jurisdiction, province or country.

4. If the applicant has conducted gaming operations in a jurisdiction that allows such activity, letters of compliance from the regulatory body that regulates event wagering, sports wagering or any other gaming activity that the applicant is licensed for, conducts or operates under jurisdiction of the regulatory body.

5. Information, documentation and assurances concerning financial background and resources of the applicant or its management services provider as may be required to establish by clear and convincing evidence the financial stability and responsibility of the applicant or its management services provider, including bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. Each applicant or its management services provider, in writing, shall authorize the examination of all bank accounts and records as may be deemed necessary by the department. The department may consider any relevant evidence of financial stability. The applicant is presumed to be financially stable if the applicant or its management services provider establishes by clear and convincing evidence that it meets each of the following standards:

(a) The ability to ensure the financial integrity of event wagering operations by maintaining a bankroll or equivalent provisions adequate to pay winning wagers to bettors when due. An applicant is presumed to have met this standard if the applicant or its management services provider maintains, on a daily basis, a bankroll or equivalent provisions in an amount that is at least equal to the average daily minimum bankroll or equivalent provisions, calculated on a monthly basis, for the corresponding month in the previous year.

(b) The ability to meet ongoing operating expenses that are essential to maintaining continuous and stable event wagering operations.

(c) The ability to pay, as and when due, all state and federal taxes.

6. Information to establish by clear and convincing evidence that the applicant or its management services provider has sufficient business ability and gaming experience as to establish the likelihood of creating and maintaining a successful and stable event wagering operation.

7. Information regarding the financial standing of the applicant, including each person or entity that has provided loans or financing to the applicant or its management services provider.

8. Information on the amount of adjusted gross event wagering receipts and associated adjusted gross receipts that the applicant expects to generate.

9. A nonrefundable application fee or annual licensing fee as prescribed by section 5-1310.

10. Any additional information required by the department to determine the financial and operational ability to fulfill its obligations as an event wagering operator.

C. Any applicant for licensure agrees to be subject to state jurisdiction to the extent necessary to determine the applicant's qualification to hold a license, including all necessary administrative procedures, hearings and appeals as provided in title 41, chapter 6 and department rules.

D. A license issued by the department pursuant to this section authorizes an event wagering operator identified in subsection A, paragraph 2 of this section to operate only mobile event wagering or an event wagering operator identified in subsection A, paragraph 1 of this section to offer both:

1. Event wagering in this state through an event wagering facility within a five-block radius of the event wagering operator's sports facility or, in the case of a designee, the sports facility or the designating owner, operator or promoter of a professional sports team, event or franchise. An event wagering facility within one mile of a tribal gaming facility must be:

(a) Within a sports complex that includes retail centers that are adjacent to the sports facility.

(b) Not more than one-fourth of a mile from a sports facility within the sports complex.

2. Event wagering through a mobile platform as specified by the department. A licensed event wagering operator or its designated management services provider may offer event wagering through an event wagering platform as specified by the department.

E. A license issued under this section is valid for five years if the licensee submits an annual license fee, maintains the qualifications to obtain a license under this section and substantially complies with this chapter and other laws and rules relating to event wagering. A licensee may renew its license by submitting an application in a form prescribed by department rule

and the application fee. A license may not be renewed if it is determined by the department that the event wagering operator has not substantially complied with this chapter or any other law regulating its event wagering operations or other operations licensed by the department. A licensee shall submit the nonrefundable annual license and application fees prescribed in section 5-1310 with its application for the renewal of its license.

F. A person may not apply for or obtain more than one event wagering operator license. A management services provider may offer services to more than one event wagering operator.

History:

Amended by L. 2022, ch. 59, s. 9, eff. 9/23/2022. Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

**§ 5-1305. License review; approval; fees; material change;
exemption; display; transferability**

A. On receipt of a completed Application and the required fee, the Department shall conduct the necessary background investigation to ensure the Applicant is qualified for licensure. On completion of the necessary background investigation, the Department shall either issue a license or deny the Application. If the Application is denied, the Department shall forward a statement setting forth the grounds for denial to the applicant together with all other documents on which the department relied, to the extent allowed by law.

B. The Department may conduct additional background investigations of any Person required to be licensed at any time while the license remains valid. The issuance of a license does not create or imply a right of employment or continued employment. The Event Wagering operator or Limited Event Wagering Operator may not employ and, if already employed, shall terminate an event wagering employee if it is determined that the person meets any of the following criteria:

1. Has been convicted of any gaming offense.
2. Has been convicted of a felony in the seven years before submitting an application unless that felony has been set aside.
3. Has ever been convicted of a felony related to extortion, burglary, larceny, bribery, embezzlement, robbery, racketeering, money laundering, forgery, fraud, murder, voluntary manslaughter, a sexual offense that requires the individual to register pursuant to section 13-3821 or kidnapping.
4. Knowingly and wilfully provides materially important false statements or information or omits materially important information on the person's employment Application or background questionnaire.
5. Is a Person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation and control of gaming or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

C. Not later than sixty days after the department receives a complete Application, the Department shall issue a license to the Applicant unless the background investigation the Department conducts discloses that the Applicant has a criminal history or unless other grounds sufficient to

**ARS 5-1305 License review; approval; fees; material change;
exemption; display; transferability (Arizona Revised Statutes
(2022 Edition))**

disqualify the Applicant are apparent on the face of the Application. If more than ten applications are received for a particular license type, the department shall adopt a process for ensuring an equal opportunity for all qualified applicants to obtain a license. The department shall review and approve or deny an application for a license as provided in title 41, chapter 6, article 10.

D. For each application for licensure or renewal of a license that is approved under this section, the amount of the application fee must be credited toward the licensee's license fee and the licensee shall remit the balance of the initial license fee to the Department on approval of a license. The fees collected from licensees under this section shall be deposited in the event wagering fund established by section 5-1318 and used by the Department to pay the actual operating and administrative expenses incurred for event wagering.

E. Each person licensed under this chapter shall give the Department written notice within thirty days after a material change is made to information provided in the licensee's application for a license or renewal.

F. Indian tribes within this State operating event wagering exclusively on Indian Lands are exempt from the licensure requirements of this section. Event wagering on Indian Lands is governed by the Tribal-State Gaming Compact, its Appendices, any amendments and the Indian Gaming Regulatory Act (P.L. 100-497; 102 stat. 2467).

G. Each licensee shall display its license conspicuously in the licensee's place of business or have the license available for inspection by an agent of the Department or a law enforcement agency. Each licensee that operates an event wagering platform shall conspicuously display a notice of the license on its platform's landing page.

H. The Department shall keep all information, records, interviews, reports, statements, memoranda or other data supplied to or used by the Department in the course of its review or investigation of an application for an event wagering operator license or renewal of a license confidential. The materials described in this subsection are exempt from disclosure pursuant to Title 39, Chapter 1, Article 2.

I. A license issued under this chapter may not be transferred to another person or entity without prior approval of the department. The department shall work with applicants and licensees to ensure there is no gap in the validity of the license.

History:

**ARS 5-1305 License review; approval; fees; material change;
exemption; display; transferability (Arizona Revised Statutes
(2022 Edition))**

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

**§ 5-1306. License revocation; suspension; denial; grounds;
definitions**

A. The department may revoke, suspend or deny a license when an applicant or licensee meets any of the following criteria:

1. Violates, fails or refuses to comply with the provisions, requirements, conditions, limitations or duties imposed by this chapter and other laws and rules, or if any such violation has occurred on any event wagering system operated by any such person or over which the person has substantial control.

2. Knowingly causes, aids, abets or conspires with another to cause any person to violate any of the laws of this state or the rules of the department.

3. Obtains a license by fraud, misrepresentation, concealment or through inadvertence or mistake.

4. Is convicted or forfeited bond on a charge of or pleads guilty to:

(a) Forgery, larceny, extortion or conspiracy to defraud.

(b) Wilful failure to make required payment or reports to any tribal, state or federal governmental agency, filing false reports with any tribal, state or federal governmental agency or any similar offense or offenses.

(c) Bribing or otherwise unlawfully influencing a public official of this state or any other state or jurisdiction.

(d) Any crime, whether a felony or misdemeanor, involving any gaming activity, physical harm to an individual or moral turpitude.

5. Misrepresents or fails to disclose a material fact to the department.

6. Fails to prove, by clear and convincing evidence, that the person is qualified for licensure.

7. Is subject to current prosecution or pending charges or a conviction that is under appeal for any of the offenses included in this subsection. At the request of an applicant for an original license, the department may defer decision on the application during the pendency of the prosecution or appeal.

8. Has had a gaming license issued by any jurisdiction in the United States revoked or denied.

9. Demonstrates a wilful disregard for compliance with gaming regulatory authority in any jurisdiction, including suspension, revocation or denial of an application for a license or forfeiture of a license.
 10. Has pursued or is pursuing economic gain in an occupational manner or context in violation of the criminal laws of any state if the pursuit creates probable cause to believe that the person's participation in gaming or related activities would be detrimental to the proper operation of an authorized gaming or related activity in this state.
 11. Is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization thereby establishing probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of the authorized gaming or related activities in this state.
 12. Is a person whose prior activities, criminal record, if any, habits and associations pose a threat to the public interest of this state or to the effective regulation and control of event wagering, creates or enhances the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of event wagering or the carrying on of the business and financial arrangements incidental thereto.
 13. Fails to provide any information requested by the department within seven days after the request for the information, except for good cause as determined by the department.
- B. Any applicant for licensure or holder of a license shall be entitled to a full hearing on any final action by the department that may result in the revocation, suspension or denial of licensure. The hearing shall be conducted in accordance with the procedures as provided in title 41, chapter 6 and the department's rules.
- C. The department may summarily suspend any license if the continued licensing of the person constitutes an immediate threat to the public health, safety or welfare.
- D. For the purposes of this section:
1. "Career offender" means any individual who behaves in an occupational manner or context for the purposes of economic gain by violating federal law or the laws and public policy of this state.
 2. "Career offender organization" means any group of individuals who operate together as career offenders.

**ARS 5-1306 License revocation; suspension; denial; grounds;
definitions (Arizona Revised Statutes (2022 Edition))**

3. "Occupational manner or context" means the systematic planning, administration, management or execution of an activity for financial gain.

History:

Amended by L. 2022, ch. 59,s. 10, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1307. Limited event wagering operator licenses; definition

A. An event wagering operator may partner with a racetrack enclosure or additional wagering facility that holds a permit that is issued by the Division of Racing to obtain a limited event wagering license for event wagering only at one specific physical location. On application, the department may issue a total of up to ten limited event wagering licenses to authorize event wagering at ten specific physical locations.

B. An entity seeking a limited event wagering license shall provide the following information to the department in its application:

1. A copy of its current approval by the Division of Racing to conduct racing meetings or approval as an additional wagering facility.

2. A letter from an event wagering operator of its partnership for the purposes of event wagering.

3. An attestation and map demonstrating that the specific physical location of the event wagering facility is located at least five miles from:

(a) A tribal gaming facility.

(b) The specific event wagering facility location operated by an event wagering operator.

(c) The specific event wagering facility location operated by another limited event wagering operator.

C. The department shall issue a limited event wagering license if the following conditions are met:

1. The applicant is in compliance with all Division of Racing rules regarding its racing or additional wagering facility operations.

2. The applicant has a current license with the division of racing.

3. The applicant is not currently the subject of an investigation by the division of racing for a violation of division rules.

4. The applicant submits fees as required by the department.

D. A limited event wagering license allows the licensee to conduct event wagering only in accordance with this chapter and any applicable rules adopted by the department.

**ARS 5-1307 Limited event wagering operator licenses; definition
(Arizona Revised Statutes (2022 Edition))**

E. A limited event wagering operator shall be licensed by the department before the commencement of operation and every two years thereafter. The license shall include each principal, the primary management official and key employees.

F. The department shall deposit, pursuant to sections 35-146 and 35-147, the fees collected from licenses under this section in the event wagering fund established by section 5-1318.

G. For the purposes of this section, "additional wagering facility" has the same meaning prescribed in section 5-101.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1308. Supplier license

A. The department may issue a supplier license to a person that manufactures, distributes, sells or leases event wagering equipment, systems or other gaming items to conduct event wagering and offers services related to the equipment or other gaming items and data to an event wagering operator or limited event wagering operator while the license is active. The department may accept a license issued by another jurisdiction that the department determines to have similar licensure requirements as evidence the applicant meets supplier licensure requirements.

B. The department may adopt rules that establish additional requirements for a supplier and any system or other equipment used for event wagering.

C. An applicant for a supplier license shall demonstrate that the equipment, system or services that the applicant plans to offer to the event wagering operator conform to standards established by the department and applicable State law. The department may accept approval by another jurisdiction that the department determines has similar equipment standards as evidence the applicant meets the standards established by the department and applicable State law.

D. An applicant shall pay to the department a nonrefundable license and application fee as prescribed by section 5-1310. A license is valid for two years. The department shall grant a renewal of a supplier license if the renewal applicant has continued to comply with all applicable statutory and regulatory requirements, submits the renewal application on a Department-issued renewal form and pays the renewal fee prescribed by section 5-1310. The department shall deposit, pursuant to sections 35-146 and 35-147, the fees collected from licensees under this subsection in the event wagering fund established by section 5-1318.

E. A supplier shall submit to the department a list of all event wagering equipment and services sold, delivered or offered to an event wagering operator in this State, as required by the department, all of which must be tested and approved by an independent testing laboratory approved by the department. An event wagering operator or limited event wagering operator may continue to use supplies acquired from a licensed supplier, even if a supplier's license expires or is otherwise canceled, unless the department finds a defect in the supplies.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

§ 5-1309. Management services provider license

A. An event wagering operator may contract with an entity to conduct event wagering in accordance with the rules of the department and this chapter. The entity shall obtain a license from the department as a management services provider pursuant to this chapter and any rules adopted by the department before the execution of any such contract. A management services provider may provide services to more than one event wagering operator or limited event wagering operator under its license.

B. Each applicant for a management services provider license shall meet all requirements for licensure and pay a nonrefundable license and application fee as prescribed by section 5-1310. The department may adopt rules establishing additional requirements for a management services provider. The department may accept a license issued by another jurisdiction that the department determines to have similar licensure requirements as evidence the applicant meets management services provider licensure requirements. The department shall deposit, pursuant to sections 35-146 and 35-147, the fees collected from licensees under this subsection in the event wagering fund established by section 5-1318.

C. Management services provider licenses shall be renewed every two years to licensees who continue to be in compliance with all requirements and who pay the renewal fee.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

§ 5-1310. License fees; bond

A. The department shall establish and collect fees for applications, initial licenses and renewals of the following:

1. Event Wagering Operator licenses.
2. Limited event wagering operator licenses.
3. Management services provider licenses.
4. Supplier licenses.

B. If actual costs incurred by the Department to investigate the background of an Applicant exceed the fees pursuant to subsection A of this section, those costs may be assessed to the Applicant during the investigation process. Payment in full to the Department shall be required before the department issues a license. The Department may require Event Wagering Operators, Limited Event Wagering Operators and Suppliers applying for licensure to post a bond sufficient to cover the actual costs that the Department anticipates will be incurred in conducting a background investigation of the applicant.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

**§ 5-1311. License restrictions; prohibited licensees; violation;
classification**

A. The following persons or their immediate family members may not apply for or obtain a license under this chapter:

1. An employee of the Department.
2. An employee of any professional sports team.
3. A coach of or player for a collegiate, professional or Olympic sports team or sport.
4. An Individual who has been convicted of a crime related to sports or event wagering on a sports event or other event, cheating, extortion, burglary, larceny, bribery, embezzlement, robbery, racketeering, money laundering, forgery or fraud.
5. An Individual who has the ability to directly affect the outcome of a sports event or other event for which wagers are allowed.
6. Any other category of individuals that, if licensed, would negatively affect the integrity of event wagering in this state.

B. A licensee may not:

1. Allow a person under twenty-one years of age to place a wager.
2. Offer, accept or extend credit to a bettor.
3. Target minors in advertising or promotions.
4. Offer or accept a wager on any event, outcome or occurrence, including a high school sports event offered, sponsored or played in connection with a public or private institution that offers education at the secondary level, other than a sports event or other event.
5. Accept a wager from a person who is on the department's list of self-excluded persons created and maintained by an Indian Tribe or the Department.
6. Accept a wager from a prohibited participant.

C. A violation of this section is:

1. For a first offense, a Class 3 misdemeanor.

**ARS 5-1311 License restrictions; prohibited licensees; violation;
classification (Arizona Revised Statutes (2022 Edition))**

2. For a second or subsequent offense, a Class 1 misdemeanor.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1312. Reporting

A. On or before September 30 of each year, the department shall prepare and submit an annual report to the governor, the president of the senate and the speaker of the house of representatives, and shall provide a copy to the secretary of state that contains the following information:

1. The number of active licensees by type.
2. The aggregate gross and net revenue of all licensees.
3. The number of investigations conducted to enforce this chapter.
4. The financial impact on this state of the event wagering industry in this state.

B. The report may be included with other information required to be submitted by the department annually. A report submitted under subsection A of this section may be submitted electronically.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1313. Escrow account; insurance; cash-on-hand; financial practices; audit; post-employment restrictions

A. The department shall establish:

1. The amount of a bond in escrow and the amount of cash that must be kept on hand to ensure that adequate reserves exist for payouts.
2. Any insurance requirements for a licensee.
3. Minimum requirements by which each licensee must exercise effective control over its internal fiscal affairs, including requirements for all of the following:
 - (a) Safeguarding assets and revenues, including evidence of indebtedness.
 - (b) Maintaining reliable records relating to accounts, transactions, profits and losses, operations and events.
 - (c) Risk management.
4. Requirements for internal and independent audits of licensees.
5. The manner in which periodic financial reports must be submitted to the Department from each licensee, including the financial information to be included in the reports.
6. The type of information deemed confidential financial or proprietary information that is not subject to any reporting requirements under this subsection.
7. Policies, procedures and processes designed to mitigate the risk of fraud, cheating or money laundering.
8. Any post-employment restrictions for department employees necessary to maintain the integrity of event wagering in this state.

B. The licensee may maintain the bond at any bank lawfully operating in this state or another entity as approved by the department, and the licensee must be the beneficiary of any interest accrued on the bond.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

§ 5-1314. Event wagering authorized

A. Notwithstanding any other law relating to wagering except for title 5, chapter 1 and title 13, chapter 33, the operation of event wagering is lawful only if the event wagering is conducted in accordance with this chapter and any other relevant laws and rules.

B. Notwithstanding section 5-112, wagers on racing meetings or simulcasted races may be made, offered or received through the means that other wagers allowed by this chapter are made, offered or received unless otherwise prohibited by federal law.

C. Each event wagering operator shall adopt and adhere to a written, comprehensive policy outlining the house rules governing the acceptance of wagers and payouts. The policy and rules must be approved by the department before the event wagering operator accepts wagers. The policy and rules must be readily available to a bettor at any event wagering facility location and on any event wagering platform.

D. The department shall adopt rules regarding:

1. The manner in which an event wagering operator accepts wagers from and issues payouts to bettors, including payouts in excess of \$10,000.

2. Reporting requirements necessary to comply with the Bank Secrecy Act (P.L. 91-508; 84 Stat. 1114) and Patriot Act (P.L. 107-56; 115 Stat. 272) and for any other applicable laws and rules governing reporting suspicious wagers.

E. Each wager placed in accordance with this chapter is deemed to be an enforceable contract under law.

F. If the governing body of a sport or sports league, organization or association or other authorized entity that maintains official league data opts to provide official league data for the purposes of event wagering, An event wagering operator shall exclusively use official league data for purposes of tier two sports wagers unless the event wagering operator can demonstrate to the department that the governing body of a sport or sports league, organization or association or other authorized entity cannot provide a feed of official league data for tier two sports wagers in accordance with commercially reasonable terms, as determined by the department.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

**ARS 5-1314 Event wagering authorized (Arizona Revised Statutes
(2022 Edition))**

§ 5-1315. Prohibited wagers

A. A person may not wager on any of the following:

1. Injuries, penalties and other types or forms of event wagering under this chapter that are contrary to law.

2. Individual actions, events, occurrences or nonoccurrences to be determined during a collegiate sports event, including on the performance or nonperformance of a team or individual participant during a collegiate sports event. This paragraph does not prohibit wagers on the overall outcome of a collegiate sports event or seasonal awards based on a player's cumulative overall play.

B. An event wagering operator may offer only parlay and proposition bets of the type or category as prescribed by the department. The department shall prescribe the types and categories of parlay and proposition bets that may be offered in this state, if any.

C. An event wagering operator, professional sports team, league, association or institution of higher education may submit to the department in writing a request to prohibit a type or form of event wagering, or to prohibit a category of persons from event wagering, if the event wagering operator, team, league, association or institution believes that such event wagering by type, form or category is contrary to public policy, unfair to consumers or affects the integrity or perceived integrity of a particular sport or the sports betting industry. Such a REQUEST shall provide a reasonable amount of time for the department to conduct due DILIGENCE before decision-making, absent the need to proceed on an emergency basis.

D. The department shall review A request made pursuant to subsection C of this section to determine if good cause exists to grant the request. In making a determination under this section, the department shall seek input from licensees unless the emergency nature of the matter does not provide sufficient time for such due diligence. The department shall respond to the request concerning a particular event before the start of the event, or if it is not feasible to respond before the start of the event, as soon as practicable.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

**§ 5-1316. Integrity; reporting prohibited or suspicious conduct;
investigations**

A. All licensees under this chapter shall immediately report to the department and the RELEVANT sports governing body that has requested to receive it any information relating to any of the following:

1. Abnormal betting activity or patterns that may indicate a concern with the integrity of a sports event or events, or any other conduct that corrupts a betting outcome of a sports event or events for purposes of financial gain, including match fixing.
2. Any potential breach of a sports governing body's internal rules and codes of conduct pertaining to event wagering.
3. Conduct that corrupts the betting outcome of event wagering for purposes of financial gain, including match fixing.
4. Suspicious or illegal event wagering activities, including cheating, the use of monies derived from illegal activity, wagers to conceal or launder monies derived from illegal activity, using agents to place wagers or using false identification.

B. Licensees shall report to the department, in real time and at the account level, information regarding a bettor, the amount and type of bet, the time the bet was placed, the location of the bet, including the internet protocol address if applicable, the outcome of the bet and records related to subsection A of this section. Information reported under this subsection must be submitted in the form and manner established by the department.

C. If a sports governing body has notified the Department that real-time information sharing for wagers placed on its sports events is necessary and desirable, licensees shall share the same information with the sports governing body or its designee with respect to wagers on its sports events. Such information may be provided in anonymized form and may be used by a sports governing body solely for integrity purposes.

D. The department and licensees shall make commercially reasonable efforts to cooperate with investigations conducted by sports governing bodies, including using commercially reasonable efforts to provide or facilitate the provision of betting INFORMATION for the purposes of investigations.

E. The department shall establish a hotline or other method of communication that allows any person to confidentially report to the department information about prohibited conduct.

F. The department shall investigate allegations and refer to prosecutorial entities prohibited conduct under this chapter.

G. The identity of any reporting person shall remain confidential unless that person authorizes disclosure of the person's identity or until such time as the allegation of prohibited conduct is referred to a prosecutorial entity.

H. If the department receives a complaint of prohibited conduct by an athlete, the Department shall notify the appropriate sports governing body to review the complaint for appropriate action.

I. Notwithstanding any confidentiality provisions of This chapter, the department may provide or facilitate access to Information regarding account-level betting information and data Files relating to persons placing wagers on notification by a Sports governing body of an official investigation being conducted Into a person or persons who are prohibited by that body from Participating in wagering or who are believed to have taken action That affects the integrity or perceived integrity of the sport it Governs. Any information obtained by a sports governing body shall Be kept confidential unless the information has been made public Through a criminal proceeding or by a court order.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1317. Sports governing body agreements

This chapter does not prohibit a sports governing body on whose events the department has authorized wagering from entering into agreements with licensees in which the sports governing body may share in the amount bet from sports wagering on the events of the sports governing body. A sports governing body is not required to obtain a license or any other approval from the department to lawfully accept such amounts.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1318. [See Note]Fees; event wagering fund

A. The department shall establish a fee for the privilege of operating event wagering. In determining the fee, the department shall consider the highest percentage of revenue share that an Indian tribe pays to this state pursuant to the tribal-state gaming compact. the fee may not exceed ten percent of the event wagering operator's adjusted gross event wagering receipts. The event wagering operator or designee has the option to choose either the cash accrual or modified accrual basis method of accounting for purposes of calculating the amount of the fee owed by the event wagering operator or designee. The fees required pursuant to this section are due and payable to the department not later than the twenty-fifth day of the month following the calendar month in which the adjusted gross event wagering receipts were received and the obligation was accrued.

B. The event wagering fund is established consisting of monies deposited pursuant to this chapter or from any other source. The department shall administer the fund. Except as otherwise provided in this chapter, the department shall deposit, pursuant to sections 35-146 and 35-147, all monies collected under this chapter in the event wagering fund. On or before the twenty-fifth of each month, ninety percent of the monies deposited in the event wagering fund from the previous month shall be transferred to the state general fund. On notice from the department, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. Unless otherwise determined by the legislature, the department may spend not more than ten percent of monies on the department's annual costs of regulating and enforcing this chapter .

History:

Amended by L. 2022, ch. 306,s. 4, eff. 9/23/2022. Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

Related Legislative Provision:

See L. 2022, ch. 306, s. 3.

§ 5-1319. Financial responsibility

On or before July 1 of each year, a licensed event Wagering operator and management services provider shall contract With a certified public accountant to perform an independent audit, In accordance with generally accepted accounting principles Published by the American Institute of Certified Public Accountants, the financial condition of the licensed event wagering Operator's or management services provider's total Operation for the previous fiscal year and to ensure compliance With this chapter and for any other purpose as prescribed by rule. Not later than one hundred eighty days after the end of the event Wagering operator's or management services provider's Fiscal year, a licensed event wagering operator or management Service provider shall submit the audit results under this section To the department. The results of an audit submitted to the Department under this section are confidential and privileged and Are not subject to disclosure as provided in title 39, chapter 1, Article 2.

History:

Added by L. 2021, ch. 234, s. 4, eff. 4/15/2021.

**§ 5-1320. Problem gambling; self-exclusion list; program;
liabilities**

A. A licensee shall develop a procedure to inform players that help is available if a Person has a problem with gambling and, at a minimum, provide the statewide toll-free helpline telephone number, text message and website information established by the Department.

B. The Department and licensees shall comply with the following requirements to allow problem gamblers to voluntarily exclude themselves from Event Wagering statewide:

1. The Department shall establish a list of Persons who, by acknowledging in a manner to be established by the Department that they are problem gamblers, voluntarily seek to exclude themselves from Event Wagering statewide. The Department shall establish procedures for the placement on and removal from the list of self-excluded Persons. A Person other than the Person seeking voluntary self-exclusion may not include that Person's name on the self-exclusion list of the Department.

2. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall establish procedures for advising Persons who inquire about self-exclusion and offer self-exclusion application forms provided by the Department to those Persons when requested.

3. The Department shall compile identifying information concerning self-excluded Persons. Such information shall contain, at a minimum, the full name and any aliases of the Person, a photograph of the Person, the social security or driver's license number of the Person and the current physical and electronic contact information, including mailing address, of the Person.

4. The Department shall provide the compiled information to Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators on a weekly basis. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall treat the information received from the Department under this Section as confidential, and the information shall not be disclosed except to vendors approved by the Department for purposes of complying with this Section, appropriate law enforcement agencies if needed in conducting an official investigation or unless ordered by a court of competent jurisdiction.

5. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall check the most recent self-excluded Persons list provided by the Department before creating a Player Account.

The Event Wagering Operator, Commercial Sports License Holder or Limited Event wagering Operator shall revoke a Player Account and remove all self-excluded Persons from all mailing lists of the Event Wagering Operator, Commercial Sports License Holder or Limited Event wagering Operator.

6. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall take commercially reasonable steps to ensure that Persons on the Department's list of self-excluded Persons are denied access to all Event Wagering.

7. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall take commercially reasonable steps to identify self-excluded Persons. If a self-excluded person participates in Event Wagering, the Event Wagering Operator, Commercial Sports License Holder and Limited Event wagering Operator shall report to the Department, at a minimum, the name of the self-excluded person, the date of participation, the amount or value of any monies, prizes or awards forfeited, if any, and any other action taken. The report shall be provided to the Department within twenty-four hours of discovery.

C. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators may not pay any prize or award to a Person who is on the Department's self-exclusion list. Any prize or award won by a Person on the self-exclusion list shall be forfeited and shall be donated by the Event Wagering Operator, Commercial Sports License Holder or Limited Event wagering Operator to the Department's Division of Problem Gambling on a quarterly basis by the twenty-fifth day of the following month.

D. Notwithstanding any other provision of this chapter, the Department's list of self-excluded Persons is not open to public inspection.

E. Event Wagering Operators, Commercial Sports License Holders and Limited Event wagering Operators shall develop and maintain a program to mitigate problem gambling and curtail compulsive gambling, which may be in conjunction with the Department.

F. Before paying a Person a payout of winnings that triggers the licensee's obligation to file a form W-2g or a substantially equivalent form with the united states internal revenue service, the event wagering Facility Operator shall check to determine if the Person is identified as having a past-due, setoff obligation in the information provided to the department of gaming on a weekly basis by the administrative office of the courts or in the information provided on a monthly basis by the Department of Economic

Security division of Child Support Enforcement, Department of Economic Security supplemental nutrition assistance program and Assistance Overpayment and the Arizona Health Care Cost Containment System administration. The department of gaming shall provide to the event wagering facility operator information of persons with outstanding obligations. Subsequent to statutory state and federal tax withholding, if a Person receives a payout of winnings that triggers the licensee's obligation to file a form w-2g or a substantially equivalent form with the united states internal REVENUE service and is identified, the event wagering Facility Operator shall withhold the full amount of the winnings or such portion of the winnings that satisfies the Person's past-due, setoff obligation and forward those monies to the identifying agency. The event wagering Facility Operator shall disburse to the Person only that portion of the prize, if any, remaining after the Person's identified obligations have been satisfied. If the identified Person is also self-excluded, tax liabilities and setoff obligations are to be satisfied before any monies are donated to the Department's Division of Problem Gambling. If the identified Person has multiple liabilities, they shall be satisfied in this order:

1. Child Support Enforcement.
2. Supplemental nutrition assistance program and Assistance Overpayment.
3. The courts.
4. The Arizona Health Care Cost Containment System administration.

G. This Section does not waive an Indian Tribe's sovereign immunity from a suit by a Person listed and whose winnings are withheld for an identified obligation.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ 5-1321. Conditional enactment; notice

A. This chapter does not become effective unless and before each Indian tribe with a gaming facility in Pima county and each Indian tribe with a gaming facility in the Phoenix metropolitan area, as defined in the 2021 compact amendment, has entered into a 2021 gaming compact amendment and notice of the United States secretary of the interior's approval or approval by operation of law has been published in the federal register.

B. The department shall notify the director of the Arizona legislative council in writing of the date on which the condition was met.

History:

Added by L. 2021, ch. 234,s. 4, eff. 4/15/2021.

§ R19-4-201. Definitions

- A. The definitions in A.R.S. §5-1201 apply to this Article.
- B. Additionally, in this Article and in the Act, unless the context requires:
1. "Act" means Title 5, Arizona Revised Statutes, Chapter 10.
 2. "Article" means Arizona Administrative Code, Title 19, Chapter 4, Article 2.
 3. "Cash Equivalent" means, for the purposes of this Article 2 only, an electronic funds transfer, credit card, debit card, check, wire transfer, winnings, promotional or bonus credit, and any other form of payment as approved by the Department.
 4. "Fantasy Sports Contest Entry" means the method to participate in a fantasy sports contest.
 5. "Geofence Provider" means a person who creates a virtual perimeter for a real geographic location.
 6. "Internal Control System" means the minimum level of operational controls developed by a responsible party to ensure the integrity of fantasy sports contests.
 7. "Licensee" includes any person licensed by the Department under this Article.
 8. "Responsible Party" means the fantasy sports contest operator or the management company who is responsible for the operation of fantasy sports contests.
 9. "State" means the State of Arizona not to include the Indian lands within its exterior boundaries.
 10. "Supplier" means persons who provide goods or services to a responsible party in connection with fantasy sports contests pursuant to the Act, to include:
 - a. Fantasy sports contest platform providers;
 - b. Identity verification service providers;
 - c. Payment processors;
 - d. Geofence providers; and

e. Any other person as determined by the Department.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-202. Fantasy Sports Contests Permitted

Fantasy sports contests in the State, except those which are permitted pursuant to Title 13, Chapter 33, shall only be conducted by licensed responsible parties who operate in compliance with, and meet the terms of, the Act and this Article

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-203. Power and Authority

A. The Department reserves all powers, duties, and authority granted to it by the Act and in this Article.

B. As a condition of holding a license, all licensees agree to be subject to State jurisdiction for purposes of compliance with, and enforcement of, the Act and this Article.

C. The Department shall monitor licensees, audit compliance with this Act and Article, and investigate suspected violations of any provision in the Act or this Article and may, at any time:

1. Access and inspect all, or any part of, any fantasy sports contest platform;
2. Access and inspect any fantasy sports contest server; and
3. Access, review, and/or copy all books, records, and/or data maintained by a licensee related to fantasy sports contests in the State.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-204. License Categories

A. Fantasy sports contest operators are subject to the licensing requirements of the Act and this Article. Fantasy sports contest operators shall have obtained from the Department a renewal of the license every two years thereafter before continuing to operate fantasy sports contests.

B. Management companies are subject to the licensing requirements of the Act and this Article. Management companies shall have obtained from the Department a renewal of the license every two years thereafter before continuing to offer management services.

C. A fantasy contest operator and/or management company shall identify any holding company which holds an ownership interest or voting rights of 10% or more of their operation. The Department, in its sole discretion, may require a holding company to obtain licensure in order to preserve the integrity of fantasy sports contests.

D. Suppliers shall have obtained a license from the Department prior to providing goods and/or services. The supplier license shall be in effect for two years and the supplier shall have obtained a renewal from the Department thereafter before continuing to provide goods and/or services.

E. On a quarterly basis, responsible parties shall provide to the Department a list of the names and addresses of their suppliers for fantasy sports contests in the State.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-205. Procedures for Licensing

A. Every applicant for a license shall submit a complete application in the form prescribed by the Department, which shall include all information and documentation required by the Department, along with the non-refundable initial license fee.

B. The fees for licensure shall be the following:

1.	Fantasy Contest Operator	
	a. Initial License Fee	\$ 2,000
	b. Renewal	\$ 1,000
2.	Management Company a. Initial License Fee	\$ 2,000
	b. Renewal	\$ 1,000
3.	Holding Company a. Initial License Fee	\$ 500
	b. Renewal	\$ 250
4.	Suppliers	
	a. Initial License Fee	\$ 250
	b. Renewal	\$ 125

C. Within five days following its receipt of a complete application for licensure of a supplier, the Department shall issue a temporary license to the applicant unless the Department does not believe that the applicant will qualify for licensure. If the supplier does not receive a response from the Department regarding the approval or denial of the applicant's temporary license by the close of the fifth day following the receipt of a complete application for licensure then the applicant's temporary license shall be deemed approved by the Department. The results of a Department background investigation shall not be required prior to the issuance of a temporary license. The temporary license shall become void and be of no effect upon either the issuance of licensure or upon the issuance of notice of denial.

D. If fantasy sports contest operators, management companies, holding companies, or suppliers are applying for license renewal, fantasy sports contest operators, management companies, holding companies, and suppliers shall submit their completed renewal application along with the license renewal fee to the Department at least 30 days prior to the expiration date of their license. An applicant for renewal may continue to be engaged under their expired license until action is taken on the renewal application by the Department.

E. If a fantasy sports contest operator changes key employees, each new key employee shall file a complete disclosure application within 15 days after the change.

F. If a fantasy sports contest operator, management company, and/or holding company has a change of principals, directors, officers, and/or individual owners of 10% or more, each individual shall file a complete disclosure application within 30 days after the change, appointment, or election.

G. Applicants and licensees may appeal a summary suspension or a determination by the Department of a revocation, suspension, or denial of licensure.

H. An applicant for licensure, or renewal that wishes to withdraw an application shall submit a request to the Department in writing. The application shall not be considered withdrawn without the written permission of the Department.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-206. Responsible Advertising

A. Advertising, marketing, and promoting of fantasy sports contests shall not target, or otherwise be of a kind that specifically appeals to, persons under 21 years of age.

B. Advertising, marketing, and promoting of fantasy sports contests shall not be misleading or contain false information.

C. Advertising, marketing, and promotion of fantasy sports contests shall not promote irresponsible or excessive participation in fantasy sports contests, or suggest that social, financial, or personal success is guaranteed by engaging in fantasy sports contests.

D. Advertising, marketing, and promoting of fantasy sports contests shall not occur at event venues where most of the audience at many of the events at the venue is reasonably expected to be under 21 years of age.

E. Fantasy sports contest messages, including logos, trademarks, or brands, shall not be used, or licensed for use, on clothing, toys, games, or game equipment intended primarily for persons under 21 years of age.

F. Fantasy sports contests shall not be promoted or advertised in college or university-owned news assets, including digital news assets.

G. Fantasy sports contests shall not be promoted or advertised on college or university campuses, except for generally available advertising, including television, radio, and digital advertising.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

Amended by final exempt rulemaking at 28 A.A.R. 925, effective 4/15/2022.

§ R19-4-207. Internal Control System

A. Responsible parties shall operate fantasy sports contests pursuant to a written internal control system approved by the Department. The internal control system shall be designed to reasonably assure that for the purposes of fantasy sports contests offered in the State:

1. Assets are safeguarded and accountability over assets is maintained;
2. Liabilities are properly recorded and contingent liabilities are properly disclosed;
3. Financial records including records relating to revenues, expenses, assets, liabilities, and equity/fund balances are accurate and reliable;
4. Transactions are performed in accordance with the responsible party's general or specific authorization;
5. Access to assets is permitted only in accordance with the responsible party's specific authorization;
6. Recorded accountability for assets is compared with actual assets at frequent intervals and appropriate action is taken with respect to any discrepancies; and
7. Functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by qualified personnel.

B. The internal control system shall include:

1. A description of, and the inter-relationships and dependencies of, the fantasy sports contest platform, hardware, software, and all integrated supplier platforms;
2. Procedures for verifying geolocation services and establishing a fantasy sports contest player's geographic location;
3. Procedures for monitoring, investigating, resolving, documenting, and reporting security incidents associated with information technology systems;
4. Procedures for the access to, and use of scripts;
5. Procedures for the mitigation of risk of fraud, cheating, and/or money laundering;

6. Procedures for the identification of highly experienced fantasy sports contest players;
7. Procedures to mitigate problem gambling and curtail compulsive gambling;
8. A responsible gaming training and education program;
9. Procedures for the identification, notice, and removal of self-excluded or barred persons from fantasy sports contest platforms;
10. Procedures for accepting entry fees, canceling fantasy sports contest entries, paying out prizes or awards, and issuing tax or other required forms;
11. Procedures for the recording and reconciliation of all fantasy sports contest transactions to fantasy sports contest platform reports;
12. Procedures for the reconciliation of assets contained in player accounts;
13. Procedures for the verification of player identification;
14. Procedures for the issuance and acceptance of promotional and/or bonus credit for fantasy sports contests;
15. Procedures for handling fantasy sports contest player disputes;
16. Procedures for creating, updating, adjusting, and closing player accounts;
17. Procedures for the retention of fantasy sports contest records; and
18. Procedures for the identification and prohibition of prohibited participants from participation in fantasy sports contests.

C. Responsible parties shall have obtained written approval of the internal control system, or any changes deemed material by the responsible party, from the Department prior to implementation. The Department shall review the system, or any material changes, and issue a written approval or disapproval of the system.

1. Prior to the commencement of operations in the State, the responsible party shall have obtained written approval from the Department for the internal control system.
2. After the commencement of operations in the State, the responsible party shall submit any material changes to the internal control system to the Department for review and approval. If, after five days, the responsible party

has not received a response from the Department regarding the material changes to the internal control system, then the material changes shall be deemed approved by the Department.

D. For fantasy sports contests under the Act, responsible parties shall maintain:

1. Accurate, complete, legible and permanent records of all transactions in a manner suitable for audit under the standards of the American Institute of Certified Public Accountants;
2. General accounting records using a double entry system of accounting with transactions recorded on a basis consistent with generally accepted accounting principles;
3. Detailed supporting and subsidiary records;
4. Detailed records identifying revenues, expenses, assets, liabilities and fund balances or equity;
5. All records required by the internal control system including, but not limited to, those relating to any fantasy sports contest activity authorized by the Act;
6. Journal entries;
7. Detailed records sufficient to accurately reflect gross income and expenses relating to its operations; and
8. Records of any proposed or adjusting entries made by an independent certified public accountant.

E. The responsible party shall maintain bank account or accounts that are separate and distinct from all other corporate accounts, unless otherwise agreed to by the Department. The account or accounts shall be used for all player deposits, receipts, and disbursements relating to its operation of fantasy sports contests under the Act. The responsible party shall utilize a software accounting system that separates and distinguishes all receipts and disbursements regarding or in any way relating to fantasy sports contest activity under the Act.

F. Responsible parties shall notify the Department in writing of their fiscal year end and any changes to the fiscal year end within 10 days after deciding on a fiscal year end or a change to that year end.

History:

**Ariz. Admin. Code R19-4-207 Internal Control System (Arizona
Administrative Code (2022 Edition))**

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-208. Privilege Fee

A. As per A.R.S. §5-1211(A), the established fee for the privilege of operating fantasy sports contests shall be 5% of fantasy sports contest adjusted revenues.

B. The responsible party has the option to choose either the cash accrual or modified accrual basis method of accounting for purposes of calculating the amount of the privilege fee.

C. The calculation of fantasy sports contest adjusted revenues shall be reported in a format required by the Department. The responsible party shall submit all necessary supporting documentation as directed by the Department to confirm the calculation of fantasy sports contest adjusted revenues. The report and supporting documentation shall be submitted to the Department no later than the 25th day of each month for the preceding month.

1. Fees paid pursuant to the Act and this Article shall be paid to the Department in the manner prescribed by the Department.

2. Following the Department's receipt of the annual audit pursuant to A.R.S. §5-1204, any overpayment of fees by the responsible party shall be credited to the responsible party's next monthly fee payment. Any underpayment of fees shall be paid by the responsible party within 30 days of the Department's receipt of the annual audit.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

Amended by final exempt rulemaking at 28 A.A.R. 925, effective 4/15/2022.

§ R19-4-209. Servers and Cloud Storage

A. Responsible parties shall provide the Department with the physical location of each server that accepts fantasy sports contest entries. The server or servers shall have physical and logical security.

B. The responsible party may utilize cloud storage upon written approval by the Department.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-210. Geofencing

- A. The responsible party shall utilize a geofence system to dynamically monitor the physical location of a player attempting to pay an entry fee on a fantasy sports contest platform.
- B. The geofence system shall perform a geolocation check prior to each payment of an entry fee in an authorized session.
- C. If a geolocation check determines that a player is not located in the State or another jurisdiction where fantasy sports contests are legal and the activity is permitted, the player shall be blocked from paying an entry fee on the fantasy sports contest platform.
- D. The responsible party or the geofence provider shall implement a means to notify a player of a geolocation failure.
- E. Attempts to pay an entry fee from unauthorized locations within the State shall be entered into a log by the geofence provider and/or the responsible party. The log shall be available to the Department upon request.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-211. Fantasy Sports Contest Platform

A. The fantasy sports contest platform shall be designed to ensure the integrity and confidentiality of all player communications, security and confidentiality of player data including personal and financial information, and the proper identification of the sender and receiver of all communications.

B. The responsible party shall notify the Department in writing prior to the installation of a fantasy sports contest platform that the platform meets the design requirements of R19-4-211(A) and the geofence requirements of R19-4-210(A) - (D).

C. The responsible party shall notify the Department in writing prior to the installation of a fantasy sports contest platform, and annually thereafter, that the platform properly calculates entry fees and payouts.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-212. Fantasy Sports Contest Platform Communication

If the fantasy sports contest platform is unable to accept a fantasy sports contest entry or validate a winning entry for more than two hours, the responsible party shall notify the Department as soon as practically possible.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-213. Fees and Entry Rules

- A. Entry fees shall be paid from funds in a player account deposited by cash or cash equivalent.
- B. All entry fees shall be transacted through the fantasy sports contest platform.
- C. Upon acceptance of an entry fee, an electronic fantasy sports contest entry shall be immediately issued.
- D. Upon verification, winnings from fantasy sports contest entries shall be immediately deposited into the player account.
- E. A fantasy sports contest entry shall only be purchased from a verified player account.
- F. A fantasy sports contest entry shall not be accepted upon an event whose outcome has already been determined.
- G. If a player cancels a fantasy sports contest entry prior to the start of the fantasy sports contest, and the cancel request is approved by the responsible party, the fantasy sports contest entry fee shall be refunded to the player account after verification by the fantasy sports contest platform.
- H. An entry fee shall not be accepted from a person who is purchasing the fantasy sports contest entry for the benefit of another for compensation or is purchasing the fantasy sports contest entry in violation of tribal, state, or federal law.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-214. Events and Fantasy Sports Contests

A. The responsible party shall submit a catalogue of the events and fantasy sports contests it intends to offer. The catalogue and any changes shall be submitted to the Department prior to implementation.

B. The Department shall publish a list of authorized events and fantasy sports contests on its website.

C. The Department may prohibit a particular event or fantasy sports contest if it does not comply with A.R.S. § 5-1201(6).

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-215. House Rules

A. The house rules shall be conspicuously displayed on the fantasy sports contest platform. House rules shall address:

1. Types of entry fees accepted;
2. Minimum and maximum fantasy sports contest entry amounts accepted;
3. The maximum number of entries a player may have in a fantasy sports contest;
4. Method for calculation and payment of winnings;
5. Effect of scheduling changes and/or cancelled events;
6. Process for handing incorrectly posted results;
7. Methods of funding an account;
8. Methods for redeeming winnings;
9. Policy and process for canceling fantasy sports contest entries;
10. Process for fantasy sports contest players to submit questions and/or complaints;
11. Notification of the fantasy sports contest player dispute process; and
12. Notification of the self-exclusion process.

B. Responsible parties shall submit the house rules to the Department prior to implementation. The Department shall review the house rules and issue a written approval or disapproval of them. Any proposed changes to the house rules shall be approved by the Department prior to implementation. If, after five days, the responsible party has not received a response from the Department regarding the house rules, or any changes to them, then the house rules shall be deemed approved by the Department.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-216. Player Account Creation

- A. Responsible parties shall verify a fantasy sports contest player's age and identity before allowing that player to utilize a player account to purchase fantasy sports contest entries.
- B. Responsible parties may utilize an identity verification service provider to confirm a fantasy sports contest player's age and identity.
- C. Responsible parties shall prohibit a fantasy sports contest player from having more than one player account and username for each fantasy sports contest platform.
- D. Responsible parties shall establish and maintain each player account file with the following:
1. Player's legal or full name;
 2. Player's date of birth;
 3. Player's account number or username;
 4. Player's residential address;
 5. Player's e-mail address;
 6. The method used to verify the player's identity;
 7. The date of verification; and
 8. Acknowledgement of fantasy sports contest terms and conditions, including any subsequent updates.
- E. Responsible parties shall notify players of the establishment of a player account and the associated terms and conditions.
- F. Responsible parties shall re-verify a player's identification upon reasonable suspicion that the player's identification has been compromised or the player account has been misused, or upon any suspicious activity involving the player or player account.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-217. Player Account Terms and Conditions

Player account terms and conditions shall include the following:

1. Name of the responsible party with whom the player is entering into a contractual relationship;
2. Player's consent to have the responsible party confirm the player's age and identity;
3. Rules and obligations applicable to the player with regard to allowing any other person to access or use his or her player account;
4. Player's consent to the monitoring and recording by the responsible party of any fantasy sports contest entry communication and geographic location information;
5. Privacy policy;
6. Legal age policy;
7. Rules for player account suspension;
8. Rules for dormant player accounts;
9. Rules for closing player accounts; and
10. Availability of player account statements.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-218. Player Account Maintenance

A. All adjustments to a player account shall be authorized by the responsible party and periodically reviewed by an employee independent of the adjustment.

B. A player shall be allowed to withdraw the funds maintained in his or her player account.

1. Upon verification by the responsible party, the player's requests to withdraw funds shall be honored within seven days of the request.

2. The responsible party may decline to honor a player request to withdraw funds if the responsible party believes that the player engaged in either fraudulent conduct or other conduct that would put the responsible party in violation of the law or this Article. In such cases, the responsible party shall:

a. Provide notice to the player of the delay in honoring the request to withdraw funds from the player account;

b. Investigate in an expedient fashion; and

c. Notify the player and the Department of the results of the investigation within two days of the completion of the investigation.

C. The responsible party shall consider a player account to be dormant if the player has not logged into the player account for at least three years. A dormant account shall be closed by the responsible party. Upon closure of a dormant account, the responsible party shall make reasonable efforts to contact the account holder to return any unclaimed funds as required by A.R.S. §44-307(E).

D. After one hundred and 120 days of attempting to contact the account holder, the unclaimed funds in a dormant account shall be presumed abandoned. Responsible parties shall remit all abandoned funds to the Arizona Department of Revenue as required by A.R.S. § 44-307.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-219. Promotions and Bonuses

A. Responsible parties may offer promotions and/or bonuses.

B. Responsible parties shall make promotion and/or bonus rules and advertisements available to the Department upon request.

C. The promotion and/or bonus rules shall be clear and unambiguous, and include:

1. Date and time the promotion or bonus is active and expires;
2. Rules of play;
3. Nature and value of prizes or awards;
4. Eligibility restrictions or limitations;
5. Participation requirements and limitations;
6. Eligible fantasy sports contests;
7. Cancellation requirements; and
8. Terms and conditions that are full, accurate, concise, transparent, and do not contain misleading information.

D. Promotions and/or bonuses described as free shall clearly disclose material facts, terms, and conditions.

E. Promotions and/or bonuses shall not restrict the player from withdrawing their own funds, or withdrawing winnings from fantasy sports contest entries purchased with their own funds.

F. Responsible parties shall make the promotion or bonus rules available to eligible players.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-220. Information Technology

A. Responsible parties shall ensure the quality, reliability, and accuracy of all computer systems used in the operation.

B. Responsible parties shall ensure that information technology duties are adequately segregated and monitored to detect procedural errors, unauthorized access to financial transactions and assets, and to prevent the concealment of fraud.

C. The information technology environment and infrastructure shall be maintained in a secured physical location that is restricted to authorized employees.

D. Responsible parties shall test the recovery procedures of the fantasy sports contest platform on a sample basis at specified intervals at least annually. The results shall be documented and available to the Department upon request.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-221. Annual Audit

The responsible party shall be audited not less than annually, at its own expense, on its financial condition and compliance standing.

1. Financial statements, or a specific element financial statement related to fantasy sports contests in the State, shall be audited at the responsible party's fiscal year end by an independent certified public accountant. The audit shall include or be supplemented with an attestation from the independent certified public accountant that fantasy sports contest adjusted revenues are accurately reported. The Department shall be authorized to confer with the independent certified public accountant at the conclusion of the audit process and to review all the work papers and documentation relating to the responsible party.
2. The responsible party shall submit an annual compliance audit, prepared by an independent test laboratory, or another professional service provider as approved by the Department, to verify compliance with the operational aspects of the Act and this Article. The compliance audit shall include testing of the internal control system, verification of the integrity of the fantasy sports contest platform, and the geofence system.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-222. Reporting Requirements

A. The responsible party shall report to the Department any violation or suspected violation of the Act or this Article, security breaches, breaches of confidentiality of a player's personal information, suspicious activity, and any other activity as required by the Department.

B. Responsible parties shall report the information listed above to the Department in writing within 72 hours of discovery.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-223. Remedies

The Department may place conditions on a license, fine, or otherwise sanction, licensees, for violations of this Statute, or the administrative rules of the Department. The Department's ability to impose sanctions is subject to the following:

1. The Department shall notify the responsible party of the results of its investigation or investigations and any administrative proceedings. The results of any investigation shall not be disclosed if such disclosure will compromise ongoing law enforcement investigations or activities, or would violate applicable state and federal law.
2. All monetary fines collected by the Department, including any interest earned thereon, shall be deposited in the fantasy sports contest fund established by A.R.S. § 5-1212(A).

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-224. Player Disputes

A. Whenever the responsible party refuses payment of alleged winnings to a player or there is otherwise a dispute with a player regarding their player account, entries, wins, or losses from fantasy sports contests, and the responsible party and the player are unable to resolve the dispute to the satisfaction of the player, the responsible party shall notify the player of their right to file a written complaint. The notice shall include the procedure for filing a written complaint and the complaint resolution process.

B. Upon receipt of a complaint, the responsible party shall investigate and provide a written response to the player within 10 days. The response shall include a statement that if the dispute is not resolved to the satisfaction of the player, the player may submit their complaint in writing to the Department.

1. If the Department receives a written complaint from a player with regard to an unresolved dispute, the responsible party shall provide to the Department a written response to the player's complaint.

2. The Department, in its sole discretion, may investigate the dispute and reach a final decision which may include a requirement for appropriate corrective action.

3. The Department shall provide a written response to the responsible party and the player of the results of its investigation and the corrective action it directs, if any, within five days of the completion of its investigation.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-225. Barred Persons

The Department shall establish a list of persons barred from fantasy sports contests because their conduct, criminal history, and association with career offenders or career offender organizations poses a threat to the integrity of fantasy sports contests or to the public health, safety, or welfare. The responsible party shall prohibit barred persons from participating in fantasy sports contests. To the extent not previously provided, the Department shall send a copy of its list on a monthly basis to the responsible party, along with detailed information regarding why the person has been barred. Such persons shall be barred from all fantasy sports contests within the State.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-226. Self-Exclusion and Responsible Gaming

A. As part of their procedures and programs to mitigate problem gambling and curtail compulsive gambling, responsible parties shall:

1. Display on the fantasy sports contest platform, obvious and easily accessible messaging stating that help is available if a person has a problem with gambling, to include the statewide toll-free helpline telephone number, text message, website information established by the Department, and any other information as directed by the Department.

2. Include a responsible gaming message with the Department's statewide toll-free crisis helpline telephone number, or another toll-free crisis helpline telephone number as approved by the Department, on all advertisements for fantasy sports contests, including on television, radio, internet, printed advertisements, and billboards.

B. The self-exclusion list shall not be provided to any licensed supplier without the written approval of the Department. Approval shall only be granted by the Department when sharing of the list is deemed necessary to effectuate the terms of the Act and this Article.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-227. Debt Setoff

- A. If a responsible party is required to file a form 1099-MISC or other substantially similar form, the responsible party shall check to determine if the player has a past due, setoff obligation
- B. The responsible party shall withhold past due, setoff obligations from funds held in a player account at the time the form 1099-MISC or other substantially similar form is issued.
- C. The Department shall supply the responsible party with the lists of outstanding obligations as provided by the Arizona Department of Economic Security, Child Support Enforcement, Supplemental Nutrition Assistance Program and Assistance Overpayment, the Arizona Supreme Court, and the Arizona Health Care Cost Containment System on an annual basis.
- D. The outstanding obligation lists shall not be provided to any licensed supplier without the written approval of the Department. Approval shall only be granted by the Department when sharing of the list is deemed necessary to effectuate the terms of the Act and this Article.
- E. The responsible party shall provide a receipt to the player for any funds withheld for outstanding obligations.
- F. Any funds withheld by the responsible party shall be remitted to the Department within seven days in a format provided by the Department.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-228. Retention of Records

The responsible party shall require that all books, records, and data relating to the operation and management of fantasy sports contests are maintained for at least three years from the date of creation. Upon written approval of the Department, books, records, and/or data may be destroyed prior to passage of the required three-year retention period.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

§ R19-4-229. Calculation of Time

In computing any period prescribed or allowed by the Act or this Article, the day of the act, event, or default from which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday under state law or federal law. When the time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays under state law or federal law shall be excluded from the computation period.

History:

Adopted by final exempt rulemaking at 27 A.A.R. 1186, effective 7/26/2021.

House Engrossed

fantasy sports betting; event wagering.

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 234
HOUSE BILL 2772

AN ACT

AMENDING SECTION 5-554, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 5-605; AMENDING TITLE 5, ARIZONA REVISED STATUTES, BY ADDING CHAPTERS 10 AND 11; AMENDING SECTIONS 13-3301 AND 13-3305, ARIZONA REVISED STATUTES; RELATING TO AMUSEMENTS AND SPORTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 5-554, Arizona Revised Statutes, is amended to
3 read:

4 5-554. Commission; director; powers and duties; definitions

5 A. The commission shall meet with the director not less than once
6 each quarter to make recommendations and set policy, receive reports from
7 the director and transact other business properly brought before the
8 commission.

9 B. The commission shall oversee a state lottery to produce the
10 maximum amount of net revenue consonant with the dignity of the state. To
11 achieve these ends, the commission shall authorize the director to adopt
12 rules in accordance with title 41, chapter 6. Rules adopted by the
13 director may include the following:

14 1. Subject to the approval of the commission, the types of lottery
15 games and the types of game play-styles to be conducted.

16 2. The method of selecting the winning tickets or shares for
17 noncomputerized online games, except that ~~no~~ A method may NOT be used
18 that, in whole or in part, depends on the results of a dog race, a horse
19 race, ANY GAMING ACTIVITY CONDUCTED PURSUANT TO THE 2021 TRIBAL-STATE
20 GAMING COMPACT AMENDMENTS or any ~~sporting~~ SPORTS event OR OTHER EVENT.

21 3. The manner of payment of prizes to the holders of winning
22 tickets or shares, including providing for payment by the purchase of
23 annuities in the case of prizes payable in installments, except that the
24 commission staff shall examine claims and may not pay any prize based on
25 altered, stolen or counterfeit tickets or based on any tickets that fail
26 to meet established validation requirements, including rules stated on the
27 ticket or in the published game rules, and confidential validation tests
28 applied consistently by the commission staff. No particular prize in a
29 lottery game may be paid more than once, and in the event of a binding
30 determination that more than one person is entitled to a particular prize,
31 the sole remedy of the claimants is the award to each of them of an equal
32 portion of the single prize.

33 4. The method to be used in selling tickets or shares, except that
34 no elected official's name may be printed on the tickets or shares. The
35 overall estimated odds of winning some prize or some cash prize, as
36 appropriate, in a given game shall be printed on each ticket or share.

37 5. The licensing of agents to sell tickets or shares, except that a
38 person who is under eighteen years of age shall not be licensed as an
39 agent.

40 6. The manner and amount of compensation to be paid licensed sales
41 agents necessary to provide for the adequate availability of tickets or
42 shares to prospective buyers and for the convenience of the public,
43 including provision for variable compensation based on sales volume.

1 7. Matters necessary or desirable for the efficient and economical
2 operation and administration of the lottery and for the convenience of the
3 purchasers of tickets or shares and the holders of winning tickets or
4 shares.

5 8. THE LICENSING OF AUTHORIZED KENO LOCATIONS, INCLUDING THE
6 PERSONS THAT CONTROL THE BUSINESS OR OTHER ACTIVITY CONDUCTED AT AN
7 AUTHORIZED KENO LOCATION.

8 C. The commission shall authorize the director to issue orders and
9 shall approve orders issued by the director for the necessary operation of
10 the lottery. Orders issued under this subsection may include the
11 following:

12 1. The prices of tickets or shares in lottery games.

13 2. The themes, game play-styles, and names of lottery games and
14 definitions of symbols and other characters used in lottery games, except
15 that each ticket or share in a lottery game shall bear a unique
16 distinguishable serial number.

17 3. The sale of tickets or shares at a discount for promotional
18 purposes.

19 4. The prize structure of lottery games, including the number and
20 size of prizes available. Available prizes may include free tickets in
21 lottery games and merchandise prizes.

22 5. The frequency of drawings, if any, or other selections of
23 winning tickets or shares, except that:

24 (a) All drawings shall be open to the public.

25 (b) The actual selection of winning tickets or shares may not be
26 performed by an employee or member of the commission.

27 (c) Noncomputerized online game drawings shall be witnessed by an
28 independent observer.

29 6. Requirements for eligibility for participation in grand drawings
30 or other runoff drawings, including requirements for the submission of
31 evidence of eligibility within a shorter period than that provided for
32 claims by section 5-568.

33 7. Incentive and bonus programs designed to increase sales of
34 lottery tickets or shares and to produce the maximum amount of net revenue
35 for this state.

36 8. The method used for the validation of a ticket, which may be by
37 physical or electronic presentation of a ticket.

38 D. Notwithstanding title 41, chapter 6 and subsection B of this
39 section, the director, subject to the approval of the commission, may
40 establish a policy, procedure or practice that relates to an existing
41 online game or a new online game that is the same type and has the same
42 type of game play-style as an online game currently being conducted by the
43 lottery or may modify an existing rule for an existing online game or a
44 new online game that is the same type and has the same type of game
45 play-style as an online game currently being conducted by the lottery,

1 including establishing or modifying the matrix for an online game by
2 giving notice of the establishment or modification at least thirty days
3 before the effective date of the establishment or modification.

4 E. The commission shall maintain and make the following information
5 available for public inspection at its offices during regular business
6 hours:

7 1. A detailed listing of the estimated number of prizes of each
8 particular denomination expected to be awarded in any instant game
9 currently on sale.

10 2. After the end of the claim period prescribed by section 5-568, a
11 listing of the total number of tickets or shares sold and the number of
12 prizes of each particular denomination awarded in each lottery game.

13 3. Definitions of all play symbols and other characters used in
14 each lottery game and instructions on how to play and how to win each
15 lottery game.

16 F. Any information that is maintained by the commission and that
17 would assist a person in locating or identifying a winning ticket or share
18 or that would otherwise compromise the integrity of any lottery game is
19 deemed confidential and is not subject to public inspection.

20 G. The commission, in addition to other games authorized by this
21 article, may establish multijurisdictional lottery games to be conducted
22 concurrently with other lottery games authorized under subsection B of
23 this section. The monies for prizes, for operating expenses and for
24 payment to the state general fund shall be accounted for separately as
25 nearly as practicable in the lottery commission's general accounting
26 system. The monies shall be derived from the revenues of
27 multijurisdictional lottery games.

28 H. The commission, in addition to other games authorized by this
29 article, shall establish special instant ticket games with play areas
30 protected by paper tabs designated for use by charitable organizations.
31 The monies for prizes and for operating expenses shall be accounted for
32 separately as nearly as practicable in the lottery commission's general
33 accounting system. Monies saved from the revenues of the special games,
34 by reason of operating efficiencies, shall become other revenue of the
35 lottery commission and revert to the state general fund, except that the
36 commission shall transfer the proceeds from any games that are sold from a
37 vending machine in an age-restricted area to the state treasurer for
38 deposit in the following amounts:

39 1. Nine hundred thousand dollars each fiscal year in the internet
40 crimes against children enforcement fund established by section 41-199.

41 2. One hundred thousand dollars each fiscal year in the victims'
42 rights enforcement fund established by section 41-1727.

43 3. Any monies in excess of the amounts listed in paragraphs 1 and 2
44 of this subsection, in the state lottery fund established by section
45 5-571.

1 I. The commission or director shall not establish or operate any
2 online or electronic keno game or any game played on the internet, EXCEPT
3 FOR THE ELECTRONIC KENO GAME AND THE MOBILE DRAW GAME AUTHORIZED IN
4 SUBSECTION J OF THIS SECTION.

5 J. FROM AND AFTER THE DATE ON WHICH THE CONDITIONS PRESCRIBED IN
6 SECTIONS 5-1213 AND 5-1321 ARE MET, THE COMMISSION OR DIRECTOR, IN
7 ADDITION TO ANY OTHER GAME AUTHORIZED IN THIS SECTION, MAY ESTABLISH AND
8 OPERATE A SINGLE ELECTRONIC KENO GAME AND A SINGLE MOBILE DRAW GAME ON A
9 CENTRALIZED COMPUTER SYSTEM CONTROLLED BY THE LOTTERY THAT ALLOWS A PLAYER
10 TO PLACE WAGERS, VIEW THE OUTCOME OF A GAME AND RECEIVE WINNINGS OVER THE
11 INTERNET, INCLUDING ON PERSONAL ELECTRONIC DEVICES.

12 K. AN ELECTRONIC KENO GAME CONDUCTED PURSUANT TO SUBSECTION J OF
13 THIS SECTION MAY BE OPERATED ONLY WITHIN AN AUTHORIZED KENO LOCATION. IF
14 THE ELECTRONIC KENO GAME IS AUTHORIZED TO BE PLAYED ON PERSONAL ELECTRONIC
15 DEVICES, PLAYERS SHALL BE GEOGRAPHICALLY RESTRICTED BY MEANS OF GEOFENCING
16 TO AUTHORIZED KENO LOCATIONS. ELECTRONIC KENO GAME DRAWS MAY NOT BE
17 CONDUCTED MORE FREQUENTLY THAN ONCE EVERY FOUR MINUTES. THE NUMBER OF
18 AUTHORIZED KENO LOCATIONS MAY NOT EXCEED THE NUMBER PUBLISHED ANNUALLY BY
19 THE DIRECTOR, WHICH IS EQUAL TO THE TOTAL NUMBER OF ESTABLISHMENTS
20 LICENSED BY THE DEPARTMENT OF GAMING TO ALLOW WAGERING ON LIVE HORSE RACES
21 AND SIMULCAST WAGERING PURSUANT TO SECTION 5-107, PLUS THE TOTAL NUMBER OF
22 CLASS 14 LIQUOR LICENSES THAT THE DEPARTMENT OF LIQUOR LICENSES AND
23 CONTROL ISSUED TO FRATERNAL ORGANIZATIONS OR VETERANS' ORGANIZATIONS AS OF
24 JANUARY 1, 2021. THE TOTAL NUMBER OF AUTHORIZED KENO LOCATIONS SHALL BE
25 AUTOMATICALLY INCREASED BY TWO PERCENT EVERY TWO YEARS.

26 L. A MOBILE DRAW GAME CONDUCTED PURSUANT TO SUBSECTION J OF THIS
27 SECTION MAY OFFER PLAYERS MULTIPLE GAME PLAY STYLES AND WAGERING OPTIONS.
28 PLAYERS OF THE MOBILE DRAW GAME MAY NOT PLAY OR WIN A PRIZE MORE
29 FREQUENTLY THAN ONCE PER HOUR.

30 M. AN ELECTRONIC KENO GAME OR MOBILE DRAW GAME CONDUCTED PURSUANT
31 TO THIS SECTION MAY NOT PRESENT THE PLAYER WITH A USER INTERFACE DEPICTING
32 SPINNING REELS OR THAT REPLICATES A SLOT MACHINE, BLACKJACK, POKER,
33 ROULETTE, CRAPS OR ANY OTHER CASINO-STYLE GAME OTHER THAN TRADITIONAL KENO
34 OR A TRADITIONAL LOTTERY DRAW GAME.

35 ~~J.~~ N. EXCEPT AS PROVIDED IN SUBSECTIONS J, K, L AND M OF THIS
36 SECTION, the commission or director shall not establish or operate any
37 lottery game or any type of game play-style, either individually or in
38 combination, that uses gaming devices or video lottery terminals as those
39 terms are used in section 5-601.02, including monitor games that produce
40 or display outcomes or results more than once per hour.

41 ~~K.~~ O. The director shall print, in a prominent location on each
42 lottery ticket or share, a statement that help is available if a person
43 has a problem with gambling and a toll-free telephone number where problem
44 gambling assistance is available. The director shall require all licensed
45 agents to post a sign with the statement that help is available if a

1 person has a problem with gambling and the toll-free telephone number at
2 the point of sale as prescribed and supplied by the director.

3 ~~P.~~ P. For the purposes of this section:

4 1. "ADDITIONAL WAGERING FACILITY" HAS THE SAME MEANING PRESCRIBED
5 IN SECTION 5-101.

6 2. "AUTHORIZED KENO LOCATION" MEANS A PHYSICAL FACILITY LOCATED AT
7 LEAST FIVE MILES FROM AN INDIAN GAMING FACILITY THAT IS LICENSED BY THE
8 DIRECTOR IN THE SAME MANNER AS LICENSES ISSUED PURSUANT TO SECTION 5-562
9 BUT ONLY TO A FRATERNAL ORGANIZATION OR VETERANS' ORGANIZATION OR TO A
10 RACETRACK ENCLOSURE OR ADDITIONAL WAGERING FACILITY WHERE PARI-MUTUEL
11 WAGERING ON HORSE RACES IS CONDUCTED.

12 ~~3.~~ 3. "Charitable organization" means any nonprofit organization,
13 including not more than one auxiliary of that organization, that has
14 operated for charitable purposes in this state for at least two years
15 before submitting a license application under this article.

16 4. "ELECTRONIC KENO GAME" MEANS A HOUSE BANKING GAME IN WHICH:

17 (a) A PLAYER SELECTS FROM ONE TO TWENTY NUMBERS ON A CARD THAT
18 CONTAINS THE NUMBERS ONE THROUGH EIGHTY.

19 (b) THE LOTTERY RANDOMLY DRAWS TWENTY NUMBERS.

20 (c) PLAYERS WIN IF THE NUMBERS THEY SELECT CORRESPOND TO THE
21 NUMBERS DRAWN BY THE LOTTERY.

22 (d) THE LOTTERY PAYS ALL WINNERS, IF ANY, AND COLLECTS FROM ALL
23 LOSERS.

24 5. "FRATERNAL ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN
25 SECTION 5-401.

26 ~~6.~~ 6. "Game play-style" means the process or procedure that a
27 player must follow to determine if a lottery ticket or share is a winning
28 ticket or share.

29 ~~7.~~ 7. "Matrix" means the odds of winning a prize and the prize
30 payout amounts in a given game.

31 8. "MOBILE DRAW GAME" CONDUCTED PURSUANT TO SUBSECTION J OF THIS
32 SECTION, MEANS A LOTTERY DRAW GAME OFFERED TO PLAYERS OVER THE INTERNET,
33 INCLUDING ON MOBILE DEVICES, IN WHICH:

34 (a) A COMBINATION OF NUMBERS, SYMBOLS OR CHARACTERS IS SELECTED.

35 (b) A COMPUTER SYSTEM AUTHORIZED BY THE LOTTERY RANDOMLY SELECTS A
36 WINNING COMBINATION OF NUMBERS, SYMBOLS OR CHARACTERS.

37 (c) A COMPUTER SYSTEM VALIDATES ANY PRIZE AWARDED TO THE PLAYERS.

38 9. "OTHER EVENT" HAS THE SAME MEANING PRESCRIBED IN SECTION 5-1301.

39 10. "SPORTS EVENT" HAS THE SAME MEANING PRESCRIBED IN SECTION
40 5-1301.

41 11. "VETERANS' ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN
42 SECTION 5-401.

1 Sec. 2. Title 5, chapter 6, article 1, Arizona Revised Statutes, is
2 amended by adding section 5-605, to read:

3 5-605. Tribal-state compacts; 2021 compact trust fund; annual
4 report; definition

5 A. THE 2021 COMPACT TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE
6 PURPOSES OF MITIGATING IMPACTS TO INDIAN TRIBES FROM GAMING AUTHORIZED BY
7 THE 2021 GAMING COMPACT AMENDMENT AND PROVIDING ECONOMIC BENEFITS TO
8 BENEFICIARY TRIBES, INCLUDING THOSE WITH AN EFFECTIVE GAMING COMPACT THAT
9 INCLUDES THE 2021 AMENDMENTS AND DO NOT ENGAGE IN GAMING. THE TRUST FUND
10 CONSISTS OF CONTRIBUTIONS FROM INDIAN TRIBES DESIGNATED IN THE 2021 GAMING
11 COMPACT AMENDMENTS. THE TRUST FUND SHALL NOT INCLUDE TRIBAL CONTRIBUTIONS
12 MADE PURSUANT TO SECTION 5-601.02, SUBSECTION H.

13 B. THE DEPARTMENT OF GAMING SHALL ADMINISTER THE 2021 COMPACT TRUST
14 FUND AS TRUSTEE IN ACCORDANCE WITH THE TERMS OF SECTION 12.1 OF THE 2021
15 GAMING COMPACT AMENDMENT. THE STATE TREASURER SHALL ACCEPT, SEPARATELY
16 ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY,
17 WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED BY SECTION 35-310 AND
18 WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY
19 EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR OF THE
20 DEPARTMENT OF GAMING, THE STATE TREASURER SHALL INVEST AND DIVEST ANY
21 TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS
22 35-313 AND 35-314.03, AND MONIES EARNED FROM THE INVESTMENT SHALL BE
23 CREDITED TO THE TRUST FUND.

24 C. THE BENEFICIARIES OF THE TRUST FUND ARE FEDERALLY RECOGNIZED
25 INDIAN TRIBES WITH A 2021 GAMING COMPACT AMENDMENT THAT ARE ELIGIBLE TO
26 RECEIVE PAYMENTS FROM THE TRUST FUND ACCORDING TO THE TERMS OF THE 2021
27 GAMING COMPACT AMENDMENT.

28 D. MONIES IN THE TRUST FUND SHALL BE DISBURSED EXCLUSIVELY FOR THE
29 PURPOSES PRESCRIBED IN THIS ARTICLE AND IN ACCORDANCE WITH THE 2021 GAMING
30 COMPACT AMENDMENT. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND
31 UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, SHALL BE CARRIED
32 FORWARD TO THE FOLLOWING YEAR AND SHALL NOT REVERT OR BE TRANSFERRED TO
33 ANY OTHER FUND, INCLUDING THE STATE GENERAL FUND. MONIES IN THE TRUST FUND
34 ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
35 APPROPRIATIONS.

36 E. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT OF GAMING
37 SHALL ISSUE A REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE
38 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND EACH TRIBE THAT HAS EXECUTED A
39 2021 GAMING COMPACT AMENDMENT THAT DISCLOSES ALL MONIES DEPOSITED IN AND
40 DISBURSED FROM THE TRUST FUND DURING THE PRIOR FISCAL YEAR.

41 F. FOR THE PURPOSES OF THIS SECTION, "2021 GAMING COMPACT
42 AMENDMENT" MEANS A TRIBAL-STATE GAMING COMPACT AMENDMENT THAT BECOMES
43 EFFECTIVE AFTER JANUARY 1, 2021.

1 (e) A WINNING OUTCOME IS NOT BASED ON RANDOMIZED OR HISTORICAL
2 EVENTS OR ON THE SCORE, POINT SPREAD OR PERFORMANCE IN AN ATHLETIC EVENT
3 OF A SINGLE REAL-WORLD SPORTS TEAM, A SINGLE ATHLETE OR ANY COMBINATION OF
4 REAL-WORLD SPORTS TEAMS.

5 (f) THE FANTASY SPORTS CONTEST DOES NOT CONSTITUTE OR INVOLVE AND
6 IS NOT BASED ON ANY OF THE FOLLOWING:

7 (i) RACING THAT INVOLVES ANIMALS.

8 (ii) A GAME OR CONTEST ORDINARILY OFFERED BY A HORSE TRACK OR
9 CASINO FOR MONEY, CREDIT OR ANY REPRESENTATIVE OF VALUE, INCLUDING ANY
10 RACES, GAMES OR CONTESTS THAT INVOLVE HORSES OR THAT ARE PLAYED WITH CARDS
11 OR DICE.

12 (iii) A SLOT MACHINE OR OTHER MECHANICAL, ELECTROMECHANICAL OR
13 ELECTRONIC DEVICE, EQUIPMENT OR MACHINE.

14 (iv) POKER, BLACKJACK, FARO, MONTE, KENO, BINGO, FAN-TAN,
15 TWENTY-ONE, SEVEN AND A HALF, KLONDIKE, CRAPS, CHUCK-A-LUCK, CHINESE
16 CHUCK-A-LUCK, WHEEL OF FORTUNE, CHEMIN DE FER, BACCARAT, PAI GOW, BEAT THE
17 BANKER, PANGUINGUE, ROULETTE OR OTHER BANKING OR PERCENTAGE GAMES.

18 (v) ANY OTHER GAME OR DEVICE THAT IS AUTHORIZED OR THAT IS NOT
19 AUTHORIZED BY THIS STATE.

20 (vi) A HIGH SCHOOL OR YOUTH SPORTING EVENT OR ANY EVENT THAT IS NOT
21 AN ATHLETIC EVENT.

22 (vii) A CONTEST THAT INVOLVES OR RESULTS IN BETTING ON A RACE, A
23 GAME, A CONTEST OR A SPORT THAT CONSTITUTES EVENT WAGERING AS DEFINED IN
24 SECTION 5-1301.

25 7. "FANTASY SPORTS CONTEST ADJUSTED REVENUES" MEANS THE AMOUNT
26 EQUAL TO THE TOTAL OF ALL ENTRY FEES THAT A FANTASY SPORTS CONTEST
27 OPERATOR COLLECTS FROM ALL FANTASY SPORTS CONTEST PLAYERS MINUS THE TOTAL
28 OF ALL SUMS PAID OUT AS PRIZES OR AWARDS TO ALL FANTASY SPORTS CONTEST
29 PLAYERS, MULTIPLIED BY THE IN-STATE PERCENTAGE.

30 8. "FANTASY SPORTS CONTEST OPERATOR" OR "OPERATOR" MEANS A PERSON
31 THAT IS ENGAGED IN THE BUSINESS OF PROFESSIONALLY CONDUCTING PAID FANTASY
32 SPORTS CONTESTS FOR CASH OR OTHER PRIZES OR AWARDS FOR MEMBERS OF THE
33 GENERAL PUBLIC THAT REQUIRES CASH OR CASH EQUIVALENT AS AN ENTRY FEE TO BE
34 PAID BY A MEMBER OF THE GENERAL PUBLIC WHO PARTICIPATES IN A PAID FANTASY
35 SPORTS CONTEST.

36 9. "FANTASY SPORTS CONTEST PLATFORM" MEANS THE HARDWARE, SOFTWARE,
37 FIRMWARE, COMMUNICATIONS TECHNOLOGY OR OTHER EQUIPMENT, INCLUDING OPERATOR
38 PROCEDURES IMPLEMENTED TO ALLOW PLAYER PARTICIPATION IN DIGITAL OR ONLINE
39 FANTASY SPORTS CONTESTS, AND IF SUPPORTED, THE CORRESPONDING EQUIPMENT
40 RELATED TO THE DISPLAY OF THE OUTCOMES, AND OTHER SIMILAR INFORMATION
41 NECESSARY TO FACILITATE PLAYER PARTICIPATION IN WHICH A PLAYER IS PROVIDED
42 WITH THE MEANS TO ESTABLISH A PLAYER ACCOUNT AND THE FANTASY SPORTS
43 CONTEST OPERATOR IS PROVIDED WITH THE MEANS TO REVIEW PLAYER ACCOUNTS,
44 SUSPEND FANTASY SPORTS CONTESTS, GENERATE VARIOUS FINANCIAL TRANSACTION

1 AND ACCOUNT REPORTS, INPUT OUTCOMES FOR FANTASY SPORTS CONTESTS AND SET
2 ANY CONFIGURABLE PARAMETERS.

3 10. "FANTASY SPORTS CONTEST PLAYER" OR "PLAYER" MEANS AN INDIVIDUAL
4 WHO PARTICIPATES IN A FANTASY SPORTS CONTEST OFFERED BY A FANTASY SPORTS
5 CONTEST OPERATOR.

6 11. "FANTASY SPORTS CONTEST TEAM" MEANS THE SIMULATED TEAM COMPOSED
7 OF MULTIPLE INDIVIDUAL ATHLETES, EACH OF WHOM IS A MEMBER OF A REAL-WORLD
8 SPORTS TEAM THAT A FANTASY SPORTS CONTEST PLAYER SELECTS TO COMPETE IN A
9 FANTASY SPORTS CONTEST.

10 12. "HIGHLY EXPERIENCED PLAYER" MEANS A FANTASY SPORTS CONTEST
11 PLAYER WHO HAS DONE AT LEAST ONE OF THE FOLLOWING:

12 (a) ENTERED MORE THAN ONE THOUSAND FANTASY SPORTS CONTESTS OFFERED
13 BY A SINGLE FANTASY SPORTS CONTEST OPERATOR.

14 (b) WON MORE THAN THREE PRIZES OR AWARDS VALUED AT \$1,000 EACH OR
15 MORE FROM A SINGLE FANTASY SPORTS CONTEST OPERATOR.

16 13. "HOLDING COMPANY" MEANS A CORPORATION, FIRM, PARTNERSHIP,
17 LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, TRUST OR OTHER FORM OF
18 BUSINESS ORGANIZATION THAT IS NOT AN INDIVIDUAL AND THAT DIRECTLY OR
19 INDIRECTLY DOES EITHER OF THE FOLLOWING:

20 (a) HOLDS AN OWNERSHIP INTEREST OF TEN PERCENT OR MORE, AS
21 DETERMINED BY THE HOLDING COMPANY'S BOARD, IN A FANTASY SPORTS CONTEST
22 OPERATOR.

23 (b) HOLDS VOTING RIGHTS WITH THE POWER TO VOTE TEN PERCENT OR MORE
24 OF THE OUTSTANDING VOTING RIGHTS OF A FANTASY SPORTS CONTEST OPERATOR.

25 14. "IN-STATE PERCENTAGE" MEANS FOR EACH FANTASY SPORTS CONTEST,
26 THE PERCENTAGE, ROUNDED TO THE NEAREST TENTH OF A PERCENT, EQUAL TO THE
27 TOTAL ENTRY FEES COLLECTED FROM ALL IN-STATE PARTICIPANTS DIVIDED BY THE
28 TOTAL ENTRY FEES COLLECTED FROM ALL PARTICIPANTS IN THE FANTASY SPORTS
29 CONTEST, UNLESS OTHERWISE PRESCRIBED BY THE DEPARTMENT.

30 15. "KEY EMPLOYEE" MEANS AN EMPLOYEE OF A FANTASY SPORTS CONTEST
31 OPERATOR WHO HAS THE POWER TO EXERCISE SIGNIFICANT INFLUENCE OVER
32 DECISIONS CONCERNING THE FANTASY SPORTS CONTEST OPERATOR.

33 16. "LICENSE" MEANS AN APPROVAL THAT IS ISSUED BY THE DEPARTMENT TO
34 ANY PERSON OR ENTITY TO BE INVOLVED IN A FANTASY SPORTS OPERATION.

35 17. "MANAGEMENT COMPANY" MEANS A PERSON RETAINED BY A FANTASY
36 SPORTS CONTEST OPERATOR TO MANAGE A FANTASY SPORTS CONTEST PLATFORM AND
37 PROVIDE GENERAL ADMINISTRATION AND OTHER OPERATIONAL SERVICES.

38 18. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
39 ASSOCIATION, LIMITED LIABILITY COMPANY, FEDERALLY RECOGNIZED INDIAN TRIBE
40 OR OTHER LEGAL ENTITY.

41 19. "PLAYER ACCOUNT" MEANS AN ACCOUNT THAT IS ESTABLISHED BY A
42 PATRON FOR THE PURPOSE OF PARTICIPATING IN FANTASY SPORTS CONTESTS,
43 INCLUDING DEPOSITS, WITHDRAWALS, ENTRY FEES AND PAYOUTS.

44 20. "PRIZE OR AWARD" MEANS ANYTHING OF VALUE OR ANY AMOUNT OF CASH
45 OR CASH EQUIVALENTS.

1 21. "PROTECTED INFORMATION" MEANS INFORMATION RELATED TO PLAYING
2 FANTASY SPORTS CONTESTS BY A FANTASY SPORTS CONTEST PLAYER THAT IS NOT
3 READILY AVAILABLE TO THE GENERAL PUBLIC AND THAT IS OBTAINED AS A RESULT
4 OF A PERSON'S EMPLOYMENT IN RELATION TO A FANTASY SPORTS CONTEST.

5 22. "SCRIPT" MEANS A LIST OF COMMANDS THAT A FANTASY
6 CONTEST-RELATED COMPUTER PROGRAM CAN EXECUTE AND THAT IS CREATED BY A
7 FANTASY SPORTS CONTEST PLAYER OR BY A THIRD PARTY FOR A FANTASY SPORTS
8 CONTEST PLAYER TO AUTOMATE PROCESSES ON A FANTASY SPORTS CONTEST PLATFORM.

9 5-1202. Fantasy sports contests; exceptions; rules; licensure

10 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT
11 OFFER FANTASY SPORTS CONTESTS IN THIS STATE UNLESS THE PERSON IS LICENSED
12 BY THE DEPARTMENT AS A FANTASY SPORTS CONTEST OPERATOR.

13 B. AN INDIVIDUAL MAY OFFER ONE OR MORE FANTASY SPORTS CONTESTS IF
14 ALL OF THE FOLLOWING APPLY:

15 1. THE FANTASY SPORTS CONTESTS ARE NOT MADE AVAILABLE TO THE
16 GENERAL PUBLIC.

17 2. EACH OF THE FANTASY SPORTS CONTESTS IS LIMITED TO NOT MORE THAN
18 FIFTEEN TOTAL FANTASY SPORTS CONTEST PLAYERS.

19 3. THE INDIVIDUAL COLLECTS NOT MORE THAN \$10,000 IN TOTAL ENTRY
20 FEES FOR ALL FANTASY SPORTS CONTESTS OFFERED IN A CALENDAR YEAR, AT LEAST
21 NINETY-FIVE PERCENT OF WHICH ARE AWARDED TO THE FANTASY SPORTS CONTEST
22 PLAYERS.

23 C. AN INDIAN TRIBE THAT LAWFULLY CONDUCTS CLASS III GAMING PURSUANT
24 TO A TRIBAL-STATE GAMING COMPACT WITH THIS STATE, DIRECTLY OR THROUGH A
25 THIRD-PARTY OPERATOR, MAY OFFER AND CONDUCT FANTASY SPORTS CONTESTS
26 WITHOUT APPLYING FOR OR HOLDING A LICENSE PURSUANT TO THIS SECTION IF ALL
27 ACTIVITIES OF THE FANTASY SPORTS CONTEST OCCUR WITHIN THE BOUNDARY OF ITS
28 INDIAN LANDS AND THE INDIAN TRIBE COMPLIES WITH ANY REGULATIONS THAT ARE
29 INCLUDED IN THE COMPACT OR ITS APPENDICES REGARDING FANTASY SPORTS
30 CONTESTS.

31 D. TO ENSURE THE INTEGRITY OF FANTASY SPORTS CONTESTS, THE
32 DEPARTMENT HAS JURISDICTION OVER EACH PERSON INVOLVED IN CONDUCTING A
33 FANTASY SPORTS CONTEST. THE DEPARTMENT MAY ADOPT RULES RELATED TO
34 CONDUCTING FANTASY SPORTS CONTESTS, INCLUDING RULES PRESCRIBING PENALTIES
35 FOR VIOLATING THIS CHAPTER OR ANY RULES ADOPTED UNDER THIS CHAPTER.

36 E. EVERY APPLICANT FOR LICENSURE SHALL SUBMIT A COMPLETED
37 APPLICATION, ALONG WITH ANY REQUIRED INFORMATION, TO THE DEPARTMENT. THE
38 DEPARTMENT SHALL DETERMINE THE FORM AND CONTENT OF THE APPLICATION. EACH
39 APPLICATION SHALL BE ACCOMPANIED BY THE APPLICANT'S CURRENT PHOTOGRAPH AND
40 THE FEE REQUIRED BY THE DEPARTMENT. THE APPLICANT MUST ALSO SUBMIT A FULL
41 SET OF FINGERPRINTS TO THE DEPARTMENT FOR THE PURPOSE OF OBTAINING A STATE
42 AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC
43 LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT
44 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

1 F. THE INFORMATION REQUIRED BY THE DEPARTMENT SHALL INCLUDE
2 DOCUMENTATION OF ALL OF THE FOLLOWING:

3 1. THE NAME OF THE APPLICANT.
4 2. THE LOCATION OF THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS.
5 3. THE APPLICANT'S TELEPHONE NUMBER.
6 4. THE APPLICANT'S SOCIAL SECURITY NUMBER OR, IF APPLICABLE, THE
7 APPLICANT'S FEDERAL TAX IDENTIFICATION NUMBER.

8 5. THE NAME AND ADDRESS OF EACH INDIVIDUAL THAT HOLDS A TEN PERCENT
9 OR MORE OWNERSHIP INTEREST IN THE APPLICANT OR IN SHARES OF THE APPLICANT.

10 6. THE APPLICANT'S CRIMINAL RECORD, IF ANY, OR IF THE APPLICANT IS
11 A BUSINESS ENTITY, ON REQUEST, ANY CRIMINAL RECORD OF AN INDIVIDUAL WHO IS
12 A DIRECTOR, OFFICER OR KEY EMPLOYEE OF, OR ANY INDIVIDUAL WHO HAS A TEN
13 PERCENT OR MORE OWNERSHIP INTEREST IN, THE APPLICANT.

14 7. ANY OWNERSHIP INTEREST THAT A DIRECTOR, OFFICER, KEY EMPLOYEE OR
15 INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE APPLICANT HOLDS IN A PERSON
16 THAT IS OR WAS A FANTASY SPORTS CONTEST OPERATOR OR SIMILAR ENTITY IN ANY
17 JURISDICTION.

18 8. AN IDENTIFICATION OF ANY BUSINESS, INCLUDING, IF APPLICABLE, THE
19 STATE OF INCORPORATION OR REGISTRATION, IN WHICH AN APPLICANT, DIRECTOR,
20 OFFICER, KEY EMPLOYEE OR INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE
21 APPLICANT, HAS AN EQUITY INTEREST OF FIVE PERCENT OR MORE.

22 9. WHETHER AN APPLICANT, DIRECTOR, OFFICER, KEY EMPLOYEE OR
23 INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE APPLICANT HAS EVER APPLIED
24 FOR OR BEEN GRANTED ANY LICENSE, REGISTRATION OR CERTIFICATE ISSUED BY A
25 LICENSING AUTHORITY IN THIS STATE OR ANY OTHER JURISDICTION FOR A GAMING
26 ACTIVITY.

27 10. WHETHER AN APPLICANT, DIRECTOR, OFFICER, KEY EMPLOYEE OR
28 INDIVIDUAL OWNER OF TEN PERCENT OR MORE OF THE APPLICANT HAS FILED OR BEEN
29 SERVED WITH A COMPLAINT OR OTHER NOTICE FILED BY A PUBLIC BODY REGARDING
30 THE DELINQUENCY IN PAYMENT OF OR DISPUTE OVER FILINGS CONCERNING THE
31 PAYMENT OF ANY TAX REQUIRED UNDER FEDERAL, STATE OR LOCAL LAW, INCLUDING
32 THE AMOUNT OF TAX, THE TYPE OF TAX, THE TAXING AGENCY AND THE TIME PERIODS
33 INVOLVED.

34 11. A DESCRIPTION OF ANY PHYSICAL FACILITY OPERATED BY THE
35 APPLICANT IN THIS STATE, THE EMPLOYEES WHO WORK AT THE FACILITY AND THE
36 NATURE OF THE BUSINESS CONDUCTED AT THE FACILITY.

37 12. INFORMATION SUFFICIENT TO SHOW, AS DETERMINED BY THE
38 DEPARTMENT, THAT THE APPLICANT CAN MEET THE REQUIREMENTS OF PROCEDURES
39 SUBMITTED BY THE APPLICANT UNDER SECTION 5-1203 AND UNDER ANY RULES
40 ADOPTED UNDER THIS CHAPTER.

41 G. THE DEPARTMENT MAY REQUIRE LICENSURE OF A HOLDING COMPANY, A
42 MANAGEMENT COMPANY OR ANY OTHER PERSON IT CONSIDERS SUFFICIENTLY CONNECTED
43 TO THE FANTASY SPORTS CONTEST OPERATOR IF THAT LICENSURE IS NECESSARY TO
44 PRESERVE THE INTEGRITY OF FANTASY SPORTS CONTESTS AND PROTECT FANTASY
45 SPORTS CONTEST PLAYERS.

1 H. A LICENSE ISSUED UNDER THIS SECTION IS VALID FOR TWO YEARS. THE
2 DEPARTMENT SHALL RENEW A LICENSE BIENNIALY IF THE APPLICANT DEMONSTRATES
3 CONTINUED ELIGIBILITY FOR LICENSURE UNDER THIS CHAPTER AND PAYS THE
4 RENEWAL FEE. NOTWITHSTANDING THIS SUBSECTION, THE DEPARTMENT MAY
5 INVESTIGATE A LICENSEE AT ANY TIME THE DEPARTMENT DETERMINES IT IS
6 NECESSARY TO ENSURE THAT THE LICENSEE REMAINS IN COMPLIANCE WITH THIS
7 CHAPTER AND THE RULES ADOPTED PURSUANT TO THIS CHAPTER.

8 I. THE DEPARTMENT SHALL ESTABLISH THE INITIAL LICENSE FEE AND THE
9 LICENSE RENEWAL FEE. THE DEPARTMENT MAY ASSESS INVESTIGATIVE COSTS IF THE
10 COST OF A LICENSURE INVESTIGATION EXCEEDS THE AMOUNT OF THE INITIAL
11 LICENSE OR RENEWAL FEE.

12 J. ON RECEIPT OF A COMPLETED APPLICATION AND THE REQUIRED FEE, THE
13 DEPARTMENT SHALL CONDUCT THE NECESSARY BACKGROUND INVESTIGATION TO
14 DETERMINE IF THE APPLICANT MEETS THE QUALIFICATIONS FOR LICENSURE. ON
15 COMPLETION OF THE NECESSARY BACKGROUND INVESTIGATION, THE DEPARTMENT SHALL
16 EITHER ISSUE A LICENSE OR DENY THE APPLICATION. IF THE APPLICATION FOR
17 LICENSURE IS DENIED, A STATEMENT SETTING FORTH THE GROUNDS FOR DENIAL
18 SHALL BE FORWARDED TO THE APPLICANT TOGETHER WITH ALL OTHER DOCUMENTS
19 RELIED ON BY THE DEPARTMENT, TO THE EXTENT ALLOWED BY LAW.

20 5-1203. Prohibited employees; procedures and controls

21 A. THE FANTASY SPORTS CONTEST OPERATOR MAY NOT EMPLOY AN INDIVIDUAL
22 AND, IF ALREADY EMPLOYED, SHALL TERMINATE AN EMPLOYEE WHO IS IDENTIFIED
23 THROUGH REGULATIONS ISSUED BY THE DEPARTMENT IF THE INDIVIDUAL MEETS ANY
24 OF THE FOLLOWING CRITERIA:

25 1. HAS BEEN CONVICTED OF ANY GAMING OFFENSE.

26 2. HAS BEEN CONVICTED OF A FELONY IN THE SEVEN YEARS BEFORE
27 SUBMISSION OF THE EMPLOYMENT APPLICATION UNLESS THAT FELONY HAS BEEN SET
28 ASIDE.

29 3. HAS EVER BEEN CONVICTED OF A FELONY RELATED TO EXTORTION,
30 BURGLARY, LARCENY, BRIBERY, EMBEZZLEMENT, ROBBERY, RACKETEERING, MONEY
31 LAUNDERING, FORGERY, FRAUD, MURDER, VOLUNTARY MANSLAUGHTER OR A SEXUAL
32 OFFENSE THAT REQUIRES THE INDIVIDUAL TO REGISTER PURSUANT TO SECTION
33 13-3821.

34 4. HAS KNOWINGLY AND WILFULLY PROVIDED MATERIALLY IMPORTANT FALSE
35 STATEMENTS OR INFORMATION OR OMITTED MATERIALLY IMPORTANT INFORMATION ON
36 THE INDIVIDUAL'S EMPLOYMENT APPLICATION OR BACKGROUND QUESTIONNAIRE.

37 5. IS AN INDIVIDUAL WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF
38 ANY, OR REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC
39 INTEREST OR TO THE EFFECTIVE REGULATION AND CONTROL OF GAMING OR CREATE OR
40 ENHANCE THE DANGERS OF UNSUITABLE, UNFAIR OR ILLEGAL PRACTICES, METHODS
41 AND ACTIVITIES IN CONDUCTING GAMING OR CARRYING ON THE BUSINESS AND
42 FINANCIAL ARRANGEMENTS INCIDENTAL TO GAMING.

1 B. AS A CONDITION OF LICENSURE, A FANTASY SPORTS CONTEST OPERATOR
2 MUST SUBMIT TO AND RECEIVE APPROVAL FROM THE DEPARTMENT FOR COMMERCIALY
3 REASONABLE PROCEDURES AND INTERNAL CONTROLS INTENDED TO DO ALL OF THE
4 FOLLOWING:

5 1. PREVENT THE FANTASY SPORTS CONTEST OPERATOR OR ITS OWNERS,
6 DIRECTORS, OFFICERS AND EMPLOYEES AND ANY RELATIVE OF ANY OF THESE
7 INDIVIDUALS LIVING IN THE SAME HOUSEHOLD FROM PARTICIPATING IN A FANTASY
8 SPORTS CONTEST OFFERED TO THE PUBLIC.

9 2. PREVENT THE EMPLOYEES OR AGENTS OF THE FANTASY SPORTS CONTEST
10 OPERATOR FROM SHARING PROTECTED INFORMATION WITH THIRD PARTIES UNLESS THE
11 PROTECTED INFORMATION IS OTHERWISE MADE PUBLICLY AVAILABLE.

12 3. PREVENT PARTICIPANTS AND OFFICIALS IN AN ATHLETIC EVENT FROM
13 PARTICIPATING IN A FANTASY SPORTS CONTEST THAT IS BASED ON THE ATHLETIC
14 EVENT.

15 4. ESTABLISH THE NUMBER OF ENTRIES A SINGLE FANTASY SPORTS CONTEST
16 PLAYER MAY ENTER IN A SINGLE FANTASY SPORTS CONTEST AND TAKE REASONABLE
17 STEPS TO PREVENT FANTASY SPORTS CONTEST PLAYERS FROM SUBMITTING MORE THAN
18 THE ALLOWABLE NUMBER OF ENTRIES.

19 5. IDENTIFY EACH HIGHLY EXPERIENCED PLAYER BY A SYMBOL ATTACHED TO
20 THE HIGHLY EXPERIENCED PLAYER'S USERNAME.

21 6. OFFER SOME FANTASY SPORTS CONTESTS THAT ARE OPEN ONLY TO PLAYERS
22 OTHER THAN HIGHLY EXPERIENCED PLAYERS.

23 7. EITHER OF THE FOLLOWING:

24 (a) SEGREGATE THE DEPOSITS IN THE FANTASY SPORTS CONTEST PLAYERS'
25 ACCOUNTS FROM OPERATIONAL MONEY.

26 (b) MAINTAIN A RESERVE IN THE FORM OF CASH, CASH EQUIVALENTS,
27 PAYMENT PROCESSOR RESERVES, PAYMENT PROCESSOR RECEIVABLES, AN IRREVOCABLE
28 LETTER OF CREDIT, A BOND OR A COMBINATION OF THESE, THE AGGREGATE AMOUNT
29 OF WHICH EXCEEDS THE TOTAL DOLLAR VALUE AMOUNT OF DEPOSITS IN THE FANTASY
30 SPORTS CONTEST PLAYERS' ACCOUNTS. THE RESERVE MAY NOT BE USED FOR
31 OPERATIONAL ACTIVITIES.

32 8. ENSURE COMPLIANCE WITH THE APPLICABLE STATE AND FEDERAL
33 REQUIREMENTS TO PROTECT THE PRIVACY AND ONLINE SECURITY OF A FANTASY
34 SPORTS CONTEST PLAYER AND THE FANTASY SPORTS CONTEST PLAYER'S ACCOUNT.

35 9. OTHERWISE ENSURE THE INTEGRITY OF FANTASY SPORTS CONTESTS.

36 C. A LICENSED FANTASY SPORTS CONTEST OPERATOR SHALL COMPLY WITH THE
37 PROCEDURES AND INTERNAL CONTROLS THAT ARE SUBMITTED TO AND APPROVED BY THE
38 DEPARTMENT UNDER SUBSECTION B OF THIS SECTION. A LICENSED FANTASY SPORTS
39 CONTEST OPERATOR MAY MAKE TECHNICAL ADJUSTMENTS TO ITS PROCEDURES AND
40 INTERNAL CONTROLS IF THE ADJUSTMENTS ARE NOT MATERIAL AND IT NOTIFIES THE
41 DEPARTMENT WITHIN TWENTY-ONE DAYS OF THE CHANGES BECOMING EFFECTIVE AND
42 CONTINUES TO MEET OR EXCEED THE STANDARDS REQUIRED BY THIS CHAPTER AND ANY
43 RULES ADOPTED BY THE DEPARTMENT.

1 D. PROCEDURES SUBMITTED TO THE DEPARTMENT UNDER SUBSECTION B OF
2 THIS SECTION ARE CONFIDENTIAL AND PRIVILEGED AND ARE NOT SUBJECT TO
3 DISCLOSURE UNDER TITLE 39, CHAPTER 1, ARTICLE 2.

4 5-1204. Financial responsibility

5 ON OR BEFORE JULY 1 OF EACH YEAR, A LICENSED FANTASY SPORTS CONTEST
6 OPERATOR SHALL CONTRACT WITH A CERTIFIED PUBLIC ACCOUNTANT TO PERFORM AN
7 INDEPENDENT AUDIT IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
8 PRINCIPLES OF THE FINANCIAL CONDITION OF THE LICENSED FANTASY SPORTS
9 CONTEST OPERATOR'S TOTAL OPERATION FOR THE PREVIOUS FISCAL YEAR AND TO
10 ENSURE COMPLIANCE WITH THIS CHAPTER AND FOR ANY OTHER PURPOSE AS
11 PRESCRIBED BY RULE. NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE END
12 OF THE FANTASY SPORTS CONTEST OPERATOR'S FISCAL YEAR, A LICENSED FANTASY
13 SPORTS CONTEST OPERATOR SHALL SUBMIT THE AUDIT RESULTS UNDER THIS SECTION
14 TO THE DEPARTMENT. THE RESULTS OF AN AUDIT SUBMITTED TO THE DEPARTMENT
15 UNDER THIS SECTION ARE CONFIDENTIAL AND PRIVILEGED AND ARE NOT SUBJECT TO
16 DISCLOSURE AS PROVIDED IN TITLE 39, CHAPTER 1, ARTICLE 2.

17 5-1205. Prohibitions; exception

18 A. A FANTASY SPORTS CONTEST OPERATOR SHALL PROHIBIT AN INDIVIDUAL
19 WHO IS UNDER TWENTY-ONE YEARS OF AGE FROM PARTICIPATING IN A FANTASY
20 SPORTS CONTEST.

21 B. A LICENSED FANTASY SPORTS CONTEST OPERATOR MAY NOT DO ANY OF THE
22 FOLLOWING:

23 1. ALLOW THE USE OF A SCRIPT THAT PROVIDES A FANTASY SPORTS CONTEST
24 PLAYER WITH AN UNFAIR COMPETITIVE ADVANTAGE. A SCRIPT MADE READILY
25 AVAILABLE TO ALL FANTASY SPORTS CONTEST PLAYERS DOES NOT PROVIDE A FANTASY
26 SPORTS CONTEST PLAYER WITH AN UNFAIR COMPETITIVE ADVANTAGE AND MAY NOT BE
27 DETERMINED OTHERWISE.

28 2. USE FALSE, DECEPTIVE OR MISLEADING ADVERTISING OR ADVERTISING
29 THAT IS NOT BASED ON FACT.

30 3. TARGET, IN ADVERTISING OR PROMOTIONS, EITHER OF THE FOLLOWING:

31 (a) INDIVIDUALS WHO HAVE RESTRICTED THEMSELVES FROM ENTERING A
32 FANTASY SPORTS CONTEST UNDER THE PROCEDURES ESTABLISHED BY THE DEPARTMENT
33 PURSUANT TO SECTION 5-1206.

34 (b) INDIVIDUALS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.

35 C. A FANTASY SPORTS CONTEST MAY NOT BE OFFERED ON, AT OR FROM ANY
36 OF THE FOLLOWING:

37 1. A KIOSK OR MACHINE OPEN TO PUBLIC USE AND PHYSICALLY LOCATED IN
38 A RETAIL BUSINESS LOCATION, BAR, RESTAURANT OR OTHER COMMERCIAL
39 ESTABLISHMENT.

40 2. A KIOSK OR MACHINE OPEN TO PUBLIC USE AND PHYSICALLY LOCATED IN
41 A PLACE OF PUBLIC ACCOMMODATION, EXCEPT THAT A FRATERNAL ORGANIZATION OR
42 VETERANS' ORGANIZATION AS DEFINED IN SECTION 5-401 OR A LICENSED RACETRACK
43 MAY OPERATE UP TO TWO KIOSKS FOR THE SOLE PURPOSE OF OFFERING FANTASY
44 SPORTS.

1 D. THIS SECTION DOES NOT APPLY TO A FEDERALLY RECOGNIZED INDIAN
2 TRIBE OPERATING UNDER ITS TRIBAL-STATE GAMING COMPACT AND ANY AMENDMENTS.

3 5-1206. Problem gambling; self-exclusion list; program;
4 liabilities

5 A. A FANTASY SPORTS CONTEST OPERATOR SHALL DEVELOP A PROCEDURE TO
6 INFORM FANTASY SPORTS CONTEST PLAYERS THAT HELP IS AVAILABLE IF AN
7 INDIVIDUAL HAS A PROBLEM WITH GAMBLING AND, AT A MINIMUM, PROVIDE THE
8 STATEWIDE TOLL-FREE HELPLINE TELEPHONE NUMBER, TEXT MESSAGE AND WEBSITE
9 INFORMATION ESTABLISHED BY THE DEPARTMENT.

10 B. THE DEPARTMENT AND THE FANTASY SPORTS CONTEST OPERATOR SHALL
11 COMPLY WITH THE FOLLOWING REQUIREMENTS TO ALLOW PROBLEM GAMBLERS TO
12 VOLUNTARILY EXCLUDE THEMSELVES FROM FANTASY SPORTS CONTESTS STATEWIDE:

13 1. THE DEPARTMENT SHALL ESTABLISH A LIST OF PERSONS WHO
14 ACKNOWLEDGE, IN A MANNER TO BE ESTABLISHED BY RULE, THAT THEY HAVE A
15 COMPULSIVE PLAY PROBLEM AND VOLUNTARILY SEEK TO EXCLUDE THEMSELVES FROM
16 FANTASY SPORTS CONTESTS STATEWIDE. THE DEPARTMENT SHALL ESTABLISH
17 PROCEDURES FOR THE PLACEMENT ON AND REMOVAL FROM THE LIST OF SELF-EXCLUDED
18 PERSONS. ONLY A PERSON SEEKING VOLUNTARY SELF-EXCLUSION SHALL BE ALLOWED
19 TO INCLUDE THE PERSON'S NAME ON THE SELF-EXCLUSION LIST OF THE DEPARTMENT.

20 2. THE FANTASY SPORTS CONTEST OPERATOR SHALL ESTABLISH PROCEDURES
21 FOR ADVISING PERSONS WHO INQUIRE ABOUT SELF-EXCLUSION AND OFFER
22 SELF-EXCLUSION APPLICATION FORMS PROVIDED BY THE DEPARTMENT TO THOSE
23 PERSONS WHEN REQUESTED.

24 3. THE DEPARTMENT SHALL COMPILE IDENTIFYING INFORMATION CONCERNING
25 SELF-EXCLUDED PERSONS. SUCH INFORMATION SHALL CONTAIN, AT A MINIMUM, THE
26 FULL NAME AND ANY ALIASES OF THE PERSON, A PHOTOGRAPH OF THE PERSON, THE
27 SOCIAL SECURITY OR DRIVER'S LICENSE NUMBER OF THE PERSON AND THE CURRENT
28 PHYSICAL AND ELECTRONIC CONTACT INFORMATION, INCLUDING MAILING ADDRESS, OF
29 THE PERSON.

30 4. THE DEPARTMENT, ON A WEEKLY BASIS, SHALL PROVIDE THE COMPILED
31 INFORMATION TO FANTASY SPORTS CONTEST OPERATORS. FANTASY SPORTS CONTEST
32 OPERATORS SHALL TREAT THE INFORMATION RECEIVED FROM THE DEPARTMENT UNDER
33 THIS SECTION AS CONFIDENTIAL, AND THE INFORMATION MAY NOT BE DISCLOSED
34 EXCEPT TO VENDORS APPROVED BY THE DEPARTMENT FOR PURPOSES OF COMPLYING
35 WITH THIS SECTION, APPROPRIATE LAW ENFORCEMENT AGENCIES IF NEEDED IN
36 CONDUCTING AN OFFICIAL INVESTIGATION, OR UNLESS ORDERED BY A COURT OF
37 COMPETENT JURISDICTION.

38 5. A FANTASY SPORTS CONTEST OPERATOR SHALL CHECK THE MOST RECENT
39 SELF-EXCLUDED PERSONS LIST PROVIDED BY THE DEPARTMENT BEFORE CREATING A
40 PLAYER ACCOUNT FOR ANY SELF-EXCLUDED PERSON. A FANTASY SPORTS CONTEST
41 OPERATOR SHALL REVOKE A PLAYER ACCOUNT AND REMOVE ALL SELF-EXCLUDED
42 PERSONS FROM ALL MARKETING LISTS OF THE FANTASY SPORTS CONTEST OPERATOR.

43 6. A FANTASY SPORTS CONTEST OPERATOR SHALL TAKE REASONABLE STEPS TO
44 ENSURE THAT PERSONS ON THE DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS ARE
45 DENIED ACCESS TO ALL FANTASY SPORTS CONTESTS.

- 1 7. A FANTASY SPORTS CONTEST OPERATOR SHALL TAKE REASONABLE STEPS TO
2 IDENTIFY SELF-EXCLUDED PERSONS.
- 3 8. IF A SELF-EXCLUDED PERSON PARTICIPATES IN A FANTASY SPORTS
4 CONTEST, THE FANTASY SPORTS CONTEST OPERATOR SHALL REPORT TO THE
5 DEPARTMENT, AT A MINIMUM, THE NAME OF THE SELF-EXCLUDED PERSON, THE DATE
6 OF PARTICIPATION, THE AMOUNT OR VALUE OF ANY MONIES, PRIZES OR AWARDS
7 FORFEITED, IF ANY, AND ANY OTHER ACTION TAKEN. THE REPORT SHALL BE
8 PROVIDED TO THE DEPARTMENT WITHIN TWENTY-FOUR HOURS OF DISCOVERY.
- 9 C. A FANTASY SPORTS CONTEST OPERATOR MAY NOT PAY ANY PRIZE OR AWARD
10 TO A PERSON WHO IS ON THE DEPARTMENT'S SELF-EXCLUSION LIST. ANY PRIZE OR
11 AWARD WON BY A PERSON ON THE SELF-EXCLUSION LIST SHALL BE FORFEITED AND
12 SHALL BE DONATED BY THE FANTASY SPORTS CONTEST OPERATOR TO THE
13 DEPARTMENT'S DIVISION OF PROBLEM GAMBLING ON A QUARTERLY BASIS BY THE
14 TWENTY-FIFTH DAY OF THE FOLLOWING MONTH.
- 15 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE
16 DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS IS NOT OPEN TO PUBLIC
17 INSPECTION.
- 18 E. A FANTASY SPORTS CONTEST OPERATOR SHALL DEVELOP AND MAINTAIN A
19 PROGRAM TO MITIGATE COMPULSIVE PLAY AND CURTAIL COMPULSIVE PLAY, WHICH MAY
20 BE IN CONJUNCTION WITH THE DEPARTMENT.
- 21 5-1207. Department of gaming; authority
- 22 THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT THIS CHAPTER AS
23 PROVIDED IN TITLE 41, CHAPTER 6, INCLUDING RULES THAT DO ALL OF THE
24 FOLLOWING:
- 25 1. REQUIRE A FANTASY SPORTS CONTEST OPERATOR TO IMPLEMENT
26 COMMERCIALY REASONABLE PROCEDURES TO PROHIBIT ACCESS TO BOTH OF THE
27 FOLLOWING:
- 28 (a) INDIVIDUALS WHO REQUEST TO RESTRICT THEMSELVES FROM PLAYING
29 FANTASY SPORTS CONTESTS.
- 30 (b) INDIVIDUALS WHO ARE UNDER TWENTY-ONE YEARS OF AGE.
- 31 2. PRESCRIBE REQUIREMENTS RELATED TO BEGINNING PLAYERS AND HIGHLY
32 EXPERIENCED PLAYERS.
- 33 3. SUSPEND THE ACCOUNT OF A FANTASY SPORTS CONTEST PLAYER WHO
34 VIOLATES THIS CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER.
- 35 4. PROVIDE A FANTASY SPORTS CONTEST PLAYER WITH ACCESS TO
36 INFORMATION ON PLAYING RESPONSIBLY AND HOW TO ASK FOR ASSISTANCE FOR
37 COMPULSIVE PLAY BEHAVIOR.
- 38 5. REQUIRE AN APPLICANT FOR A FANTASY SPORTS CONTEST OPERATOR
39 LICENSE TO DESIGNATE AT LEAST ONE KEY EMPLOYEE AS A CONDITION OF OBTAINING
40 A LICENSE.
- 41 6. INCLUDE ANY OTHER RULE THE DEPARTMENT DETERMINES IS NECESSARY TO
42 ENSURE THE INTEGRITY OF FANTASY SPORTS CONTESTS.

1 5-1208. Requirements

2 A. AFTER A FANTASY SPORTS CONTEST OPERATOR IS LICENSED, THE FANTASY
3 SPORTS CONTEST OPERATOR SHALL REPORT ANY CHANGE TO THE INFORMATION
4 REGARDING OWNERSHIP INCLUDED IN ITS APPLICATION WITH THE DEPARTMENT WITHIN
5 THIRTY DAYS AFTER THE CHANGE IS EFFECTIVE. THE FANTASY SPORTS CONTEST
6 OPERATOR'S LICENSE SHALL REMAIN VALID UNLESS THE DEPARTMENT DETERMINES
7 THAT THE FANTASY SPORTS CONTEST OPERATOR IS NO LONGER QUALIFIED TO
8 MAINTAIN THE LICENSE DUE TO THE CHANGE.

9 B. A LICENSED FANTASY SPORTS CONTEST OPERATOR SHALL RETAIN AND
10 MAINTAIN IN A PLACE SECURE FROM THEFT, LOSS OR DESTRUCTION ALL OF THE
11 RECORDS REQUIRED TO BE MAINTAINED UNDER THIS CHAPTER AND THE RULES ADOPTED
12 UNDER THIS CHAPTER FOR AT LEAST THREE YEARS AFTER THE DATE THE RECORD IS
13 CREATED.

14 C. A LICENSED FANTASY SPORTS CONTEST OPERATOR SHALL ORGANIZE ALL
15 RECORDS UNDER SUBSECTIONS A AND B OF THIS SECTION IN A MANNER THAT ENABLES
16 THE LICENSED FANTASY SPORTS CONTEST OPERATOR TO PROVIDE THE DEPARTMENT
17 WITH THE RECORDS.

18 D. INFORMATION OBTAINED UNDER THIS SECTION IS CONFIDENTIAL AND
19 PRIVILEGED AND IS NOT SUBJECT TO DISCLOSURE AS PROVIDED IN TITLE 39,
20 CHAPTER 1, ARTICLE 2.

21 E. IF A FANTASY SPORTS CONTEST OPERATOR IS REQUIRED TO FILE A FORM
22 1099-MISC OR OTHER SUBSTANTIALLY EQUIVALENT FORM WITH THE UNITED STATES
23 INTERNAL REVENUE SERVICE FOR A PERSON WHO IS IDENTIFIED BY THE ARIZONA
24 ADMINISTRATIVE OFFICE OF THE COURTS, THE DEPARTMENT OF ECONOMIC SECURITY
25 DIVISION OF CHILD SUPPORT ENFORCEMENT, THE DEPARTMENT OF ECONOMIC SECURITY
26 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE OVERPAYMENT OR
27 THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION AS OWING AN
28 OBLIGATION, THE FANTASY SPORTS CONTEST OPERATOR SHALL WITHHOLD FROM THE
29 PERSON'S ACCOUNT THE AMOUNT OF OBLIGATIONS OWED AT THE TIME THE FORM
30 1099-MISC OR A SUBSTANTIALLY EQUIVALENT FORM IS ISSUED, IF THE FANTASY
31 SPORTS OPERATOR HAS BEEN NOTIFIED BY THIS STATE OF THE OBLIGATION. AT
32 THAT TIME, THE FANTASY SPORTS CONTEST OPERATOR SHALL TRANSMIT THE AMOUNT
33 WITHHELD FOR OBLIGATIONS TO THE DEPARTMENT OF GAMING AND SHALL ALSO
34 TRANSMIT ANY INFORMATION REQUESTED BY THE DEPARTMENT OF GAMING. THE
35 DEPARTMENT OF GAMING SHALL PROVIDE INFORMATION TO THE FANTASY SPORTS
36 CONTEST OPERATOR OF PERSONS WITH OUTSTANDING OBLIGATIONS. IF THE
37 IDENTIFIED PERSON IS ALSO SELF-EXCLUDED, TAX LIABILITIES AND SETOFF
38 OBLIGATIONS SHALL BE SATISFIED BEFORE ANY MONIES ARE DONATED TO THE
39 DEPARTMENT OF GAMING DIVISION OF PROBLEM GAMBLING PURSUANT TO SECTION
40 5-1206. IF THE IDENTIFIED PERSON HAS MULTIPLE LIABILITIES, THOSE
41 LIABILITIES SHALL BE SATISFIED IN THE FOLLOWING ORDER:

- 42 1. CHILD SUPPORT ENFORCEMENT.
- 43 2. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE
44 OVERPAYMENT.
- 45 3. THE COURTS.

1 4. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.
2 5-1209. Revocation, suspension or denial of license; grounds;
3 definitions

4 A. THE DEPARTMENT MAY REVOKE, SUSPEND OR DENY A LICENSE IF AN
5 APPLICANT OR LICENSEE MEETS ANY OF THE FOLLOWING CRITERIA:

6 1. VIOLATES, FAILS OR REFUSES TO COMPLY WITH THE PROVISIONS,
7 REQUIREMENTS, CONDITIONS, LIMITATIONS OR DUTIES IMPOSED BY LAW OR RULE, OR
8 IF ANY SUCH VIOLATION OCCURS ON ANY FANTASY SPORTS CONTEST PLATFORM
9 OPERATED BY ANY SUCH PERSON OR OVER WHICH THE PERSON HAS SUBSTANTIAL
10 CONTROL.

11 2. KNOWINGLY CAUSES, AIDS, ABETS OR CONSPIRES WITH ANOTHER TO CAUSE
12 ANY PERSON TO VIOLATE ANY OF THE LAWS OF THIS STATE OR THE RULES OF THE
13 DEPARTMENT.

14 3. OBTAINS A LICENSE BY FRAUD, MISREPRESENTATION, CONCEALMENT OR
15 THROUGH INADVERTENCE OR MISTAKE.

16 4. IS CONVICTED OR FORFEITED BOND ON A CHARGE OF OR PLEADS GUILTY
17 TO:

18 (a) FORGERY, LARCENY, EXTORTION OR CONSPIRACY TO DEFRAUD.

19 (b) WILFUL FAILURE TO MAKE REQUIRED PAYMENT OR REPORTS TO ANY
20 TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY, FILING FALSE REPORTS WITH
21 ANY TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY OR ANY SIMILAR OFFENSE OR
22 OFFENSES.

23 (c) BRIBING OR OTHERWISE UNLAWFULLY INFLUENCING A PUBLIC OFFICIAL
24 OF THIS STATE OR ANY OTHER STATE OR JURISDICTION.

25 (d) ANY CRIME, WHETHER A FELONY OR MISDEMEANOR, INVOLVING ANY
26 GAMING ACTIVITY, PHYSICAL HARM TO AN INDIVIDUAL OR MORAL TURPITUDE.

27 5. MAKES A MISREPRESENTATION OF OR FAILS TO DISCLOSE A MATERIAL
28 FACT TO THE DEPARTMENT.

29 6. FAILS TO PROVE, BY CLEAR AND CONVINCING EVIDENCE, THAT THE
30 PERSON IS QUALIFIED FOR LICENSURE.

31 7. IS SUBJECT TO CURRENT PROSECUTION OR PENDING CHARGES OR A
32 CONVICTION THAT IS UNDER APPEAL FOR ANY OF THE OFFENSES INCLUDED IN THIS
33 SUBSECTION. AT THE REQUEST OF AN APPLICANT FOR AN ORIGINAL LICENSE, THE
34 DEPARTMENT MAY DEFER DECISION ON THE APPLICATION DURING THE PENDENCY OF
35 THE PROSECUTION OR APPEAL.

36 8. HAS HAD A GAMING LICENSE ISSUED BY ANY JURISDICTION IN THE
37 UNITED STATES REVOKED OR DENIED.

38 9. DEMONSTRATES A WILFUL DISREGARD FOR COMPLIANCE WITH GAMING
39 REGULATORY AUTHORITY IN ANY JURISDICTION, INCLUDING SUSPENSION, REVOCATION
40 OR DENIAL OF AN APPLICATION FOR A LICENSE OR FORFEITURE OF A LICENSE.

41 10. HAS PURSUED OR IS PURSUING ECONOMIC GAIN IN AN OCCUPATIONAL
42 MANNER OR CONTEXT IN VIOLATION OF THE CRIMINAL LAWS OF ANY STATE IF THE
43 PURSUIT CREATES PROBABLE CAUSE TO BELIEVE THAT THE PERSON'S PARTICIPATION
44 IN GAMING OR RELATED ACTIVITIES WOULD BE DETRIMENTAL TO THE PROPER
45 OPERATION OF AUTHORIZED GAMING OR A RELATED ACTIVITY IN THIS STATE.

1 11. IS A CAREER OFFENDER OR A MEMBER OF A CAREER OFFENDER
2 ORGANIZATION OR AN ASSOCIATE OF A CAREER OFFENDER OR CAREER OFFENDER
3 ORGANIZATION THEREBY ESTABLISHING PROBABLE CAUSE TO BELIEVE THAT THE
4 ASSOCIATION IS OF SUCH A NATURE AS TO BE DETRIMENTAL TO THE PROPER
5 OPERATION OF AUTHORIZED GAMING OR RELATED ACTIVITIES IN THIS STATE.

6 12. IS A PERSON WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF ANY,
7 REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC INTEREST
8 OF THIS STATE OR TO THE EFFECTIVE REGULATION AND CONTROL OF FANTASY SPORTS
9 CONTESTS, OR CREATES OR ENHANCES THE DANGERS OF UNSUITABLE, UNFAIR OR
10 ILLEGAL PRACTICES, METHODS AND ACTIVITIES IN THE CONDUCT OF FANTASY SPORTS
11 CONTESTS, OR THE CARRYING ON OF THE BUSINESS AND FINANCIAL ARRANGEMENTS
12 INCIDENTAL THERETO.

13 13. FAILS TO PROVIDE ANY INFORMATION REQUESTED BY THE DEPARTMENT
14 WITHIN SEVEN DAYS OF THE REQUEST FOR THE INFORMATION.

15 B. THE DEPARTMENT, PURSUANT TO THE LAWS OF THIS STATE, MAY
16 SUMMARILY SUSPEND A LICENSE ISSUED PURSUANT TO THIS CHAPTER IF THE
17 CONTINUED LICENSURE OF A PERSON CONSTITUTES AN IMMEDIATE THREAT TO THE
18 PUBLIC HEALTH, SAFETY OR WELFARE.

19 C. ANY APPLICANT FOR LICENSURE AGREES BY MAKING SUCH APPLICATION TO
20 BE SUBJECT TO STATE JURISDICTION TO THE EXTENT NECESSARY TO DETERMINE THE
21 APPLICANT'S QUALIFICATION TO HOLD SUCH LICENSE, INCLUDING ALL NECESSARY
22 ADMINISTRATIVE PROCEDURES, HEARINGS AND APPEALS PURSUANT TO TITLE 41,
23 CHAPTER 6 AND THE DEPARTMENT'S RULES.

24 D. AN APPLICANT FOR LICENSURE MAY NOT WITHDRAW AN APPLICATION
25 WITHOUT THE DEPARTMENT'S WRITTEN PERMISSION. THE DEPARTMENT MAY NOT
26 UNREASONABLY WITHHOLD PERMISSION TO WITHDRAW AN APPLICATION.

27 E. FOR THE PURPOSES OF THIS SECTION:

28 1. "CAREER OFFENDER" MEANS ANY INDIVIDUAL WHO BEHAVES IN AN
29 OCCUPATIONAL MANNER OR CONTEXT FOR THE PURPOSES OF ECONOMIC GAIN BY
30 VIOLATING FEDERAL LAW OR THE LAWS AND PUBLIC POLICY OF THIS STATE.

31 2. "CAREER OFFENDER ORGANIZATION" MEANS ANY GROUP OF INDIVIDUALS
32 WHO OPERATE TOGETHER AS CAREER OFFENDERS.

33 3. "OCCUPATIONAL MANNER OR CONTEXT" MEANS THE SYSTEMATIC PLANNING,
34 ADMINISTRATION, MANAGEMENT OR EXECUTION OF AN ACTIVITY FOR FINANCIAL GAIN.

35 5-1210. Violations; classification; penalties

36 A. A PERSON MAY NOT DO ANY OF THE FOLLOWING:

37 1. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, OFFER A FANTASY
38 SPORTS CONTEST IN THIS STATE UNLESS THE PERSON IS LICENSED BY THE
39 DEPARTMENT.

40 2. KNOWINGLY MAKE A FALSE STATEMENT ON AN APPLICATION FOR A LICENSE
41 UNDER THIS CHAPTER.

42 3. KNOWINGLY PROVIDE FALSE TESTIMONY TO THE DEPARTMENT OR ANY
43 AUTHORIZED REPRESENTATIVE OF THE DEPARTMENT.

1 B. THE DEPARTMENT MAY NOT ISSUE A LICENSE UNDER THIS CHAPTER TO A
2 PERSON THAT VIOLATES SUBSECTION A OF THIS SECTION.

3 C. A PERSON THAT VIOLATES SUBSECTION A, PARAGRAPH 1 OF THIS SECTION
4 IS GUILTY OF A CRIME AS FOLLOWS:

5 1. FOR THE FIRST OR SECOND VIOLATION, THE PERSON IS GUILTY OF A
6 CLASS 3 MISDEMEANOR.

7 2. FOR A THIRD OR SUBSEQUENT VIOLATION, THE PERSON IS GUILTY OF A
8 CLASS 1 MISDEMEANOR.

9 D. THE DEPARTMENT MAY ISSUE A CEASE AND DESIST ORDER AND OBTAIN
10 INJUNCTIVE RELIEF AGAINST A PERSON THAT VIOLATES THIS CHAPTER.

11 E. THE DEPARTMENT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN
12 \$10,000 FOR A VIOLATION OF THIS CHAPTER, A RULE ADOPTED UNDER THIS CHAPTER
13 OR AN ORDER OF THE DEPARTMENT. A CIVIL PENALTY IMPOSED UNDER THIS SECTION
14 IS PAYABLE TO THIS STATE AND MAY BE COLLECTED IN A CIVIL ACTION BROUGHT BY
15 THE DEPARTMENT.

16 F. THE DEPARTMENT MAY SUSPEND, REVOKE OR RESTRICT THE LICENSE OF A
17 FANTASY SPORTS CONTEST OPERATOR THAT VIOLATES THIS CHAPTER, A RULE ADOPTED
18 UNDER THIS CHAPTER OR AN ORDER OF THE DEPARTMENT.

19 5-1211. Fees

20 A. THE DEPARTMENT SHALL ESTABLISH A FEE FOR THE PRIVILEGE OF
21 OPERATING FANTASY SPORTS CONTESTS. IN DETERMINING THE FEE, THE DEPARTMENT
22 SHALL CONSIDER THE HIGHEST PERCENTAGE OF REVENUE SHARE THAT AN INDIAN
23 TRIBE PAYS TO THIS STATE PURSUANT TO THE TRIBAL-STATE GAMING COMPACTS AND
24 ANY AMENDMENTS. A FANTASY SPORTS CONTEST OPERATOR SHALL REPORT TO THE
25 DEPARTMENT AND PAY THE FEE FROM ITS MONTHLY FANTASY SPORTS CONTEST
26 ADJUSTED REVENUES, ON A FORM AND IN THE MANNER PRESCRIBED BY THE
27 DEPARTMENT. THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL WHO OFFERS A
28 FANTASY SPORTS CONTEST UNDER SECTION 5-1202, SUBSECTION B.

29 B. THE FEE ESTABLISHED PURSUANT TO SUBSECTION A OF THIS SECTION IS
30 DUE AND PAYABLE TO THE DEPARTMENT BY THE TWENTY-FIFTH DAY OF EACH MONTH
31 AND SHALL BE BASED ON MONTHLY FANTASY SPORTS CONTEST ADJUSTED REVENUE
32 DERIVED DURING THE PREVIOUS MONTH.

33 C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
34 35-147, THE FEES COLLECTED PURSUANT TO THIS SECTION IN THE FANTASY SPORTS
35 CONTEST FUND ESTABLISHED BY SECTION 5-1212.

36 D. A LICENSED FANTASY SPORTS CONTEST OPERATOR WHO FAILS TO REMIT TO
37 THE DEPARTMENT THE FEES REQUIRED UNDER THIS SECTION IS LIABLE, IN ADDITION
38 TO ANY SANCTION OR PENALTY IMPOSED UNDER THIS CHAPTER, FOR THE PAYMENT OF
39 A PENALTY OF FIVE PERCENT PER MONTH UP TO A MAXIMUM OF TWENTY-FIVE PERCENT
40 OF THE AMOUNTS ULTIMATELY FOUND TO BE DUE, TO BE RECOVERED BY THE
41 DEPARTMENT. PENALTIES IMPOSED AND COLLECTED BY THE DEPARTMENT UNDER THIS
42 SUBSECTION MUST BE DEPOSITED IN THE FANTASY SPORTS CONTEST FUND
43 ESTABLISHED BY SECTION 5-1212.

1 EVENT WAGERING FOR THE PURPOSES OF THIS PARAGRAPH. AN EVENT WAGERING
2 OPERATOR MAY DEDUCT UP TO TWENTY PERCENT OF AN EVENT WAGERING OPERATOR'S
3 GROSS WAGERING RECEIPTS DURING ANY PERIOD THAT THE OPERATOR CONDUCTS EVENT
4 WAGERING BEFORE JANUARY 1 OF THE FIRST YEAR OF EVENT WAGERING OPERATIONS.

5 2. "DEPARTMENT" MEANS THE DEPARTMENT OF GAMING.

6 3. "E-SPORT" MEANS AN ORGANIZED, MULTIPLAYER VIDEO GAME
7 COMPETITION, PARTICULARLY BETWEEN PROFESSIONAL PLAYERS, INDIVIDUALLY OR AS
8 TEAMS.

9 4. "EVENT WAGERING":

10 (a) MEANS ACCEPTING WAGERS ON SPORTS EVENTS OR OTHER EVENTS,
11 PORTIONS OF SPORTS EVENTS OR OTHER EVENTS, THE INDIVIDUAL PERFORMANCE
12 STATISTICS OF ATHLETES IN A SPORTS EVENT OR COMBINATION OF SPORTS EVENTS
13 OR THE INDIVIDUAL PERFORMANCE OF INDIVIDUALS IN OTHER EVENTS OR A
14 COMBINATION OF OTHER EVENTS BY ANY SYSTEM OR METHOD OF WAGERING, INCLUDING
15 IN PERSON OR OVER THE INTERNET THROUGH WEBSITES AND ON MOBILE DEVICES.

16 (b) DOES NOT INCLUDE A FANTASY SPORTS CONTEST AS DEFINED IN SECTION
17 5-1201.

18 5. "EVENT WAGERING EMPLOYEE" MEANS AN EMPLOYEE OF AN EVENT WAGERING
19 OPERATOR, SPORTS FACILITY, MANAGEMENT SERVICES PROVIDER OR LIMITED EVENT
20 WAGERING OPERATOR WHO IS DIRECTLY INVOLVED IN THE MANAGEMENT OR CONTROL OF
21 THE CONDUCT OF EVENT WAGERING UNDER THIS CHAPTER IN THIS STATE.

22 6. "EVENT WAGERING FACILITY" MEANS A FACILITY AT WHICH EVENT
23 WAGERING IS CONDUCTED UNDER THIS CHAPTER.

24 7. "EVENT WAGERING OPERATOR" MEANS EITHER:

25 (a) AN OWNER OR OPERATOR OF AN ARIZONA PROFESSIONAL SPORTS TEAM OR
26 FRANCHISE, AN OPERATOR OF A SPORTS FACILITY IN THIS STATE THAT HOSTS AN
27 ANNUAL TOURNAMENT ON THE PGA TOUR OR A PROMOTER OF A NATIONAL ASSOCIATION
28 FOR STOCK CAR AUTO RACING NATIONAL TOURING RACE IN THIS STATE, OR THE
29 DESIGNEE OF SUCH AN OWNER, OPERATOR OR PROMOTER, WHO IS LICENSED TO OFFER
30 EVENT WAGERING UNDER THIS CHAPTER. IF AN OWNER, OPERATOR OR PROMOTER THAT
31 QUALIFIED FOR AN EVENT WAGERING OPERATOR LICENSE APPOINTS A DESIGNEE, THE
32 DESIGNEE WILL BE CONSIDERED THE EVENT WAGERING OPERATOR AND THE LICENSEE
33 WITH RESPECT TO THE APPLICABLE LICENSE FOR THE PURPOSES OF THIS CHAPTER.

34 (b) AN ARIZONA INDIAN TRIBE OR AN ENTITY FULLY OWNED BY AN ARIZONA
35 INDIAN TRIBE, OR ITS DESIGNEE, LICENSED TO OPERATE ONLY MOBILE EVENT
36 WAGERING OUTSIDE THE BOUNDARIES OF ITS INDIAN LANDS AND THROUGHOUT THIS
37 STATE IF IT HAS SIGNED THE MOST RECENT TRIBAL-STATE GAMING COMPACT AND ANY
38 APPLICABLE APPENDICES OR AMENDMENTS. IF AN INDIAN TRIBE THAT QUALIFIED
39 FOR AN EVENT WAGERING OPERATOR LICENSE APPOINTS A DESIGNEE, THE DESIGNEE
40 WILL BE CONSIDERED THE EVENT WAGERING OPERATOR AND THE LICENSEE WITH
41 RESPECT TO THE APPLICABLE LICENSE FOR THE PURPOSES OF THIS CHAPTER.

42 8. "LIMITED EVENT WAGERING OPERATOR" MEANS A RACETRACK ENCLOSURE OR
43 ADDITIONAL WAGERING FACILITY THAT HOLDS A PERMIT ISSUED BY THE DIVISION OF
44 RACING TO OFFER WAGERS ON HORSERACING AND THAT IS LICENSED UNDER THIS
45 CHAPTER.

1 9. "OFFICIAL LEAGUE DATA" MEANS STATISTICS, RESULTS, OUTCOMES AND
2 OTHER DATA RELATED TO A SPORTS EVENT OR OTHER EVENT OBTAINED PURSUANT TO
3 AN AGREEMENT WITH THE RELEVANT SPORTS GOVERNING BODY OR AN ENTITY
4 EXPRESSLY AUTHORIZED BY THE SPORTS GOVERNING BODY TO PROVIDE SUCH
5 INFORMATION TO LICENSEES THAT AUTHORIZES THE USE OF SUCH DATA FOR
6 DETERMINING THE OUTCOME OF SPORTS WAGERS ON SPORTS EVENTS OR OTHER EVENTS.

7 10. "LICENSEE" MEANS A PERSON THAT HOLDS AN EVENT WAGERING OPERATOR
8 LICENSE, LIMITED EVENT WAGERING LICENSE, SUPPLIER LICENSE OR MANAGEMENT
9 SERVICES PROVIDER LICENSE.

10 11. "MANAGEMENT SERVICES PROVIDER" MEANS A PERSON THAT OPERATES,
11 MANAGES OR CONTROLS EVENT WAGERING AUTHORIZED BY THIS CHAPTER ON BEHALF OF
12 AN EVENT WAGERING OPERATOR OR LIMITED EVENT WAGERING OPERATOR, INCLUDING
13 DEVELOPING OR OPERATING EVENT WAGERING PLATFORMS AND PROVIDING ODDS, LINES
14 AND GLOBAL RISK MANAGEMENT, AND MAY PROVIDE SERVICES TO MORE THAN ONE
15 LICENSED EVENT WAGERING OPERATOR OR LICENSED LIMITED EVENT WAGERING
16 OPERATOR.

17 12. "OTHER EVENT" MEANS A COMPETITION OF RELATIVE SKILL OR AN EVENT
18 AUTHORIZED BY THE DEPARTMENT UNDER THIS CHAPTER.

19 13. "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, COMMITTEE,
20 ASSOCIATION, CORPORATION, INDIAN TRIBE OR AN ENTITY FULLY OWNED BY AN
21 INDIAN TRIBE, OR ANY OTHER ORGANIZATION OR GROUP OF PERSONS.

22 14. "PROFESSIONAL SPORT" MEANS A SPORT CONDUCTED AT THE HIGHEST
23 LEVEL LEAGUE OR ORGANIZATIONAL PLAY FOR ITS RESPECTIVE SPORT AND INCLUDES
24 BASEBALL, BASKETBALL, FOOTBALL, GOLF, HOCKEY, SOCCER AND MOTORSPORTS.

25 15. "PROHIBITED CONDUCT" INCLUDES ANY STATEMENT, ACTION OR OTHER
26 COMMUNICATION INTENDED TO UNLAWFULLY INFLUENCE, MANIPULATE OR CONTROL A
27 BETTING OUTCOME OF A SPORTS EVENT OR OTHER EVENT OF ANY INDIVIDUAL
28 OCCURRENCE OR PERFORMANCE IN A SPORTS EVENT OR OTHER EVENT IN EXCHANGE FOR
29 FINANCIAL GAIN OR TO AVOID FINANCIAL OR PHYSICAL HARM.

30 16. "PROHIBITED PARTICIPANT" MEANS:

31 (a) ANY INDIVIDUAL WHOSE PARTICIPATION MAY UNDERMINE THE INTEGRITY
32 OF THE WAGERING, THE SPORTS EVENT OR THE OTHER EVENT.

33 (b) ANY INDIVIDUAL WHO IS PROHIBITED FROM PLACING A WAGER AS AN
34 AGENT, PROXY OR BECAUSE OF SELF-EXCLUSION.

35 (c) ANY INDIVIDUAL WHO IS AN ATHLETE, COACH, REFEREE, PLAYER,
36 TRAINER OR PERSONNEL OF A SPORTS ORGANIZATION IN ANY SPORTS EVENT OR OTHER
37 EVENT OVERSEEN BY THAT INDIVIDUAL'S SPORTS ORGANIZATION WHO, BASED ON
38 INFORMATION THAT IS NOT PUBLICLY AVAILABLE, HAS THE ABILITY TO DETERMINE
39 OR TO UNLAWFULLY INFLUENCE THE OUTCOME OF A WAGER.

40 (d) AN INDIVIDUAL WHO HOLDS A POSITION OF AUTHORITY OR INFLUENCE
41 SUFFICIENT TO EXERT INFLUENCE OVER THE PARTICIPANTS IN A SPORTING CONTEST,
42 INCLUDING COACHES, MANAGERS, HANDLERS AND ATHLETIC TRAINERS, SUCH THAT
43 THEIR ACTIONS CAN AFFECT THE OUTCOME OF A WAGER.

44 (e) AN INDIVIDUAL WITH ACCESS TO EXCLUSIVE INFORMATION ON ANY
45 SPORTS EVENT OR OTHER EVENT OVERSEEN BY THAT INDIVIDUAL'S SPORTS GOVERNING

1 BODY THAT IS NOT PUBLICLY AVAILABLE INFORMATION OR ANY INDIVIDUAL
2 IDENTIFIED BY ANY LISTS PROVIDED BY THE SPORTS GOVERNING BODY TO THE
3 DEPARTMENT.

4 17. "SPORTS EVENT" MEANS A PROFESSIONAL SPORT OR ATHLETIC EVENT, A
5 COLLEGIATE SPORT OR ATHLETIC EVENT, A MOTOR RACE EVENT, AN E-SPORT EVENT
6 OR AN OLYMPIC EVENT.

7 18. "SPORTS FACILITY" MEANS A FACILITY THAT IS OWNED BY A
8 COMMERCIAL, STATE OR LOCAL GOVERNMENT OR QUASI-GOVERNMENTAL ENTITY THAT
9 HOSTS PROFESSIONAL SPORTS EVENTS AND THAT HOLDS A SEATING CAPACITY OF MORE
10 THAN TEN THOUSAND PERSONS AT ITS PRIMARY FACILITY, ONE LOCATION IN THIS
11 STATE THAT HOSTS AN ANNUAL GOLF TOURNAMENT ON THE PGA TOUR AND ONE
12 LOCATION THAT HOLDS AN OUTDOOR MOTORSPORTS FACILITY THAT HOSTS A NATIONAL
13 ASSOCIATION FOR STOCK CAR AUTO RACING NATIONAL TOURING RACE.

14 19. "SPORTS GOVERNING BODY" MEANS AN ORGANIZATION HEADQUARTERED IN
15 THE UNITED STATES THAT PRESCRIBES FINAL RULES AND ENFORCES CODES OF
16 CONDUCT WITH RESPECT TO A SPORTS EVENT AND PARTICIPANTS IN A SPORTS EVENT.

17 20. "TIER ONE SPORTS WAGER" MEANS A SPORTS WAGER THAT IS DETERMINED
18 SOLELY BY THE FINAL SCORE OR FINAL OUTCOME OF THE SPORTS EVENT AND THAT IS
19 PLACED BEFORE THE SPORTS EVENT HAS BEGUN.

20 21. "TIER TWO SPORTS WAGER" MEANS A SPORTS WAGER THAT IS NOT A TIER
21 ONE SPORTS WAGER.

22 22. "SUPPLIER" MEANS A PERSON THAT MANUFACTURES, DISTRIBUTES OR
23 SUPPLIES EVENT WAGERING EQUIPMENT OR SOFTWARE, INCLUDING EVENT WAGERING
24 SYSTEMS.

25 23. "WAGER":

26 (a) MEANS A SUM OF MONEY OR THING OF VALUE RISKED ON AN UNCERTAIN
27 OCCURRENCE.

28 (b) INCLUDES TIER ONE AND TIER TWO SPORTS WAGERS, SINGLE-GAME BETS,
29 TEASER BETS, PARLAYS, OVER-UNDER BETS, MONEYLINE BETS, POOLS, EXCHANGE
30 WAGERING, IN-GAME WAGERING, IN-PLAY BETS, PROPOSITION BETS, STRAIGHT BETS
31 AND OTHER WAGERS APPROVED BY THE DEPARTMENT.

32 5-1302. Department of gaming; powers; duties

33 A. THE DEPARTMENT SHALL ENFORCE THIS CHAPTER AND SUPERVISE
34 COMPLIANCE WITH LAWS AND RULES RELATING TO REGULATING AND CONTROLLING
35 EVENT WAGERING IN THIS STATE.

36 B. THE DEPARTMENT MAY ADOPT RULES IN ACCORDANCE WITH THIS CHAPTER
37 AND TITLE 41, CHAPTER 6.

38 C. THE DEPARTMENT SHALL EVALUATE ALL APPLICANTS TO DETERMINE
39 SUITABILITY FOR ISSUING ALL EVENT WAGERING OPERATOR LICENSES, LIMITED
40 EVENT WAGERING OPERATOR LICENSES, SUPPLIER LICENSES AND MANAGEMENT
41 SERVICES PROVIDER LICENSES AND LICENSE RENEWALS AND SHALL CHARGE AND
42 COLLECT ALL FEES PURSUANT TO THIS CHAPTER.

43 D. THE DEPARTMENT MAY DENY, REVOKE OR SUSPEND LICENSES OR RENEWALS
44 OR DENY AN APPLICANT'S REQUEST TO WITHDRAW A LICENSE APPLICATION.

1 E. THE DEPARTMENT SHALL CONDUCT BACKGROUND CHECKS OF EVENT WAGERING
2 OPERATORS, LIMITED EVENT WAGERING OPERATORS, MANAGEMENT SERVICES PROVIDERS
3 AND EVENT WAGERING SUPPLIERS AND MAY MONITOR AND CONDUCT PERIODIC AUDITS
4 OF EVENT WAGERING OPERATIONS AND PROVIDERS.

5 F. HEARINGS SHALL BE CONDUCTED PURSUANT TO TITLE 41, CHAPTER 6,
6 ARTICLE 10. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, ANY
7 PARTY AGGRIEVED BY A FINAL ORDER OR DECISION OF THE DEPARTMENT MAY SEEK
8 JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

9 G. THE DEPARTMENT SHALL OVERSEE EVENT WAGERING AND DEVELOP
10 STANDARDS AND PROCEDURES AND ENGAGE IN OTHER DUTIES AS THE DIRECTOR OF THE
11 DEPARTMENT PRESCRIBES TO FURTHER THE PURPOSES OF THIS CHAPTER, INCLUDING
12 ESTABLISHING AND ENFORCING STANDARDS AND PROCEDURES FOR:

13 1. COLLECTING, DEPOSITING AND DISBURSING ALL APPLICABLE LICENSE
14 FEES AND PAYMENTS AS REQUIRED BY THIS CHAPTER.

15 2. OPERATING EVENT WAGERING AND MAINTAINING, TESTING, INSPECTING,
16 APPROVING AND AUDITING EVENT WAGERING ACCOUNTS, PLATFORMS, HARDWARE,
17 SOFTWARE AND DATA, INCLUDING PLAYER, FINANCIAL, ACCOUNTING AND WAGERING
18 DATA.

19 3. OPERATING EVENT WAGERING FACILITIES, INCLUDING LOCATION,
20 SECURITY AND SURVEILLANCE, DEPARTMENTAL ACCESS, INSPECTIONS AND APPROVALS.

21 4. LICENSING AND REQUIREMENTS FOR THE USE OF GEOLOCATION SERVICES
22 TO REASONABLY ENSURE PERSONS ENGAGING IN EVENT WAGERING ARE LOCATED IN
23 THIS STATE OR ANOTHER DEPARTMENTALLY AUTHORIZED LOCATION ALLOWED BY THIS
24 CHAPTER AT THE TIME OF EVENT WAGERING.

25 5. APPROVING OTHER EVENTS ON WHICH WAGERS MAY BE TAKEN CONSISTENT
26 WITH THIS CHAPTER.

27 6. ESTABLISHING MECHANISMS DESIGNED TO DETECT AND PREVENT THE
28 UNAUTHORIZED USE OF PLAYER ACCOUNTS AND TO DETECT AND PREVENT FRAUD, MONEY
29 LAUNDERING AND COLLUSION, INCLUDING A REQUIREMENT THAT EVENT WAGERING
30 OPERATIONS CONTRACT WITH A DEPARTMENTALLY LICENSED INTEGRITY MONITORING
31 PROVIDER.

32 7. PAYING WINNING WAGERS, REPORTING TAXES AND COLLECTING DEBT
33 SETOFFS FROM A PAYOUT OF WINNINGS THAT TRIGGERS THE LICENSEE'S OBLIGATION
34 TO FILE A FORM W-2G OR A SUBSTANTIALLY EQUIVALENT FORM WITH THE UNITED
35 STATES INTERNAL REVENUE SERVICE, INCLUDING OVERDUE CHILD SUPPORT PAYMENTS,
36 STATE TAX DEBT AND DEBTS AS ESTABLISHED BY THE DEPARTMENT OF ECONOMIC
37 SECURITY.

38 H. THE DEPARTMENT MAY ADOPT RULES AUTHORIZING EVENT WAGERING
39 OPERATORS TO OFFSET LOSS AND MANAGE RISK, DIRECTLY OR WITH A THIRD PARTY
40 APPROVED BY THE DEPARTMENT, THROUGH THE USE OF A LIQUIDITY POOL IN THIS
41 STATE OR ANOTHER JURISDICTION, IF THE EVENT WAGERING OPERATOR OR ITS
42 MANAGEMENT SERVICES PROVIDER IS LICENSED BY SUCH JURISDICTION TO OPERATE
43 AN EVENT WAGERING OR SPORTS BETTING BUSINESS. AN EVENT WAGERING
44 OPERATOR'S USE OF A LIQUIDITY POOL DOES NOT ELIMINATE ITS DUTY TO ENSURE
45 THAT IT HAS SUFFICIENT MONIES AVAILABLE TO PAY BETTORS.

1 5-1303. Event wagering; license required; exception

2 A. EVENT WAGERING MAY BE CONDUCTED ONLY TO THE EXTENT THAT IT IS
3 CONDUCTED IN ACCORDANCE WITH THIS CHAPTER. A PERSON MAY NOT OFFER ANY
4 ACTIVITY IN CONNECTION WITH EVENT WAGERING IN THIS STATE UNLESS ALL
5 NECESSARY LICENSES HAVE BEEN OBTAINED IN ACCORDANCE WITH FEDERAL AND STATE
6 LAW AND ANY APPLICABLE RULES OF THE DEPARTMENT.

7 B. A WAGER PLACED BY A PARTICIPANT IN THIS STATE AND RECEIVED BY AN
8 EVENT WAGERING OPERATOR OR ITS MANAGEMENT SERVICES PROVIDER IN THIS STATE
9 IS CONSIDERED TO BE GAMBLING OR GAMING THAT IS CONDUCTED IN THIS STATE.

10 C. A LAW THAT IS INCONSISTENT WITH THIS CHAPTER DOES NOT APPLY TO
11 EVENT WAGERING AS PROVIDED FOR BY THIS CHAPTER.

12 D. THIS CHAPTER DOES NOT APPLY TO EVENT WAGERING CONDUCTED
13 EXCLUSIVELY ON INDIAN LANDS AS THAT TERM IS DEFINED IN THE INDIAN GAMING
14 REGULATORY ACT (P.L. 100-497; 102 STAT. 2467) BY AN INDIAN TRIBE OPERATED
15 IN ACCORDANCE WITH A TRIBAL-STATE GAMING COMPACT AND ANY AMENDMENTS. FOR
16 PURPOSES OF THIS CHAPTER, EVENT WAGERING IS CONDUCTED EXCLUSIVELY ON
17 INDIAN LANDS ONLY IF THE INDIVIDUAL WHO PLACES THE WAGER IS PHYSICALLY
18 PRESENT ON INDIAN LANDS WHEN THE WAGER IS INITIATED, RECEIVED OR OTHERWISE
19 MADE ON EQUIPMENT THAT IS PHYSICALLY LOCATED ON INDIAN LANDS, AND THE
20 WAGER IS INITIATED, RECEIVED OR OTHERWISE MADE IN CONFORMITY WITH THE SAFE
21 HARBOR REQUIREMENTS AS PROVIDED IN 31 UNITED STATES CODE SECTION
22 5362(10)(C). AN EVENT WAGERING OPERATOR MAY NOT ACCEPT ANY WAGER IF THE
23 INDIVIDUAL WHO PLACES THE WAGER IS PHYSICALLY PRESENT ON INDIAN LANDS WHEN
24 THE WAGER IS INITIATED.

25 E. A PERSON MAY NOT PROVIDE OR MAKE AVAILABLE EVENT WAGERING
26 DEVICES IN A PLACE OF PUBLIC ACCOMMODATION IN THIS STATE, INCLUDING A CLUB
27 OR OTHER ASSOCIATION, TO ENABLE INDIVIDUALS TO PLACE WAGERS EXCEPT AS
28 PROVIDED BY THIS CHAPTER. THIS SUBSECTION DOES NOT APPLY TO AN EVENT
29 WAGERING OPERATOR AGGREGATING, PROVIDING OR MAKING AVAILABLE EVENT
30 WAGERING DEVICES WITHIN ITS OWN EVENT WAGERING FACILITY.

31 F. FOR PURPOSES OF THIS CHAPTER, THE INTERMEDIATE ROUTING OF
32 ELECTRONIC DATA IN CONNECTION WITH EVENT WAGERING, INCLUDING ROUTING
33 ACROSS STATE LINES, DOES NOT DETERMINE THE LOCATION OR LOCATIONS IN WHICH
34 THE WAGER IS INITIATED, RECEIVED OR OTHERWISE MADE.

35 G. AN EVENT WAGERING OPERATOR MAY USE MORE THAN ONE EVENT WAGERING
36 PLATFORM TO OFFER, CONDUCT OR OPERATE EVENT WAGERING. ONLY AN EVENT
37 WAGERING OPERATOR OR ITS MANAGEMENT SERVICES PROVIDER MAY PROCESS, ACCEPT,
38 OFFER OR SOLICIT WAGERS. THE EVENT WAGERING OPERATOR MUST CLEARLY DISPLAY
39 ITS OWN BRAND OR THAT OF AN AFFILIATE ON THE EVENT WAGERING PLATFORM THAT
40 IT USES. THE EVENT WAGERING OPERATOR, IN ITS SOLE DISCRETION, MAY ALSO
41 ELECT TO HAVE THE BRAND OF THE MANAGEMENT SERVICES PROVIDER THAT IT USES
42 BE THE NAME AND LOGOS OF THE EVENT WAGERING PLATFORM PROVIDER IF THE EVENT
43 WAGERING PLATFORM ALSO CLEARLY DISPLAYS THE EVENT WAGERING OPERATOR'S OWN
44 TRADEMARKS AND LOGOS OR THOSE OF AN AFFILIATE.

1 H. AN OWNER, OPERATOR, PROMOTER OR INDIAN TRIBE THAT QUALIFIES FOR
2 AN EVENT WAGERING OPERATOR LICENSE AND APPOINTS A DESIGNEE TO BE LICENSED
3 AS AN EVENT WAGERING OPERATOR IS NOT RESPONSIBLE FOR THE CONDUCT OF ITS
4 DESIGNEE.

5 5-1304. Licensure; application

6 A. THE DEPARTMENT MAY ISSUE NOT MORE THAN TEN EVENT WAGERING
7 OPERATOR LICENSES TO APPLICANTS OTHER THAN AN INDIAN TRIBE. THE
8 DEPARTMENT MAY ISSUE NOT MORE THAN TEN EVENT WAGERING OPERATOR LICENSES TO
9 INDIAN TRIBES IN THIS STATE IF THE INDIAN TRIBE RECEIVING A LICENSE HAS
10 SIGNED THE MOST RECENT TRIBAL-STATE GAMING COMPACT AND ANY APPLICABLE
11 APPENDICES OR AMENDMENTS. THE DEPARTMENT SHALL ISSUE EVENT WAGERING
12 OPERATOR LICENSES ONLY TO APPLICANTS THAT ARE EITHER OF THE FOLLOWING IN
13 COMPLIANCE WITH THIS CHAPTER:

14 1. AN OWNER OF AN ARIZONA PROFESSIONAL SPORTS TEAM OR FRANCHISE,
15 OPERATOR OF A SPORTS FACILITY THAT HOSTS AN ANNUAL TOURNAMENT ON THE PGA
16 TOUR, PROMOTER OF A NATIONAL ASSOCIATION FOR STOCK CAR AUTO RACING
17 NATIONAL TOURING RACE CONDUCTED IN THIS STATE OR THE OWNER'S, OPERATOR'S
18 OR PROMOTER'S DESIGNEE, CONTRACTED TO OPERATE EVENT WAGERING FOR BOTH
19 RETAIL EVENT WAGERING AT A SPORTS FACILITY OR ITS COMPLEX AS PRESCRIBED IN
20 SUBSECTION D OF THIS SECTION AND MOBILE EVENT WAGERING THROUGHOUT THE
21 STATE. IF A DESIGNEE IS USED, THE DESIGNEE SHALL BE CONSIDERED THE
22 APPLICANT AND BE SUBJECT TO ANY REQUIREMENTS OF THE APPLICATION PROCESS
23 RATHER THAN THE OWNER, OPERATOR OR PROMOTER.

24 2. AN INDIAN TRIBE, OR AN ENTITY FULLY OWNED BY AN INDIAN TRIBE, OR
25 ITS DESIGNEE CONTRACTED TO OPERATE ONLY MOBILE EVENT WAGERING OUTSIDE THE
26 BOUNDARIES OF ITS INDIAN LANDS AND THROUGHOUT THE STATE IF IT HAS SIGNED
27 THE MOST RECENT TRIBAL-STATE GAMING COMPACT AND ANY APPLICABLE APPENDICES
28 OR AMENDMENTS.

29 B. AN APPLICANT FOR AN EVENT WAGERING LICENSE SHALL SUBMIT AN
30 APPLICATION IN A FORM PRESCRIBED BY THE DEPARTMENT, INCLUDING ALL OF THE
31 FOLLOWING:

32 1. THE IDENTIFICATION OF THE APPLICANT'S PRINCIPAL OWNERS THAT OWN
33 MORE THAN FIVE PERCENT OF THE COMPANY, THE PARTNERS, THE MEMBERS OF ITS
34 BOARD OF DIRECTORS AND THE OFFICERS, THE IDENTIFICATION OF ANY HOLDING
35 COMPANY, INCLUDING ITS PRINCIPALS, ENGAGED BY THE APPLICANT TO ASSIST IN
36 THE MANAGEMENT OR OPERATION OF EVENT WAGERING, IF APPLICABLE, AND
37 INFORMATION TO VERIFY THAT THE APPLICANT IS QUALIFIED TO HOLD A LICENSE
38 UNDER SUBSECTION A OF THIS SECTION.

39 2. A FULL SET OF FINGERPRINTS FOR THE PURPOSE OF OBTAINING A STATE
40 AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC
41 LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT
42 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION. THE FINGERPRINTS SHALL BE
43 FURNISHED BY THE APPLICANT'S OFFICERS AND DIRECTORS, IF A CORPORATION,
44 MEMBERS, IF A LIMITED LIABILITY COMPANY, AND PARTNERS, IF A PARTNERSHIP.
45 AN APPLICANT CONVICTED OF A DISQUALIFYING OFFENSE MAY NOT BE LICENSED.

1 3. INFORMATION, DOCUMENTATION AND ASSURANCES AS MAY BE REASONABLY
2 REQUIRED TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THE APPLICANT'S
3 GOOD CHARACTER, HONESTY AND INTEGRITY, INCLUDING INFORMATION THAT PERTAINS
4 TO FAMILY CONNECTIONS, CRIMINAL AND ARREST RECORDS, BUSINESS ACTIVITIES,
5 FINANCIAL AFFAIRS AND BUSINESS, PROFESSIONAL AND PERSONAL ASSOCIATES
6 COVERING AT LEAST THE TEN-YEAR PERIOD IMMEDIATELY PRECEDING THE FILING OF
7 THE APPLICATION.

8 4. A NOTICE AND DESCRIPTION OF CIVIL JUDGMENTS OBTAINED AGAINST THE
9 APPLICANT PERTAINING TO ANTITRUST OR SECURITY REGULATION LAWS OF THE
10 FEDERAL GOVERNMENT, OF THIS STATE OR OF ANY OTHER STATE, JURISDICTION,
11 PROVINCE OR COUNTRY.

12 5. IF THE APPLICANT HAS CONDUCTED GAMING OPERATIONS IN A
13 JURISDICTION THAT ALLOWS SUCH ACTIVITY, LETTERS OF COMPLIANCE FROM THE
14 REGULATORY BODY THAT REGULATES EVENT WAGERING, SPORTS WAGERING OR ANY
15 OTHER GAMING ACTIVITY THAT THE APPLICANT IS LICENSED FOR, CONDUCTS OR
16 OPERATES UNDER JURISDICTION OF THE REGULATORY BODY.

17 6. INFORMATION, DOCUMENTATION AND ASSURANCES CONCERNING FINANCIAL
18 BACKGROUND AND RESOURCES OF THE APPLICANT OR ITS MANAGEMENT SERVICES
19 PROVIDER AS MAY BE REQUIRED TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE
20 THE FINANCIAL STABILITY, INTEGRITY AND RESPONSIBILITY OF THE APPLICANT OR
21 ITS MANAGEMENT SERVICES PROVIDER, INCLUDING BANK REFERENCES, BUSINESS AND
22 PERSONAL INCOME AND DISBURSEMENT SCHEDULES, TAX RETURNS AND OTHER REPORTS
23 FILED WITH GOVERNMENTAL AGENCIES, AND BUSINESS AND PERSONAL ACCOUNTING AND
24 CHECK RECORDS AND LEDGERS. EACH APPLICANT OR ITS MANAGEMENT SERVICES
25 PROVIDER, IN WRITING, SHALL AUTHORIZE THE EXAMINATION OF ALL BANK ACCOUNTS
26 AND RECORDS AS MAY BE DEEMED NECESSARY BY THE DEPARTMENT. THE DEPARTMENT
27 MAY CONSIDER ANY RELEVANT EVIDENCE OF FINANCIAL STABILITY. THE APPLICANT
28 IS PRESUMED TO BE FINANCIALLY STABLE IF THE APPLICANT OR ITS MANAGEMENT
29 SERVICES PROVIDER ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT IT
30 MEETS EACH OF THE FOLLOWING STANDARDS:

31 (a) THE ABILITY TO ENSURE THE FINANCIAL INTEGRITY OF EVENT WAGERING
32 OPERATIONS BY MAINTAINING A BANKROLL OR EQUIVALENT PROVISIONS ADEQUATE TO
33 PAY WINNING WAGERS TO BETTORS WHEN DUE. AN APPLICANT IS PRESUMED TO HAVE
34 MET THIS STANDARD IF THE APPLICANT OR ITS MANAGEMENT SERVICES PROVIDER
35 MAINTAINS, ON A DAILY BASIS, A BANKROLL OR EQUIVALENT PROVISIONS IN AN
36 AMOUNT THAT IS AT LEAST EQUAL TO THE AVERAGE DAILY MINIMUM BANKROLL OR
37 EQUIVALENT PROVISIONS, CALCULATED ON A MONTHLY BASIS, FOR THE
38 CORRESPONDING MONTH IN THE PREVIOUS YEAR.

39 (b) THE ABILITY TO MEET ONGOING OPERATING EXPENSES THAT ARE
40 ESSENTIAL TO MAINTAINING CONTINUOUS AND STABLE EVENT WAGERING OPERATIONS.

41 (c) THE ABILITY TO PAY, AS AND WHEN DUE, ALL STATE AND FEDERAL
42 TAXES.

43 7. INFORMATION TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE THAT
44 THE APPLICANT OR ITS MANAGEMENT SERVICES PROVIDER HAS SUFFICIENT BUSINESS

1 ABILITY AND GAMING EXPERIENCE AS TO ESTABLISH THE LIKELIHOOD OF CREATING
2 AND MAINTAINING A SUCCESSFUL AND STABLE EVENT WAGERING OPERATION.

3 8. INFORMATION REGARDING THE FINANCIAL STANDING OF THE APPLICANT,
4 INCLUDING EACH PERSON OR ENTITY THAT HAS PROVIDED LOANS OR FINANCING TO
5 THE APPLICANT OR ITS MANAGEMENT SERVICES PROVIDER.

6 9. INFORMATION ON THE AMOUNT OF ADJUSTED GROSS EVENT WAGERING
7 RECEIPTS AND ASSOCIATED ADJUSTED GROSS RECEIPTS THAT THE APPLICANT EXPECTS
8 TO GENERATE.

9 10. A NONREFUNDABLE APPLICATION FEE OR ANNUAL LICENSING FEE AS
10 PRESCRIBED BY SECTION 5-1310.

11 11. ANY ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT TO
12 DETERMINE THE FINANCIAL AND OPERATIONAL ABILITY TO FULFILL ITS OBLIGATIONS
13 AS AN EVENT WAGERING OPERATOR.

14 C. ANY APPLICANT FOR LICENSURE AGREES TO BE SUBJECT TO STATE
15 JURISDICTION TO THE EXTENT NECESSARY TO DETERMINE THE APPLICANT'S
16 QUALIFICATION TO HOLD A LICENSE, INCLUDING ALL NECESSARY ADMINISTRATIVE
17 PROCEDURES, HEARINGS AND APPEALS AS PROVIDED IN TITLE 41, CHAPTER 6 AND
18 DEPARTMENT RULES.

19 D. A LICENSE ISSUED BY THE DEPARTMENT PURSUANT TO THIS SECTION
20 AUTHORIZES AN EVENT WAGERING OPERATOR IDENTIFIED IN SUBSECTION A,
21 PARAGRAPH 2 OF THIS SECTION TO OPERATE ONLY MOBILE EVENT WAGERING OR AN
22 EVENT WAGERING OPERATOR IDENTIFIED IN SUBSECTION A, PARAGRAPH 1 OF THIS
23 SECTION TO OFFER BOTH:

24 1. EVENT WAGERING IN THIS STATE THROUGH AN EVENT WAGERING FACILITY
25 WITHIN A FIVE-BLOCK RADIUS OF THE EVENT WAGERING OPERATOR'S SPORTS
26 FACILITY OR, IN THE CASE OF A DESIGNEE, THE SPORTS FACILITY OR THE
27 DESIGNATING OWNER, OPERATOR OR PROMOTER OF A PROFESSIONAL SPORTS TEAM,
28 EVENT OR FRANCHISE. AN EVENT WAGERING FACILITY WITHIN ONE MILE OF A
29 TRIBAL GAMING FACILITY MUST BE:

30 (a) WITHIN A SPORTS COMPLEX THAT INCLUDES RETAIL CENTERS THAT ARE
31 ADJACENT TO THE SPORTS FACILITY.

32 (b) NOT MORE THAN ONE-FOURTH OF A MILE FROM A SPORTS FACILITY
33 WITHIN THE SPORTS COMPLEX.

34 2. EVENT WAGERING THROUGH A MOBILE PLATFORM AS SPECIFIED BY THE
35 DEPARTMENT. A LICENSED EVENT WAGERING OPERATOR OR ITS DESIGNATED
36 MANAGEMENT SERVICES PROVIDER MAY OFFER EVENT WAGERING THROUGH AN EVENT
37 WAGERING PLATFORM AS SPECIFIED BY THE DEPARTMENT.

38 E. A LICENSE ISSUED UNDER THIS SECTION IS VALID FOR FIVE YEARS IF
39 THE LICENSEE SUBMITS AN ANNUAL LICENSE FEE, MAINTAINS THE QUALIFICATIONS
40 TO OBTAIN A LICENSE UNDER THIS SECTION AND SUBSTANTIALLY COMPLIES WITH
41 THIS CHAPTER AND OTHER LAWS AND RULES RELATING TO EVENT WAGERING. A
42 LICENSEE MAY RENEW ITS LICENSE BY SUBMITTING AN APPLICATION IN A FORM
43 PRESCRIBED BY DEPARTMENT RULE AND THE APPLICATION FEE. A LICENSE MAY NOT
44 BE RENEWED IF IT IS DETERMINED BY THE DEPARTMENT THAT THE EVENT WAGERING
45 OPERATOR HAS NOT SUBSTANTIALLY COMPLIED WITH THIS CHAPTER OR ANY OTHER LAW

1 REGULATING ITS EVENT WAGERING OPERATIONS OR OTHER OPERATIONS LICENSED BY
2 THE DEPARTMENT. A LICENSEE SHALL SUBMIT THE NONREFUNDABLE ANNUAL LICENSE
3 AND APPLICATION FEES PRESCRIBED IN SECTION 5-1310 WITH ITS APPLICATION FOR
4 THE RENEWAL OF ITS LICENSE.

5 F. A PERSON MAY NOT APPLY FOR OR OBTAIN MORE THAN ONE EVENT
6 WAGERING OPERATOR LICENSE. A MANAGEMENT SERVICES PROVIDER MAY OFFER
7 SERVICES TO MORE THAN ONE EVENT WAGERING OPERATOR.

8 5-1305. License review; approval; fees; material change;
9 exemption; display; transferability

10 A. ON RECEIPT OF A COMPLETED APPLICATION AND THE REQUIRED FEE, THE
11 DEPARTMENT SHALL CONDUCT THE NECESSARY BACKGROUND INVESTIGATION TO ENSURE
12 THE APPLICANT IS QUALIFIED FOR LICENSURE. ON COMPLETION OF THE NECESSARY
13 BACKGROUND INVESTIGATION, THE DEPARTMENT SHALL EITHER ISSUE A LICENSE OR
14 DENY THE APPLICATION. IF THE APPLICATION IS DENIED, THE DEPARTMENT SHALL
15 FORWARD A STATEMENT SETTING FORTH THE GROUNDS FOR DENIAL TO THE APPLICANT
16 TOGETHER WITH ALL OTHER DOCUMENTS ON WHICH THE DEPARTMENT RELIED, TO THE
17 EXTENT ALLOWED BY LAW.

18 B. THE DEPARTMENT MAY CONDUCT ADDITIONAL BACKGROUND INVESTIGATIONS
19 OF ANY PERSON REQUIRED TO BE LICENSED AT ANY TIME WHILE THE LICENSE
20 REMAINS VALID. THE ISSUANCE OF A LICENSE DOES NOT CREATE OR IMPLY A RIGHT
21 OF EMPLOYMENT OR CONTINUED EMPLOYMENT. THE EVENT WAGERING OPERATOR OR
22 LIMITED EVENT WAGERING OPERATOR MAY NOT EMPLOY AND, IF ALREADY EMPLOYED,
23 SHALL TERMINATE AN EVENT WAGERING EMPLOYEE IF IT IS DETERMINED THAT THE
24 PERSON MEETS ANY OF THE FOLLOWING CRITERIA:

25 1. HAS BEEN CONVICTED OF ANY GAMING OFFENSE.

26 2. HAS BEEN CONVICTED OF A FELONY IN THE SEVEN YEARS BEFORE
27 SUBMITTING AN APPLICATION UNLESS THAT FELONY HAS BEEN SET ASIDE.

28 3. HAS EVER BEEN CONVICTED OF A FELONY RELATED TO EXTORTION,
29 BURGLARY, LARCENY, BRIBERY, EMBEZZLEMENT, ROBBERY, RACKETEERING, MONEY
30 LAUNDERING, FORGERY, FRAUD, MURDER, VOLUNTARY MANSLAUGHTER, A SEXUAL
31 OFFENSE THAT REQUIRES THE INDIVIDUAL TO REGISTER PURSUANT TO SECTION
32 13-3821 OR KIDNAPPING.

33 4. KNOWINGLY AND WILFULLY PROVIDES MATERIALLY IMPORTANT FALSE
34 STATEMENTS OR INFORMATION OR OMITTS MATERIALLY IMPORTANT INFORMATION ON THE
35 PERSON'S EMPLOYMENT APPLICATION OR BACKGROUND QUESTIONNAIRE.

36 5. IS A PERSON WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF ANY, OR
37 REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC INTEREST
38 OR TO THE EFFECTIVE REGULATION AND CONTROL OF GAMING OR CREATE OR ENHANCE
39 THE DANGERS OF UNSUITABLE, UNFAIR OR ILLEGAL PRACTICES, METHODS AND
40 ACTIVITIES IN THE CONDUCT OF GAMING OR THE CARRYING ON OF THE BUSINESS AND
41 FINANCIAL ARRANGEMENTS INCIDENTAL THERETO.

42 C. NOT LATER THAN SIXTY DAYS AFTER THE DEPARTMENT RECEIVES A
43 COMPLETE APPLICATION, THE DEPARTMENT SHALL ISSUE A LICENSE TO THE
44 APPLICANT UNLESS THE BACKGROUND INVESTIGATION THE DEPARTMENT CONDUCTS
45 DISCLOSES THAT THE APPLICANT HAS A CRIMINAL HISTORY OR UNLESS OTHER

1 GROUNDS SUFFICIENT TO DISQUALIFY THE APPLICANT ARE APPARENT ON THE FACE OF
2 THE APPLICATION. IF MORE THAN TEN APPLICATIONS ARE RECEIVED FOR A
3 PARTICULAR LICENSE TYPE, THE DEPARTMENT SHALL ADOPT A PROCESS FOR ENSURING
4 AN EQUAL OPPORTUNITY FOR ALL QUALIFIED APPLICANTS TO OBTAIN A
5 LICENSE. THE DEPARTMENT SHALL REVIEW AND APPROVE OR DENY AN APPLICATION
6 FOR A LICENSE AS PROVIDED IN TITLE 41, CHAPTER 6, ARTICLE 10.

7 D. FOR EACH APPLICATION FOR LICENSURE OR RENEWAL OF A LICENSE THAT
8 IS APPROVED UNDER THIS SECTION, THE AMOUNT OF THE APPLICATION FEE MUST BE
9 CREDITED TOWARD THE LICENSEE'S LICENSE FEE AND THE LICENSEE SHALL REMIT
10 THE BALANCE OF THE INITIAL LICENSE FEE TO THE DEPARTMENT ON APPROVAL OF A
11 LICENSE. THE FEES COLLECTED FROM LICENSEES UNDER THIS SECTION SHALL BE
12 DEPOSITED IN THE EVENT WAGERING FUND ESTABLISHED BY SECTION 5-1318 AND
13 USED BY THE DEPARTMENT TO PAY THE ACTUAL OPERATING AND ADMINISTRATIVE
14 EXPENSES INCURRED FOR EVENT WAGERING.

15 E. EACH PERSON LICENSED UNDER THIS CHAPTER SHALL GIVE THE
16 DEPARTMENT WRITTEN NOTICE WITHIN THIRTY DAYS AFTER A MATERIAL CHANGE IS
17 MADE TO INFORMATION PROVIDED IN THE LICENSEE'S APPLICATION FOR A LICENSE
18 OR RENEWAL.

19 F. INDIAN TRIBES WITHIN THIS STATE OPERATING EVENT WAGERING
20 EXCLUSIVELY ON INDIAN LANDS ARE EXEMPT FROM THE LICENSURE REQUIREMENTS OF
21 THIS SECTION. EVENT WAGERING ON INDIAN LANDS IS GOVERNED BY THE
22 TRIBAL-STATE GAMING COMPACT, ITS APPENDICES, ANY AMENDMENTS AND THE INDIAN
23 GAMING REGULATORY ACT (P.L. 100-497; 102 STAT. 2467).

24 G. EACH LICENSEE SHALL DISPLAY ITS LICENSE CONSPICUOUSLY IN THE
25 LICENSEE'S PLACE OF BUSINESS OR HAVE THE LICENSE AVAILABLE FOR INSPECTION
26 BY AN AGENT OF THE DEPARTMENT OR A LAW ENFORCEMENT AGENCY. EACH LICENSEE
27 THAT OPERATES AN EVENT WAGERING PLATFORM SHALL CONSPICUOUSLY DISPLAY A
28 NOTICE OF THE LICENSE ON ITS PLATFORM'S LANDING PAGE.

29 H. THE DEPARTMENT SHALL KEEP ALL INFORMATION, RECORDS, INTERVIEWS,
30 REPORTS, STATEMENTS, MEMORANDA OR OTHER DATA SUPPLIED TO OR USED BY THE
31 DEPARTMENT IN THE COURSE OF ITS REVIEW OR INVESTIGATION OF AN APPLICATION
32 FOR AN EVENT WAGERING OPERATOR LICENSE OR RENEWAL OF A LICENSE
33 CONFIDENTIAL. THE MATERIALS DESCRIBED IN THIS SUBSECTION ARE EXEMPT FROM
34 DISCLOSURE PURSUANT TO TITLE 39, CHAPTER 1, ARTICLE 2.

35 I. A LICENSE ISSUED UNDER THIS CHAPTER MAY NOT BE TRANSFERRED TO
36 ANOTHER PERSON OR ENTITY WITHOUT PRIOR APPROVAL OF THE DEPARTMENT. THE
37 DEPARTMENT SHALL WORK WITH APPLICANTS AND LICENSEES TO ENSURE THERE IS NO
38 GAP IN THE VALIDITY OF THE LICENSE.

39 5-1306. License revocation; suspension; denial; grounds;
40 definitions

41 A. THE DEPARTMENT MAY REVOKE, SUSPEND OR DENY A LICENSE WHEN AN
42 APPLICANT OR LICENSEE MEETS ANY OF THE FOLLOWING CRITERIA:

43 1. VIOLATES, FAILS OR REFUSES TO COMPLY WITH THE PROVISIONS,
44 REQUIREMENTS, CONDITIONS, LIMITATIONS OR DUTIES IMPOSED BY THIS CHAPTER
45 AND OTHER LAWS AND RULES, OR IF ANY SUCH VIOLATION HAS OCCURRED ON ANY

- 1 EVENT WAGERING SYSTEM OPERATED BY ANY SUCH PERSON OR OVER WHICH THE PERSON
2 HAS SUBSTANTIAL CONTROL.
- 3 2. KNOWINGLY CAUSES, AIDS, ABETS OR CONSPIRES WITH ANOTHER TO CAUSE
4 ANY PERSON TO VIOLATE ANY OF THE LAWS OF THIS STATE OR THE RULES OF THE
5 DEPARTMENT.
- 6 3. OBTAINS A LICENSE BY FRAUD, MISREPRESENTATION, CONCEALMENT OR
7 THROUGH INADVERTENCE OR MISTAKE.
- 8 4. IS CONVICTED OR FORFEITED BOND ON A CHARGE OF OR PLEADS GUILTY
9 TO:
 - 10 (a) FORGERY, LARCENY, EXTORTION OR CONSPIRACY TO DEFRAUD.
 - 11 (b) WILFUL FAILURE TO MAKE REQUIRED PAYMENT OR REPORTS TO ANY
12 TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY, FILING FALSE REPORTS WITH
13 ANY TRIBAL, STATE OR FEDERAL GOVERNMENTAL AGENCY OR ANY SIMILAR OFFENSE OR
14 OFFENSES.
 - 15 (c) BRIBING OR OTHERWISE UNLAWFULLY INFLUENCING A PUBLIC OFFICIAL
16 OF THIS STATE OR ANY OTHER STATE OR JURISDICTION.
 - 17 (d) ANY CRIME, WHETHER A FELONY OR MISDEMEANOR, INVOLVING ANY
18 GAMING ACTIVITY, PHYSICAL HARM TO AN INDIVIDUAL OR MORAL TURPITUDE.
- 19 5. MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL FACT TO THE
20 DEPARTMENT.
- 21 6. FAILS TO PROVE, BY CLEAR AND CONVINCING EVIDENCE, THAT THE
22 PERSON IS QUALIFIED FOR LICENSURE.
- 23 7. IS SUBJECT TO CURRENT PROSECUTION OR PENDING CHARGES OR A
24 CONVICTION THAT IS UNDER APPEAL FOR ANY OF THE OFFENSES INCLUDED IN THIS
25 SUBSECTION. AT THE REQUEST OF AN APPLICANT FOR AN ORIGINAL LICENSE, THE
26 DEPARTMENT MAY DEFER DECISION ON THE APPLICATION DURING THE PENDENCY OF
27 THE PROSECUTION OR APPEAL.
- 28 8. HAS HAD A GAMING LICENSE ISSUED BY ANY JURISDICTION IN THE
29 UNITED STATES REVOKED OR DENIED.
- 30 9. DEMONSTRATES A WILFUL DISREGARD FOR COMPLIANCE WITH GAMING
31 REGULATORY AUTHORITY IN ANY JURISDICTION, INCLUDING SUSPENSION, REVOCATION
32 OR DENIAL OF AN APPLICATION FOR A LICENSE OR FORFEITURE OF A LICENSE.
- 33 10. HAS PURSUED OR IS PURSUING ECONOMIC GAIN IN AN OCCUPATIONAL
34 MANNER OR CONTEXT IN VIOLATION OF THE CRIMINAL LAWS OF ANY STATE IF THE
35 PURSUIT CREATES PROBABLE CAUSE TO BELIEVE THAT THE PERSON'S PARTICIPATION
36 IN GAMING OR RELATED ACTIVITIES WOULD BE DETRIMENTAL TO THE PROPER
37 OPERATION OF AN AUTHORIZED GAMING OR RELATED ACTIVITY IN THIS STATE.
- 38 11. IS A CAREER OFFENDER OR A MEMBER OF A CAREER OFFENDER
39 ORGANIZATION OR AN ASSOCIATE OF A CAREER OFFENDER OR CAREER OFFENDER
40 ORGANIZATION THEREBY ESTABLISHING PROBABLE CAUSE TO BELIEVE THAT THE
41 ASSOCIATION IS OF SUCH A NATURE AS TO BE DETRIMENTAL TO THE PROPER
42 OPERATION OF THE AUTHORIZED GAMING OR RELATED ACTIVITIES IN THIS STATE.
- 43 12. IS A PERSON WHOSE PRIOR ACTIVITIES, CRIMINAL RECORD, IF ANY,
44 REPUTATION, HABITS AND ASSOCIATIONS POSE A THREAT TO THE PUBLIC INTEREST
45 OF THIS STATE OR TO THE EFFECTIVE REGULATION AND CONTROL OF EVENT

1 WAGERING, CREATES OR ENHANCES THE DANGERS OF UNSUITABLE, UNFAIR OR ILLEGAL
2 PRACTICES, METHODS AND ACTIVITIES IN THE CONDUCT OF EVENT WAGERING OR THE
3 CARRYING ON OF THE BUSINESS AND FINANCIAL ARRANGEMENTS INCIDENTAL THERETO.

4 13. FAILS TO PROVIDE ANY INFORMATION REQUESTED BY THE DEPARTMENT
5 WITHIN SEVEN DAYS AFTER THE REQUEST FOR THE INFORMATION, EXCEPT FOR GOOD
6 CAUSE AS DETERMINED BY THE DEPARTMENT.

7 B. ANY APPLICANT FOR LICENSURE OR HOLDER OF A LICENSE SHALL BE
8 ENTITLED TO A FULL HEARING ON ANY FINAL ACTION BY THE DEPARTMENT THAT MAY
9 RESULT IN THE REVOCATION, SUSPENSION OR DENIAL OF LICENSURE. THE HEARING
10 SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROCEDURES AS PROVIDED IN TITLE
11 41, CHAPTER 6 AND THE DEPARTMENT'S RULES.

12 C. THE DEPARTMENT MAY SUMMARILY SUSPEND ANY LICENSE IF THE
13 CONTINUED LICENSING OF THE PERSON CONSTITUTES AN IMMEDIATE THREAT TO THE
14 PUBLIC HEALTH, SAFETY OR WELFARE.

15 D. FOR THE PURPOSES OF THIS SECTION:

16 1. "CAREER OFFENDER" MEANS ANY INDIVIDUAL WHO BEHAVES IN AN
17 OCCUPATIONAL MANNER OR CONTEXT FOR THE PURPOSES OF ECONOMIC GAIN BY
18 VIOLATING FEDERAL LAW OR THE LAWS AND PUBLIC POLICY OF THIS STATE.

19 2. "CAREER OFFENDER ORGANIZATION" MEANS ANY GROUP OF INDIVIDUALS
20 WHO OPERATE TOGETHER AS CAREER OFFENDERS.

21 3. "OCCUPATIONAL MANNER OR CONTEXT" MEANS THE SYSTEMATIC PLANNING,
22 ADMINISTRATION, MANAGEMENT OR EXECUTION OF AN ACTIVITY FOR FINANCIAL GAIN.

23 5-1307. Limited event wagering operator licenses; definition

24 A. AN EVENT WAGERING OPERATOR MAY PARTNER WITH A RACETRACK
25 ENCLOSURE OR ADDITIONAL WAGERING FACILITY THAT HOLDS A PERMIT THAT IS
26 ISSUED BY THE DIVISION OF RACING TO OBTAIN A LIMITED EVENT WAGERING
27 LICENSE FOR EVENT WAGERING ONLY AT ONE SPECIFIC PHYSICAL LOCATION. ON
28 APPLICATION, THE DEPARTMENT MAY ISSUE A TOTAL OF UP TO TEN LIMITED EVENT
29 WAGERING LICENSES TO AUTHORIZE EVENT WAGERING AT TEN SPECIFIC PHYSICAL
30 LOCATIONS.

31 B. AN ENTITY SEEKING A LIMITED EVENT WAGERING LICENSE SHALL PROVIDE
32 THE FOLLOWING INFORMATION TO THE DEPARTMENT IN ITS APPLICATION:

33 1. A COPY OF ITS CURRENT APPROVAL BY THE DIVISION OF RACING TO
34 CONDUCT RACING MEETINGS OR APPROVAL AS AN ADDITIONAL WAGERING FACILITY.

35 2. A LETTER FROM AN EVENT WAGERING OPERATOR OF ITS PARTNERSHIP FOR
36 THE PURPOSES OF EVENT WAGERING.

37 3. AN ATTESTATION AND MAP DEMONSTRATING THAT THE SPECIFIC PHYSICAL
38 LOCATION OF THE EVENT WAGERING FACILITY IS LOCATED AT LEAST FIVE MILES
39 FROM:

40 (a) A TRIBAL GAMING FACILITY.

41 (b) THE SPECIFIC EVENT WAGERING FACILITY LOCATION OPERATED BY AN
42 EVENT WAGERING OPERATOR.

43 (c) THE SPECIFIC EVENT WAGERING FACILITY LOCATION OPERATED BY
44 ANOTHER LIMITED EVENT WAGERING OPERATOR.

1 C. THE DEPARTMENT SHALL ISSUE A LIMITED EVENT WAGERING LICENSE IF
2 THE FOLLOWING CONDITIONS ARE MET:
3 1. THE APPLICANT IS IN COMPLIANCE WITH ALL DIVISION OF RACING RULES
4 REGARDING ITS RACING OR ADDITIONAL WAGERING FACILITY OPERATIONS.
5 2. THE APPLICANT HAS A CURRENT LICENSE WITH THE DIVISION OF RACING.
6 3. THE APPLICANT IS NOT CURRENTLY THE SUBJECT OF AN INVESTIGATION
7 BY THE DIVISION OF RACING FOR A VIOLATION OF DIVISION RULES.
8 4. THE APPLICANT SUBMITS FEES AS REQUIRED BY THE DEPARTMENT.
9 D. A LIMITED EVENT WAGERING LICENSE ALLOWS THE LICENSEE TO CONDUCT
10 EVENT WAGERING ONLY IN ACCORDANCE WITH THIS CHAPTER AND ANY APPLICABLE
11 RULES ADOPTED BY THE DEPARTMENT.
12 E. A LIMITED EVENT WAGERING OPERATOR SHALL BE LICENSED BY THE
13 DEPARTMENT BEFORE THE COMMENCEMENT OF OPERATION AND EVERY TWO YEARS
14 THEREAFTER. THE LICENSE SHALL INCLUDE EACH PRINCIPAL, THE PRIMARY
15 MANAGEMENT OFFICIAL AND KEY EMPLOYEES.
16 F. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
17 35-147, THE FEES COLLECTED FROM LICENSES UNDER THIS SECTION IN THE EVENT
18 WAGERING FUND ESTABLISHED BY SECTION 5-1318.
19 G. FOR THE PURPOSES OF THIS SECTION, "ADDITIONAL WAGERING FACILITY"
20 HAS THE SAME MEANING PRESCRIBED IN SECTION 5-101.
21 5-1308. Supplier license
22 A. THE DEPARTMENT MAY ISSUE A SUPPLIER LICENSE TO A PERSON THAT
23 MANUFACTURES, DISTRIBUTES, SELLS OR LEASES EVENT WAGERING EQUIPMENT,
24 SYSTEMS OR OTHER GAMING ITEMS TO CONDUCT EVENT WAGERING AND OFFERS
25 SERVICES RELATED TO THE EQUIPMENT OR OTHER GAMING ITEMS AND DATA TO AN
26 EVENT WAGERING OPERATOR OR LIMITED EVENT WAGERING OPERATOR WHILE THE
27 LICENSE IS ACTIVE. THE DEPARTMENT MAY ACCEPT A LICENSE ISSUED BY ANOTHER
28 JURISDICTION THAT THE DEPARTMENT DETERMINES TO HAVE SIMILAR LICENSURE
29 REQUIREMENTS AS EVIDENCE THE APPLICANT MEETS SUPPLIER LICENSURE
30 REQUIREMENTS.
31 B. THE DEPARTMENT MAY ADOPT RULES THAT ESTABLISH ADDITIONAL
32 REQUIREMENTS FOR A SUPPLIER AND ANY SYSTEM OR OTHER EQUIPMENT USED FOR
33 EVENT WAGERING.
34 C. AN APPLICANT FOR A SUPPLIER LICENSE SHALL DEMONSTRATE THAT THE
35 EQUIPMENT, SYSTEM OR SERVICES THAT THE APPLICANT PLANS TO OFFER TO THE
36 EVENT WAGERING OPERATOR CONFORM TO STANDARDS ESTABLISHED BY THE DEPARTMENT
37 AND APPLICABLE STATE LAW. THE DEPARTMENT MAY ACCEPT APPROVAL BY ANOTHER
38 JURISDICTION THAT THE DEPARTMENT DETERMINES HAS SIMILAR EQUIPMENT
39 STANDARDS AS EVIDENCE THE APPLICANT MEETS THE STANDARDS ESTABLISHED BY THE
40 DEPARTMENT AND APPLICABLE STATE LAW.
41 D. AN APPLICANT SHALL PAY TO THE DEPARTMENT A NONREFUNDABLE LICENSE
42 AND APPLICATION FEE AS PRESCRIBED BY SECTION 5-1310. A LICENSE IS VALID
43 FOR TWO YEARS. THE DEPARTMENT SHALL GRANT A RENEWAL OF A SUPPLIER LICENSE
44 IF THE RENEWAL APPLICANT HAS CONTINUED TO COMPLY WITH ALL APPLICABLE
45 STATUTORY AND REGULATORY REQUIREMENTS, SUBMITS THE RENEWAL APPLICATION ON

1 A DEPARTMENT-ISSUED RENEWAL FORM AND PAYS THE RENEWAL FEE PRESCRIBED BY
2 SECTION 5-1310. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146
3 AND 35-147, THE FEES COLLECTED FROM LICENSEES UNDER THIS SUBSECTION IN THE
4 EVENT WAGERING FUND ESTABLISHED BY SECTION 5-1318.

5 E. A SUPPLIER SHALL SUBMIT TO THE DEPARTMENT A LIST OF ALL EVENT
6 WAGERING EQUIPMENT AND SERVICES SOLD, DELIVERED OR OFFERED TO AN EVENT
7 WAGERING OPERATOR IN THIS STATE, AS REQUIRED BY THE DEPARTMENT, ALL OF
8 WHICH MUST BE TESTED AND APPROVED BY AN INDEPENDENT TESTING LABORATORY
9 APPROVED BY THE DEPARTMENT. AN EVENT WAGERING OPERATOR OR LIMITED EVENT
10 WAGERING OPERATOR MAY CONTINUE TO USE SUPPLIES ACQUIRED FROM A LICENSED
11 SUPPLIER, EVEN IF A SUPPLIER'S LICENSE EXPIRES OR IS OTHERWISE CANCELED,
12 UNLESS THE DEPARTMENT FINDS A DEFECT IN THE SUPPLIES.

13 5-1309. Management services provider license

14 A. AN EVENT WAGERING OPERATOR MAY CONTRACT WITH AN ENTITY TO
15 CONDUCT EVENT WAGERING IN ACCORDANCE WITH THE RULES OF THE DEPARTMENT AND
16 THIS CHAPTER. THE ENTITY SHALL OBTAIN A LICENSE FROM THE DEPARTMENT AS A
17 MANAGEMENT SERVICES PROVIDER PURSUANT TO THIS CHAPTER AND ANY RULES
18 ADOPTED BY THE DEPARTMENT BEFORE THE EXECUTION OF ANY SUCH CONTRACT. A
19 MANAGEMENT SERVICES PROVIDER MAY PROVIDE SERVICES TO MORE THAN ONE EVENT
20 WAGERING OPERATOR OR LIMITED EVENT WAGERING OPERATOR UNDER ITS LICENSE.

21 B. EACH APPLICANT FOR A MANAGEMENT SERVICES PROVIDER LICENSE SHALL
22 MEET ALL REQUIREMENTS FOR LICENSURE AND PAY A NONREFUNDABLE LICENSE AND
23 APPLICATION FEE AS PRESCRIBED BY SECTION 5-1310. THE DEPARTMENT MAY ADOPT
24 RULES ESTABLISHING ADDITIONAL REQUIREMENTS FOR A MANAGEMENT SERVICES
25 PROVIDER. THE DEPARTMENT MAY ACCEPT A LICENSE ISSUED BY ANOTHER
26 JURISDICTION THAT THE DEPARTMENT DETERMINES TO HAVE SIMILAR LICENSURE
27 REQUIREMENTS AS EVIDENCE THE APPLICANT MEETS MANAGEMENT SERVICES PROVIDER
28 LICENSURE REQUIREMENTS. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO
29 SECTIONS 35-146 AND 35-147, THE FEES COLLECTED FROM LICENSEES UNDER THIS
30 SUBSECTION IN THE EVENT WAGERING FUND ESTABLISHED BY SECTION 5-1318.

31 C. MANAGEMENT SERVICES PROVIDER LICENSES SHALL BE RENEWED EVERY TWO
32 YEARS TO LICENSEES WHO CONTINUE TO BE IN COMPLIANCE WITH ALL REQUIREMENTS
33 AND WHO PAY THE RENEWAL FEE.

34 5-1310. License fees; bond

35 A. THE DEPARTMENT SHALL ESTABLISH AND COLLECT FEES FOR
36 APPLICATIONS, INITIAL LICENSES AND RENEWALS OF THE FOLLOWING:

- 37 1. EVENT WAGERING OPERATOR LICENSES.
- 38 2. LIMITED EVENT WAGERING OPERATOR LICENSES.
- 39 3. MANAGEMENT SERVICES PROVIDER LICENSES.
- 40 4. SUPPLIER LICENSES.

41 B. IF ACTUAL COSTS INCURRED BY THE DEPARTMENT TO INVESTIGATE THE
42 BACKGROUND OF AN APPLICANT EXCEED THE FEES PURSUANT TO SUBSECTION A OF
43 THIS SECTION, THOSE COSTS MAY BE ASSESSED TO THE APPLICANT DURING THE
44 INVESTIGATION PROCESS. PAYMENT IN FULL TO THE DEPARTMENT SHALL BE
45 REQUIRED BEFORE THE DEPARTMENT ISSUES A LICENSE. THE DEPARTMENT MAY

1 REQUIRE EVENT WAGERING OPERATORS, LIMITED EVENT WAGERING OPERATORS AND
2 SUPPLIERS APPLYING FOR LICENSURE TO POST A BOND SUFFICIENT TO COVER THE
3 ACTUAL COSTS THAT THE DEPARTMENT ANTICIPATES WILL BE INCURRED IN
4 CONDUCTING A BACKGROUND INVESTIGATION OF THE APPLICANT.

5 5-1311. License restrictions; prohibited licensees;
6 violation; classification

7 A. THE FOLLOWING PERSONS OR THEIR IMMEDIATE FAMILY MEMBERS MAY NOT
8 APPLY FOR OR OBTAIN A LICENSE UNDER THIS CHAPTER:

- 9 1. AN EMPLOYEE OF THE DEPARTMENT.
10 2. AN EMPLOYEE OF ANY PROFESSIONAL SPORTS TEAM.
11 3. A COACH OF OR PLAYER FOR A COLLEGIATE, PROFESSIONAL OR OLYMPIC
12 SPORTS TEAM OR SPORT.

13 4. AN INDIVIDUAL WHO HAS BEEN CONVICTED OF A CRIME RELATED TO
14 SPORTS OR EVENT WAGERING ON A SPORTS EVENT OR OTHER EVENT, CHEATING,
15 EXTORTION, BURGLARY, LARCENY, BRIBERY, EMBEZZLEMENT, ROBBERY,
16 RACKETEERING, MONEY LAUNDERING, FORGERY OR FRAUD.

17 5. AN INDIVIDUAL WHO HAS THE ABILITY TO DIRECTLY AFFECT THE OUTCOME
18 OF A SPORTS EVENT OR OTHER EVENT FOR WHICH WAGERS ARE ALLOWED.

19 6. ANY OTHER CATEGORY OF INDIVIDUALS THAT, IF LICENSED, WOULD
20 NEGATIVELY AFFECT THE INTEGRITY OF EVENT WAGERING IN THIS STATE.

21 B. A LICENSEE MAY NOT:

- 22 1. ALLOW A PERSON UNDER TWENTY-ONE YEARS OF AGE TO PLACE A WAGER.
23 2. OFFER, ACCEPT OR EXTEND CREDIT TO A BETTOR.
24 3. TARGET MINORS IN ADVERTISING OR PROMOTIONS.

25 4. OFFER OR ACCEPT A WAGER ON ANY EVENT, OUTCOME OR OCCURRENCE,
26 INCLUDING A HIGH SCHOOL SPORTS EVENT OFFERED, SPONSORED OR PLAYED IN
27 CONNECTION WITH A PUBLIC OR PRIVATE INSTITUTION THAT OFFERS EDUCATION AT
28 THE SECONDARY LEVEL, OTHER THAN A SPORTS EVENT OR OTHER EVENT.

29 5. ACCEPT A WAGER FROM A PERSON WHO IS ON THE DEPARTMENT'S LIST OF
30 SELF-EXCLUDED PERSONS CREATED AND MAINTAINED BY AN INDIAN TRIBE OR THE
31 DEPARTMENT.

32 6. ACCEPT A WAGER FROM A PROHIBITED PARTICIPANT.

33 C. A VIOLATION OF THIS SECTION IS:

- 34 1. FOR A FIRST OFFENSE, A CLASS 3 MISDEMEANOR.
35 2. FOR A SECOND OR SUBSEQUENT OFFENSE, A CLASS 1 MISDEMEANOR.

36 5-1312. Reporting

37 A. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT SHALL
38 PREPARE AND SUBMIT AN ANNUAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE
39 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND SHALL PROVIDE
40 A COPY TO THE SECRETARY OF STATE THAT CONTAINS THE FOLLOWING INFORMATION:

- 41 1. THE NUMBER OF ACTIVE LICENSEES BY TYPE.
42 2. THE AGGREGATE GROSS AND NET REVENUE OF ALL LICENSEES.
43 3. THE NUMBER OF INVESTIGATIONS CONDUCTED TO ENFORCE THIS CHAPTER.
44 4. THE FINANCIAL IMPACT ON THIS STATE OF THE EVENT WAGERING
45 INDUSTRY IN THIS STATE.

1 B. THE REPORT MAY BE INCLUDED WITH OTHER INFORMATION REQUIRED TO BE
2 SUBMITTED BY THE DEPARTMENT ANNUALLY. A REPORT SUBMITTED UNDER SUBSECTION
3 A OF THIS SECTION MAY BE SUBMITTED ELECTRONICALLY.

4 5-1313. Escrow account; insurance; cash-on-hand; financial
5 practices; audit; post-employment restrictions

6 A. THE DEPARTMENT SHALL ESTABLISH:

7 1. THE AMOUNT OF A BOND IN ESCROW AND THE AMOUNT OF CASH THAT MUST
8 BE KEPT ON HAND TO ENSURE THAT ADEQUATE RESERVES EXIST FOR PAYOUTS.

9 2. ANY INSURANCE REQUIREMENTS FOR A LICENSEE.

10 3. MINIMUM REQUIREMENTS BY WHICH EACH LICENSEE MUST EXERCISE
11 EFFECTIVE CONTROL OVER ITS INTERNAL FISCAL AFFAIRS, INCLUDING REQUIREMENTS
12 FOR ALL OF THE FOLLOWING:

13 (a) SAFEGUARDING ASSETS AND REVENUES, INCLUDING EVIDENCE OF
14 INDEBTEDNESS.

15 (b) MAINTAINING RELIABLE RECORDS RELATING TO ACCOUNTS,
16 TRANSACTIONS, PROFITS AND LOSSES, OPERATIONS AND EVENTS.

17 (c) RISK MANAGEMENT.

18 4. REQUIREMENTS FOR INTERNAL AND INDEPENDENT AUDITS OF LICENSEES.

19 5. THE MANNER IN WHICH PERIODIC FINANCIAL REPORTS MUST BE SUBMITTED
20 TO THE DEPARTMENT FROM EACH LICENSEE, INCLUDING THE FINANCIAL INFORMATION
21 TO BE INCLUDED IN THE REPORTS.

22 6. THE TYPE OF INFORMATION DEEMED CONFIDENTIAL FINANCIAL OR
23 PROPRIETARY INFORMATION THAT IS NOT SUBJECT TO ANY REPORTING REQUIREMENTS
24 UNDER THIS SUBSECTION.

25 7. POLICIES, PROCEDURES AND PROCESSES DESIGNED TO MITIGATE THE RISK
26 OF FRAUD, CHEATING OR MONEY LAUNDERING.

27 8. ANY POST-EMPLOYMENT RESTRICTIONS FOR DEPARTMENT EMPLOYEES
28 NECESSARY TO MAINTAIN THE INTEGRITY OF EVENT WAGERING IN THIS STATE.

29 B. THE LICENSEE MAY MAINTAIN THE BOND AT ANY BANK LAWFULLY
30 OPERATING IN THIS STATE OR ANOTHER ENTITY AS APPROVED BY THE DEPARTMENT,
31 AND THE LICENSEE MUST BE THE BENEFICIARY OF ANY INTEREST ACCRUED ON THE
32 BOND.

33 5-1314. Event wagering authorized

34 A. NOTWITHSTANDING ANY OTHER LAW RELATING TO WAGERING EXCEPT FOR
35 TITLE 5, CHAPTER 1 AND TITLE 13, CHAPTER 33, THE OPERATION OF EVENT
36 WAGERING IS LAWFUL ONLY IF THE EVENT WAGERING IS CONDUCTED IN ACCORDANCE
37 WITH THIS CHAPTER AND ANY OTHER RELEVANT LAWS AND RULES.

38 B. NOTWITHSTANDING SECTION 5-112, WAGERS ON RACING MEETINGS OR
39 SIMULCASTED RACES MAY BE MADE, OFFERED OR RECEIVED THROUGH THE MEANS THAT
40 OTHER WAGERS ALLOWED BY THIS CHAPTER ARE MADE, OFFERED OR RECEIVED UNLESS
41 OTHERWISE PROHIBITED BY FEDERAL LAW.

42 C. EACH EVENT WAGERING OPERATOR SHALL ADOPT AND ADHERE TO A
43 WRITTEN, COMPREHENSIVE POLICY OUTLINING THE HOUSE RULES GOVERNING THE
44 ACCEPTANCE OF WAGERS AND PAYOUTS. THE POLICY AND RULES MUST BE APPROVED
45 BY THE DEPARTMENT BEFORE THE EVENT WAGERING OPERATOR ACCEPTS WAGERS. THE

1 POLICY AND RULES MUST BE READILY AVAILABLE TO A BETTOR AT ANY EVENT
2 WAGERING FACILITY LOCATION AND ON ANY EVENT WAGERING PLATFORM.

3 D. THE DEPARTMENT SHALL ADOPT RULES REGARDING:

4 1. THE MANNER IN WHICH AN EVENT WAGERING OPERATOR ACCEPTS WAGERS
5 FROM AND ISSUES PAYOUTS TO BETTORS, INCLUDING PAYOUTS IN EXCESS OF
6 \$10,000.

7 2. REPORTING REQUIREMENTS NECESSARY TO COMPLY WITH THE BANK SECRECY
8 ACT (P.L. 91-508; 84 STAT. 1114) AND PATRIOT ACT (P.L. 107-56; 115 STAT.
9 272) AND FOR ANY OTHER APPLICABLE LAWS AND RULES GOVERNING REPORTING
10 SUSPICIOUS WAGERS.

11 E. EACH WAGER PLACED IN ACCORDANCE WITH THIS CHAPTER IS DEEMED TO
12 BE AN ENFORCEABLE CONTRACT UNDER LAW.

13 F. IF THE GOVERNING BODY OF A SPORT OR SPORTS LEAGUE, ORGANIZATION
14 OR ASSOCIATION OR OTHER AUTHORIZED ENTITY THAT MAINTAINS OFFICIAL LEAGUE
15 DATA OPTS TO PROVIDE OFFICIAL LEAGUE DATA FOR THE PURPOSES OF EVENT
16 WAGERING, AN EVENT WAGERING OPERATOR SHALL EXCLUSIVELY USE OFFICIAL LEAGUE
17 DATA FOR PURPOSES OF TIER TWO SPORTS WAGERS UNLESS THE EVENT WAGERING
18 OPERATOR CAN DEMONSTRATE TO THE DEPARTMENT THAT THE GOVERNING BODY OF A
19 SPORT OR SPORTS LEAGUE, ORGANIZATION OR ASSOCIATION OR OTHER AUTHORIZED
20 ENTITY CANNOT PROVIDE A FEED OF OFFICIAL LEAGUE DATA FOR TIER TWO SPORTS
21 WAGERS IN ACCORDANCE WITH COMMERCIALLY REASONABLE TERMS, AS DETERMINED BY
22 THE DEPARTMENT.

23 5-1315. Prohibited wagers

24 A. A PERSON MAY NOT WAGER ON ANY OF THE FOLLOWING:

25 1. INJURIES, PENALTIES AND OTHER TYPES OR FORMS OF EVENT WAGERING
26 UNDER THIS CHAPTER THAT ARE CONTRARY TO LAW.

27 2. INDIVIDUAL ACTIONS, EVENTS, OCCURRENCES OR NONOCCURRENCES TO BE
28 DETERMINED DURING A COLLEGIATE SPORTS EVENT, INCLUDING ON THE PERFORMANCE
29 OR NONPERFORMANCE OF A TEAM OR INDIVIDUAL PARTICIPANT DURING A COLLEGIATE
30 SPORTS EVENT. THIS PARAGRAPH DOES NOT PROHIBIT WAGERS ON THE OVERALL
31 OUTCOME OF A COLLEGIATE SPORTS EVENT OR SEASONAL AWARDS BASED ON A
32 PLAYER'S CUMULATIVE OVERALL PLAY.

33 B. AN EVENT WAGERING OPERATOR MAY OFFER ONLY PARLAY AND PROPOSITION
34 BETS OF THE TYPE OR CATEGORY AS PRESCRIBED BY THE DEPARTMENT. THE
35 DEPARTMENT SHALL PRESCRIBE THE TYPES AND CATEGORIES OF PARLAY AND
36 PROPOSITION BETS THAT MAY BE OFFERED IN THIS STATE, IF ANY.

37 C. AN EVENT WAGERING OPERATOR, PROFESSIONAL SPORTS TEAM, LEAGUE,
38 ASSOCIATION OR INSTITUTION OF HIGHER EDUCATION MAY SUBMIT TO THE
39 DEPARTMENT IN WRITING A REQUEST TO PROHIBIT A TYPE OR FORM OF EVENT
40 WAGERING, OR TO PROHIBIT A CATEGORY OF PERSONS FROM EVENT WAGERING, IF THE
41 EVENT WAGERING OPERATOR, TEAM, LEAGUE, ASSOCIATION OR INSTITUTION BELIEVES
42 THAT SUCH EVENT WAGERING BY TYPE, FORM OR CATEGORY IS CONTRARY TO PUBLIC
43 POLICY, UNFAIR TO CONSUMERS OR AFFECTS THE INTEGRITY OR PERCEIVED
44 INTEGRITY OF A PARTICULAR SPORT OR THE SPORTS BETTING INDUSTRY. SUCH A
45 REQUEST SHALL PROVIDE A REASONABLE AMOUNT OF TIME FOR THE DEPARTMENT TO

1 CONDUCT DUE DILIGENCE BEFORE DECISION-MAKING, ABSENT THE NEED TO PROCEED
2 ON AN EMERGENCY BASIS.

3 D. THE DEPARTMENT SHALL REVIEW A REQUEST MADE PURSUANT TO
4 SUBSECTION C OF THIS SECTION TO DETERMINE IF GOOD CAUSE EXISTS TO GRANT
5 THE REQUEST. IN MAKING A DETERMINATION UNDER THIS SECTION, THE DEPARTMENT
6 SHALL SEEK INPUT FROM LICENSEES UNLESS THE EMERGENCY NATURE OF THE MATTER
7 DOES NOT PROVIDE SUFFICIENT TIME FOR SUCH DUE DILIGENCE. THE DEPARTMENT
8 SHALL RESPOND TO THE REQUEST CONCERNING A PARTICULAR EVENT BEFORE THE
9 START OF THE EVENT, OR IF IT IS NOT FEASIBLE TO RESPOND BEFORE THE START
10 OF THE EVENT, AS SOON AS PRACTICABLE.

11 5-1316. Integrity; reporting prohibited or suspicious
12 conduct; investigations

13 A. ALL LICENSEES UNDER THIS CHAPTER SHALL IMMEDIATELY REPORT TO THE
14 DEPARTMENT AND THE RELEVANT SPORTS GOVERNING BODY THAT HAS REQUESTED TO
15 RECEIVE IT ANY INFORMATION RELATING TO ANY OF THE FOLLOWING:

16 1. ABNORMAL BETTING ACTIVITY OR PATTERNS THAT MAY INDICATE A
17 CONCERN WITH THE INTEGRITY OF A SPORTS EVENT OR EVENTS, OR ANY OTHER
18 CONDUCT THAT CORRUPTS A BETTING OUTCOME OF A SPORTS EVENT OR EVENTS FOR
19 PURPOSES OF FINANCIAL GAIN, INCLUDING MATCH FIXING.

20 2. ANY POTENTIAL BREACH OF A SPORTS GOVERNING BODY'S INTERNAL RULES
21 AND CODES OF CONDUCT PERTAINING TO EVENT WAGERING.

22 3. CONDUCT THAT CORRUPTS THE BETTING OUTCOME OF EVENT WAGERING FOR
23 PURPOSES OF FINANCIAL GAIN, INCLUDING MATCH FIXING.

24 4. SUSPICIOUS OR ILLEGAL EVENT WAGERING ACTIVITIES, INCLUDING
25 CHEATING, THE USE OF MONIES DERIVED FROM ILLEGAL ACTIVITY, WAGERS TO
26 CONCEAL OR LAUNDER MONIES DERIVED FROM ILLEGAL ACTIVITY, USING AGENTS TO
27 PLACE WAGERS OR USING FALSE IDENTIFICATION.

28 B. LICENSEES SHALL REPORT TO THE DEPARTMENT, IN REAL TIME AND AT
29 THE ACCOUNT LEVEL, INFORMATION REGARDING A BETTOR, THE AMOUNT AND TYPE OF
30 BET, THE TIME THE BET WAS PLACED, THE LOCATION OF THE BET, INCLUDING THE
31 INTERNET PROTOCOL ADDRESS IF APPLICABLE, THE OUTCOME OF THE BET AND
32 RECORDS RELATED TO SUBSECTION A OF THIS SECTION. INFORMATION REPORTED
33 UNDER THIS SUBSECTION MUST BE SUBMITTED IN THE FORM AND MANNER ESTABLISHED
34 BY THE DEPARTMENT.

35 C. IF A SPORTS GOVERNING BODY HAS NOTIFIED THE DEPARTMENT THAT
36 REAL-TIME INFORMATION SHARING FOR WAGERS PLACED ON ITS SPORTS EVENTS IS
37 NECESSARY AND DESIRABLE, LICENSEES SHALL SHARE THE SAME INFORMATION WITH
38 THE SPORTS GOVERNING BODY OR ITS DESIGNEE WITH RESPECT TO WAGERS ON ITS
39 SPORTS EVENTS. SUCH INFORMATION MAY BE PROVIDED IN ANONYMIZED FORM AND
40 MAY BE USED BY A SPORTS GOVERNING BODY SOLELY FOR INTEGRITY PURPOSES.

41 D. THE DEPARTMENT AND LICENSEES SHALL MAKE COMMERCIALY REASONABLE
42 EFFORTS TO COOPERATE WITH INVESTIGATIONS CONDUCTED BY SPORTS GOVERNING
43 BODIES, INCLUDING USING COMMERCIALY REASONABLE EFFORTS TO PROVIDE OR
44 FACILITATE THE PROVISION OF BETTING INFORMATION FOR THE PURPOSES OF
45 INVESTIGATIONS.

1 E. THE DEPARTMENT SHALL ESTABLISH A HOTLINE OR OTHER METHOD OF
2 COMMUNICATION THAT ALLOWS ANY PERSON TO CONFIDENTIALLY REPORT TO THE
3 DEPARTMENT INFORMATION ABOUT PROHIBITED CONDUCT.

4 F. THE DEPARTMENT SHALL INVESTIGATE ALLEGATIONS AND REFER TO
5 PROSECUTORIAL ENTITIES PROHIBITED CONDUCT UNDER THIS CHAPTER.

6 G. THE IDENTITY OF ANY REPORTING PERSON SHALL REMAIN CONFIDENTIAL
7 UNLESS THAT PERSON AUTHORIZES DISCLOSURE OF THE PERSON'S IDENTITY OR UNTIL
8 SUCH TIME AS THE ALLEGATION OF PROHIBITED CONDUCT IS REFERRED TO A
9 PROSECUTORIAL ENTITY.

10 H. IF THE DEPARTMENT RECEIVES A COMPLAINT OF PROHIBITED CONDUCT BY
11 AN ATHLETE, THE DEPARTMENT SHALL NOTIFY THE APPROPRIATE SPORTS GOVERNING
12 BODY TO REVIEW THE COMPLAINT FOR APPROPRIATE ACTION.

13 I. NOTWITHSTANDING ANY CONFIDENTIALITY PROVISIONS OF THIS CHAPTER,
14 THE DEPARTMENT MAY PROVIDE OR FACILITATE ACCESS TO INFORMATION REGARDING
15 ACCOUNT-LEVEL BETTING INFORMATION AND DATA FILES RELATING TO PERSONS
16 PLACING WAGERS ON NOTIFICATION BY A SPORTS GOVERNING BODY OF AN OFFICIAL
17 INVESTIGATION BEING CONDUCTED INTO A PERSON OR PERSONS WHO ARE PROHIBITED
18 BY THAT BODY FROM PARTICIPATING IN WAGERING OR WHO ARE BELIEVED TO HAVE
19 TAKEN ACTION THAT AFFECTS THE INTEGRITY OR PERCEIVED INTEGRITY OF THE
20 SPORT IT GOVERNS. ANY INFORMATION OBTAINED BY A SPORTS GOVERNING BODY
21 SHALL BE KEPT CONFIDENTIAL UNLESS THE INFORMATION HAS BEEN MADE PUBLIC
22 THROUGH A CRIMINAL PROCEEDING OR BY A COURT ORDER.

23 5-1317. Sports governing body agreements

24 THIS CHAPTER DOES NOT PROHIBIT A SPORTS GOVERNING BODY ON WHOSE
25 EVENTS THE DEPARTMENT HAS AUTHORIZED WAGERING FROM ENTERING INTO
26 AGREEMENTS WITH LICENSEES IN WHICH THE SPORTS GOVERNING BODY MAY SHARE IN
27 THE AMOUNT BET FROM SPORTS WAGERING ON THE EVENTS OF THE SPORTS GOVERNING
28 BODY. A SPORTS GOVERNING BODY IS NOT REQUIRED TO OBTAIN A LICENSE OR ANY
29 OTHER APPROVAL FROM THE DEPARTMENT TO LAWFULLY ACCEPT SUCH AMOUNTS.

30 5-1318. Fees; event wagering fund

31 A. THE DEPARTMENT SHALL ESTABLISH A FEE FOR THE PRIVILEGE OF
32 OPERATING EVENT WAGERING. IN DETERMINING THE FEE, THE DEPARTMENT SHALL
33 CONSIDER THE HIGHEST PERCENTAGE OF REVENUE SHARE THAT AN INDIAN TRIBE PAYS
34 TO THIS STATE PURSUANT TO THE TRIBAL-STATE GAMING COMPACT. THE EVENT
35 WAGERING OPERATOR OR DESIGNEE HAS THE OPTION TO CHOOSE EITHER THE CASH
36 ACCRUAL OR MODIFIED ACCRUAL BASIS METHOD OF ACCOUNTING FOR PURPOSES OF
37 CALCULATING THE AMOUNT OF THE FEE OWED BY THE EVENT WAGERING OPERATOR OR
38 DESIGNEE. THE FEES REQUIRED PURSUANT TO THIS SECTION ARE DUE AND PAYABLE
39 TO THE DEPARTMENT NOT LATER THAN THE TWENTY-FIFTH DAY OF THE MONTH
40 FOLLOWING THE CALENDAR MONTH IN WHICH THE ADJUSTED GROSS EVENT WAGERING
41 RECEIPTS WERE RECEIVED AND THE OBLIGATION WAS ACCRUED.

42 B. THE EVENT WAGERING FUND IS ESTABLISHED CONSISTING OF MONIES
43 DEPOSITED PURSUANT TO THIS CHAPTER OR FROM ANY OTHER SOURCE. THE
44 DEPARTMENT SHALL ADMINISTER THE FUND. EXCEPT AS OTHERWISE PROVIDED IN
45 THIS CHAPTER, THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146

1 AND 35-147, ALL MONIES COLLECTED UNDER THIS CHAPTER IN THE EVENT WAGERING
2 FUND. ON THE TWENTY-FIFTH OF EACH MONTH, ANY MONIES REMAINING IN THE
3 EVENT WAGERING FUND SHALL BE TRANSFERRED TO THE STATE GENERAL FUND. ON
4 NOTICE FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST AND DIVEST
5 MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM
6 INVESTMENT SHALL BE CREDITED TO THE FUND.

7 C. UNLESS OTHERWISE DETERMINED BY THE LEGISLATURE, THE DEPARTMENT
8 MAY SPEND NOT MORE THAN TEN PERCENT OF MONIES ON THE DEPARTMENT'S ANNUAL
9 COSTS OF REGULATING AND ENFORCING THIS CHAPTER, AND ANY REMAINING MONIES
10 IN THE FUND REVERT TO THE STATE GENERAL FUND.

11 5-1319. Financial responsibility

12 ON OR BEFORE JULY 1 OF EACH YEAR, A LICENSED EVENT WAGERING OPERATOR
13 AND MANAGEMENT SERVICES PROVIDER SHALL CONTRACT WITH A CERTIFIED PUBLIC
14 ACCOUNTANT TO PERFORM AN INDEPENDENT AUDIT, IN ACCORDANCE WITH GENERALLY
15 ACCEPTED ACCOUNTING PRINCIPLES PUBLISHED BY THE AMERICAN INSTITUTE OF
16 CERTIFIED PUBLIC ACCOUNTANTS, THE FINANCIAL CONDITION OF THE LICENSED
17 EVENT WAGERING OPERATOR'S OR MANAGEMENT SERVICES PROVIDER'S TOTAL
18 OPERATION FOR THE PREVIOUS FISCAL YEAR AND TO ENSURE COMPLIANCE WITH THIS
19 CHAPTER AND FOR ANY OTHER PURPOSE AS PRESCRIBED BY RULE. NOT LATER THAN
20 ONE HUNDRED EIGHTY DAYS AFTER THE END OF THE EVENT WAGERING OPERATOR'S OR
21 MANAGEMENT SERVICES PROVIDER'S FISCAL YEAR, A LICENSED EVENT WAGERING
22 OPERATOR OR MANAGEMENT SERVICE PROVIDER SHALL SUBMIT THE AUDIT RESULTS
23 UNDER THIS SECTION TO THE DEPARTMENT. THE RESULTS OF AN AUDIT SUBMITTED
24 TO THE DEPARTMENT UNDER THIS SECTION ARE CONFIDENTIAL AND PRIVILEGED AND
25 ARE NOT SUBJECT TO DISCLOSURE AS PROVIDED IN TITLE 39, CHAPTER 1,
26 ARTICLE 2.

27 5-1320. Problem gambling; self-exclusion list; program;
28 liabilities

29 A. A LICENSEE SHALL DEVELOP A PROCEDURE TO INFORM PLAYERS THAT HELP
30 IS AVAILABLE IF A PERSON HAS A PROBLEM WITH GAMBLING AND, AT A MINIMUM,
31 PROVIDE THE STATEWIDE TOLL-FREE HELPLINE TELEPHONE NUMBER, TEXT MESSAGE
32 AND WEBSITE INFORMATION ESTABLISHED BY THE DEPARTMENT.

33 B. THE DEPARTMENT AND LICENSEES SHALL COMPLY WITH THE FOLLOWING
34 REQUIREMENTS TO ALLOW PROBLEM GAMBLERS TO VOLUNTARILY EXCLUDE THEMSELVES
35 FROM EVENT WAGERING STATEWIDE:

36 1. THE DEPARTMENT SHALL ESTABLISH A LIST OF PERSONS WHO, BY
37 ACKNOWLEDGING IN A MANNER TO BE ESTABLISHED BY THE DEPARTMENT THAT THEY
38 ARE PROBLEM GAMBLERS, VOLUNTARILY SEEK TO EXCLUDE THEMSELVES FROM EVENT
39 WAGERING STATEWIDE. THE DEPARTMENT SHALL ESTABLISH PROCEDURES FOR THE
40 PLACEMENT ON AND REMOVAL FROM THE LIST OF SELF-EXCLUDED PERSONS. A PERSON
41 OTHER THAN THE PERSON SEEKING VOLUNTARY SELF-EXCLUSION MAY NOT INCLUDE
42 THAT PERSON'S NAME ON THE SELF-EXCLUSION LIST OF THE DEPARTMENT.

43 2. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
44 LIMITED EVENT WAGERING OPERATORS SHALL ESTABLISH PROCEDURES FOR ADVISING
45 PERSONS WHO INQUIRE ABOUT SELF-EXCLUSION AND OFFER SELF-EXCLUSION

1 APPLICATION FORMS PROVIDED BY THE DEPARTMENT TO THOSE PERSONS WHEN
2 REQUESTED.

3 3. THE DEPARTMENT SHALL COMPILE IDENTIFYING INFORMATION CONCERNING
4 SELF-EXCLUDED PERSONS. SUCH INFORMATION SHALL CONTAIN, AT A MINIMUM, THE
5 FULL NAME AND ANY ALIASES OF THE PERSON, A PHOTOGRAPH OF THE PERSON, THE
6 SOCIAL SECURITY OR DRIVER'S LICENSE NUMBER OF THE PERSON AND THE CURRENT
7 PHYSICAL AND ELECTRONIC CONTACT INFORMATION, INCLUDING MAILING ADDRESS, OF
8 THE PERSON.

9 4. THE DEPARTMENT SHALL PROVIDE THE COMPILED INFORMATION TO EVENT
10 WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND LIMITED EVENT
11 WAGERING OPERATORS ON A WEEKLY BASIS. EVENT WAGERING OPERATORS,
12 COMMERCIAL SPORTS LICENSE HOLDERS AND LIMITED EVENT WAGERING OPERATORS
13 SHALL TREAT THE INFORMATION RECEIVED FROM THE DEPARTMENT UNDER THIS
14 SECTION AS CONFIDENTIAL, AND THE INFORMATION SHALL NOT BE DISCLOSED EXCEPT
15 TO VENDORS APPROVED BY THE DEPARTMENT FOR PURPOSES OF COMPLYING WITH THIS
16 SECTION, APPROPRIATE LAW ENFORCEMENT AGENCIES IF NEEDED IN CONDUCTING AN
17 OFFICIAL INVESTIGATION OR UNLESS ORDERED BY A COURT OF COMPETENT
18 JURISDICTION.

19 5. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
20 LIMITED EVENT WAGERING OPERATORS SHALL CHECK THE MOST RECENT SELF-EXCLUDED
21 PERSONS LIST PROVIDED BY THE DEPARTMENT BEFORE CREATING A PLAYER ACCOUNT.
22 THE EVENT WAGERING OPERATOR, COMMERCIAL SPORTS LICENSE HOLDER OR LIMITED
23 EVENT WAGERING OPERATOR SHALL REVOKE A PLAYER ACCOUNT AND REMOVE ALL
24 SELF-EXCLUDED PERSONS FROM ALL MAILING LISTS OF THE EVENT WAGERING
25 OPERATOR, COMMERCIAL SPORTS LICENSE HOLDER OR LIMITED EVENT WAGERING
26 OPERATOR.

27 6. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
28 LIMITED EVENT WAGERING OPERATORS SHALL TAKE COMMERCIALY REASONABLE STEPS
29 TO ENSURE THAT PERSONS ON THE DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS
30 ARE DENIED ACCESS TO ALL EVENT WAGERING.

31 7. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
32 LIMITED EVENT WAGERING OPERATORS SHALL TAKE COMMERCIALY REASONABLE STEPS
33 TO IDENTIFY SELF-EXCLUDED PERSONS. IF A SELF-EXCLUDED PERSON PARTICIPATES
34 IN EVENT WAGERING, THE EVENT WAGERING OPERATOR, COMMERCIAL SPORTS LICENSE
35 HOLDER AND LIMITED EVENT WAGERING OPERATOR SHALL REPORT TO THE DEPARTMENT,
36 AT A MINIMUM, THE NAME OF THE SELF-EXCLUDED PERSON, THE DATE OF
37 PARTICIPATION, THE AMOUNT OR VALUE OF ANY MONIES, PRIZES OR AWARDS
38 FORFEITED, IF ANY, AND ANY OTHER ACTION TAKEN. THE REPORT SHALL BE
39 PROVIDED TO THE DEPARTMENT WITHIN TWENTY-FOUR HOURS OF DISCOVERY.

40 C. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
41 LIMITED EVENT WAGERING OPERATORS MAY NOT PAY ANY PRIZE OR AWARD TO A
42 PERSON WHO IS ON THE DEPARTMENT'S SELF-EXCLUSION LIST. ANY PRIZE OR AWARD
43 WON BY A PERSON ON THE SELF-EXCLUSION LIST SHALL BE FORFEITED AND SHALL BE
44 DONATED BY THE EVENT WAGERING OPERATOR, COMMERCIAL SPORTS LICENSE HOLDER
45 OR LIMITED EVENT WAGERING OPERATOR TO THE DEPARTMENT'S DIVISION OF PROBLEM

1 GAMBLING ON A QUARTERLY BASIS BY THE TWENTY-FIFTH DAY OF THE FOLLOWING
2 MONTH.

3 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, THE
4 DEPARTMENT'S LIST OF SELF-EXCLUDED PERSONS IS NOT OPEN TO PUBLIC
5 INSPECTION.

6 E. EVENT WAGERING OPERATORS, COMMERCIAL SPORTS LICENSE HOLDERS AND
7 LIMITED EVENT WAGERING OPERATORS SHALL DEVELOP AND MAINTAIN A PROGRAM TO
8 MITIGATE PROBLEM GAMBLING AND CURTAIL COMPULSIVE GAMBLING, WHICH MAY BE IN
9 CONJUNCTION WITH THE DEPARTMENT.

10 F. BEFORE PAYING A PERSON A PAYOUT OF WINNINGS THAT TRIGGERS THE
11 LICENSEE'S OBLIGATION TO FILE A FORM W-2G OR A SUBSTANTIALLY EQUIVALENT
12 FORM WITH THE UNITED STATES INTERNAL REVENUE SERVICE, THE EVENT WAGERING
13 FACILITY OPERATOR SHALL CHECK TO DETERMINE IF THE PERSON IS IDENTIFIED AS
14 HAVING A PAST-DUE, SETOFF OBLIGATION IN THE INFORMATION PROVIDED TO THE
15 DEPARTMENT OF GAMING ON A WEEKLY BASIS BY THE ADMINISTRATIVE OFFICE OF THE
16 COURTS OR IN THE INFORMATION PROVIDED ON A MONTHLY BASIS BY THE DEPARTMENT
17 OF ECONOMIC SECURITY DIVISION OF CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF
18 ECONOMIC SECURITY SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE
19 OVERPAYMENT AND THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
20 ADMINISTRATION. THE DEPARTMENT OF GAMING SHALL PROVIDE TO THE EVENT
21 WAGERING FACILITY OPERATOR INFORMATION OF PERSONS WITH OUTSTANDING
22 OBLIGATIONS. SUBSEQUENT TO STATUTORY STATE AND FEDERAL TAX WITHHOLDING,
23 IF A PERSON RECEIVES A PAYOUT OF WINNINGS THAT TRIGGERS THE LICENSEE'S
24 OBLIGATION TO FILE A FORM W-2G OR A SUBSTANTIALLY EQUIVALENT FORM WITH THE
25 UNITED STATES INTERNAL REVENUE SERVICE AND IS IDENTIFIED, THE EVENT
26 WAGERING FACILITY OPERATOR SHALL WITHHOLD THE FULL AMOUNT OF THE WINNINGS
27 OR SUCH PORTION OF THE WINNINGS THAT SATISFIES THE PERSON'S PAST-DUE,
28 SETOFF OBLIGATION AND FORWARD THOSE MONIES TO THE IDENTIFYING AGENCY. THE
29 EVENT WAGERING FACILITY OPERATOR SHALL DISBURSE TO THE PERSON ONLY THAT
30 PORTION OF THE PRIZE, IF ANY, REMAINING AFTER THE PERSON'S IDENTIFIED
31 OBLIGATIONS HAVE BEEN SATISFIED. IF THE IDENTIFIED PERSON IS ALSO
32 SELF-EXCLUDED, TAX LIABILITIES AND SETOFF OBLIGATIONS ARE TO BE SATISFIED
33 BEFORE ANY MONIES ARE DONATED TO THE DEPARTMENT'S DIVISION OF PROBLEM
34 GAMBLING. IF THE IDENTIFIED PERSON HAS MULTIPLE LIABILITIES, THEY SHALL
35 BE SATISFIED IN THIS ORDER:

36 1. CHILD SUPPORT ENFORCEMENT.

37 2. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM AND ASSISTANCE
38 OVERPAYMENT.

39 3. THE COURTS.

40 4. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

41 G. THIS SECTION DOES NOT WAIVE AN INDIAN TRIBE'S SOVEREIGN IMMUNITY
42 FROM A SUIT BY A PERSON LISTED AND WHOSE WINNINGS ARE WITHHELD FOR AN
43 IDENTIFIED OBLIGATION.

1 5-1321. Conditional enactment; notice

2 A. THIS CHAPTER DOES NOT BECOME EFFECTIVE UNLESS AND BEFORE EACH
3 INDIAN TRIBE WITH A GAMING FACILITY IN PIMA COUNTY AND EACH INDIAN TRIBE
4 WITH A GAMING FACILITY IN THE PHOENIX METROPOLITAN AREA, AS DEFINED IN THE
5 2021 COMPACT AMENDMENT, HAS ENTERED INTO A 2021 GAMING COMPACT AMENDMENT
6 AND NOTICE OF THE UNITED STATES SECRETARY OF THE INTERIOR'S APPROVAL OR
7 APPROVAL BY OPERATION OF LAW HAS BEEN PUBLISHED IN THE FEDERAL REGISTER.

8 B. THE DEPARTMENT SHALL NOTIFY THE DIRECTOR OF THE ARIZONA
9 LEGISLATIVE COUNCIL IN WRITING OF THE DATE ON WHICH THE CONDITION WAS MET.

10 Sec. 5. Section 13-3301, Arizona Revised Statutes, is amended to
11 read:

12 13-3301. Definitions

13 In this chapter, unless the context otherwise requires:

14 1. "Amusement gambling" means gambling involving a device, game or
15 contest ~~which~~ THAT is played for entertainment if all of the following
16 apply:

17 (a) The player or players actively participate in the game or
18 contest or with the device.

19 (b) The outcome is not in the control to any material degree of any
20 person other than the player or players.

21 (c) The prizes are not offered as a lure to separate the player or
22 players from their money.

23 (d) Any of the following:

24 (i) No benefit is given to the player or players other than an
25 immediate and unrecorded right to replay, which is not exchangeable for
26 value.

27 (ii) The gambling is an athletic event and no person other than the
28 player or players derives a profit or chance of a profit from the money
29 paid to gamble by the player or players.

30 (iii) The gambling is an intellectual contest or event, the money
31 paid to gamble is part of an established purchase price for a product, no
32 increment has been added to the price in connection with the gambling
33 event and no drawing or lottery is held to determine the winner or
34 winners.

35 (iv) Skill and not chance is clearly the predominant factor in the
36 game and the odds of winning the game based ~~upon~~ ON chance cannot be
37 altered, provided the game complies with any licensing or regulatory
38 requirements by the jurisdiction in which it is operated, no benefit for a
39 single win is given to the player or players other than a merchandise
40 prize ~~which~~ THAT has a wholesale fair market value of less than ~~ten~~
41 ~~dollars~~ \$10 or coupons ~~which~~ THAT are redeemable only at the place of play
42 and only for a merchandise prize ~~which~~ THAT has a fair market value of
43 less than ~~ten dollars~~ \$10 and, regardless of the number of wins, no
44 aggregate of coupons may be redeemed for a merchandise prize with a

1 wholesale fair market value of greater than ~~five hundred fifty dollars~~
2 \$550.

3 2. "Conducted as a business" means gambling that is engaged in with
4 the object of gain, benefit or advantage, either direct or indirect,
5 realized or unrealized, but not ~~when~~ IF incidental to a bona fide social
6 relationship.

7 3. "Crane game" means an amusement machine ~~which~~ THAT is operated
8 by player controlled buttons, control sticks or other means, or a
9 combination of the buttons or controls, which is activated by coin
10 insertion into the machine and where the player attempts to successfully
11 retrieve prizes with a mechanical or electromechanical claw or device by
12 positioning the claw or device over a prize.

13 4. "EVENT WAGERING" HAS THE SAME MEANING PRESCRIBED IN SECTION
14 5-1301.

15 5. "FANTASY SPORTS CONTEST" HAS THE SAME MEANING PRESCRIBED IN
16 SECTION 5-1201.

17 ~~4.~~ 6. "Gambling", ~~or~~ "gamble" OR "WAGER" means one act of risking
18 or giving something of value for the opportunity to obtain a benefit from
19 a game or contest of chance or skill or a future contingent event but does
20 not include bona fide business transactions ~~which~~ THAT are valid under the
21 law of contracts including contracts for the purchase or sale at a future
22 date of securities or commodities, contracts of indemnity or guarantee,
23 ~~and~~ life, health or accident insurance AND FANTASY SPORTS CONTESTS AS
24 DEFINED IN SECTION 5-1201 AND CONDUCTED PURSUANT TO TITLE 5, CHAPTER 10.

25 ~~5.~~ 7. "Player" means a natural person who participates in
26 gambling.

27 ~~6.~~ 8. "Regulated gambling" means either:

28 (a) Gambling conducted in accordance with a tribal-state gaming
29 compact or otherwise in accordance with the requirements of the Indian
30 gaming regulatory act of 1988 (P.L. 100-497; 102 Stat. 2467; 25 United
31 States Code sections 2701 through 2721 and 18 United States Code sections
32 1166 through 1168); or

33 (b) Gambling to which all of the following apply:

34 (i) It is operated and controlled in accordance with a statute,
35 rule or order of this state or of the United States.

36 (ii) All federal, state or local taxes, fees and charges in lieu of
37 taxes have been paid by the authorized person or entity on any activity
38 arising out of or in connection with the gambling.

39 (iii) If conducted by an organization which is exempt from taxation
40 of income under section 501 of the internal revenue code, the
41 organization's records are open to public inspection.

42 (iv) ~~Beginning on June 1, 2003,~~ None of the players is under
43 twenty-one years of age.

44 (c) EVENT WAGERING THAT IS CONDUCTED PURSUANT TO TITLE 5,
45 CHAPTER 11.

1 ~~7.~~ 9. "Social gambling" means gambling that is not conducted as a
2 business and that involves players who compete on equal terms with each
3 other in a gamble if all of the following apply:

4 (a) No player receives, or becomes entitled to receive, any
5 benefit, directly or indirectly, other than the player's winnings from the
6 gamble.

7 (b) No other person receives or becomes entitled to receive any
8 benefit, directly or indirectly, from the gambling activity, including
9 benefits of proprietorship, management or unequal advantage or odds in a
10 series of gambles.

11 (c) ~~Until June 1, 2003, none of the players is below the age of~~
12 ~~majority. Beginning on June 1, 2003,~~ None of the players is under
13 twenty-one years of age.

14 (d) Players "compete on equal terms with each other in a gamble"
15 when no player enjoys an advantage over any other player in the gamble
16 under the conditions or rules of the game or contest.

17 Sec. 6. Section 13-3305, Arizona Revised Statutes, is amended to
18 read:

19 13-3305. Betting and wagering; classification

20 A. Subject to the exceptions ~~contained~~ PRESCRIBED in section 5-112
21 AND TITLE 5, CHAPTER 11, no person may engage for a fee, property, salary
22 or reward in the business of accepting, recording or registering any bet,
23 purported bet, wager or purported wager or engage for a fee, property,
24 salary or reward in the business of selling wagering pools or purported
25 wagering pools with respect to the result or purported result of any race,
26 sporting event, contest or other game of skill or chance or any other
27 unknown or contingent future event or occurrence whatsoever.

28 B. SUBJECT TO THE EXCEPTIONS PRESCRIBED IN TITLE 5, CHAPTER 11, a
29 person shall not directly or indirectly knowingly accept for a fee,
30 property, salary or reward anything of value from another to be
31 transmitted or delivered for wagering or betting on the results of a race,
32 sporting event, contest or other game of skill or chance or any other
33 unknown or contingent future event or occurrence whatsoever conducted
34 within or without this state or anything of value as reimbursement for the
35 prior making of such a wager or bet on behalf of another person.

36 C. A person who violates this section is guilty of a class 1
37 misdemeanor.

38 Sec. 7. Exemption from rulemaking

39 For the purposes of this act, the department of gaming is exempt
40 from the rulemaking requirements of title 41, chapter 6, Arizona Revised
41 Statutes, for one year after the effective date of this act. The
42 department of gaming shall initiate rulemaking and adopt rules to
43 effectuate this act within sixty days after the effective date of this
44 act.

1 Sec. 8. Legislative intent

2 The legislature recognizes the promotion of public safety is an
3 important consideration for sports leagues, teams, players and fans at
4 large. All persons who present sporting contests or other events where
5 wagers are allowed are encouraged to take reasonable measures to ensure
6 the safety and security of all involved or attending such events. Persons
7 who present sporting contests or other events where wagers are allowed are
8 encouraged to establish codes of conduct that forbid all persons
9 associated with the sporting contest from engaging in violent and unlawful
10 behavior and to hire, train and equip safety and security personnel to
11 enforce those codes of conduct. Persons who present sporting contests or
12 other events where wagers are allowed are further encouraged to provide
13 public notice of those codes of conduct.

14 Sec. 9. Emergency

15 This act is an emergency measure that is necessary to preserve the
16 public peace, health or safety and is operative immediately as provided by
17 law.

APPROVED BY THE GOVERNOR APRIL 15, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 15, 2021.

ARIZONA MEDICAL BOARD

Title 4, Chapter 16, Article 2



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - ONE-YEAR REVIEW REPORT

MEETING DATE: November 1, 2022

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

FROM: Council Staff

DATE: October 24, 2022

SUBJECT: **ARIZONA MEDICAL BOARD**
Title 4, Chapter 16, Article 2

Summary

This One-Year Review Report (1YRR) from the Arizona Medical Board (Board) relates to rules in Title 4, Chapter 16, Article 2 regarding fees and charges for licensure. These rules were amended under an exemption provided by Laws 2021, Ch. 320, § 24, an emergency measure that was created to expand the availability of telehealth services in order to meet the health care needs of Arizonans. In a rulemaking that went into effect on September 22, 2021, the Board established the fee for out-of-state health care providers to register to provide telehealth services in Arizona. In this rulemaking, the Board also amended the time frame table to include the applicable time frames for registration as an out-of-state health care provider of telehealth services.

The Board submitted this 1YRR pursuant to A.R.S. § 41-1095.

1. Has the agency analyzed whether the rules are authorized by statute?

Yes, the Board cites both general and specific statutory authority for these rules.

2. **Summary of the agency's economic impact comparison and identification of stakeholders:**

Because Laws 2021, Chapter 320, Sec. 24 exempted the Board from complying with A.R.S. Title 41, Chapter 6, the Board did not prepare an economic, small business, and consumer impact statement at the time that the rulemaking was completed. In the 11 months since the rule went into effect, the Board has received 25 applications to register as an out-of-state provider of telehealth services. The Board approved 22 of these applications. One application was not approved because the applicant did not have an active license in another jurisdiction. Two other applications were not approved due to pending receipt of required documentation.

Under R4-16-205(B), the 25 applicants each paid \$500 for registration. As a result, under A.R.S. § 32-1406, the Board deposited \$1,250 into the state's general fund and \$11,250 into the Arizona Medical Board fund.

For all applications received, the Board acted within the time frames specified in Table 1.

Stakeholders include the Board and out-of-state providers of telehealth that would like to provide their services in Arizona.

3. **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 indicates that when the legislature enacted A.R.S. § 36-3606, the legislature determined that the benefits of allowing out-of-state providers to register to provide telehealth services outweighed the costs to the state.

The only authority provided to the Board under A.R.S. § 36-3606 is to establish a one-time-only registration fee. For this one-time fee, the Board is required to evaluate the information submitted by an out-of-state provider, supervise compliance for as long as the provider chooses to provide telehealth services to Arizona residents, and receive and evaluate annual updates from the provider. Based on the legislature's cost-benefit determination and the limited authority provided under A.R.S. § 36-3606, the Board concludes that the benefits of the rule outweigh the costs.

The time frames listed in Table 1 run against the Board. These time frames do not regulate out-of-state health care providers.

4. **Has the agency received any written criticisms of the rules since the rule was adopted?**

No, the Board has not received any written criticisms of the rules since the rule was adopted.

5. **Has the agency analyzed the rules' clarity, conciseness, and understandability?**

Yes, the Board indicates that the rules are clear, concise, and understandable.

6. **Has the agency analyzed the rules' consistency with other rules and statutes?**

Yes, the Board indicates that the rules are consistent with other rules and statutes.

7. **Has the agency analyzed the rules' effectiveness in achieving its objectives?**

Yes, the Board indicates that the rules are effective in achieving their objectives.

8. **Has the agency analyzed the current enforcement status of the rules?**

Yes, the Board states that the rules are enforced as written.

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

No, the Board indicates that the rules are not more stringent than corresponding federal law.

10. **Has the agency completed any additional process required by law?**

Not applicable; no additional process is required.

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

No, the rules do not require the issuance of a permit or license. R4-16-205 and Table 1 only specify the required fee.

12. **Conclusion**

Council staff finds that the Board submitted an adequate report pursuant to A.R.S. § 41-1095. Council staff recommends approval of this report.



Arizona Medical Board

1740 W. Adams, Phoenix, AZ 85007 • website: www.azmd.gov
Phone (480) 551-2700 • Toll Free (877) 255-2212 • Fax (480) 551-2707

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Executive Director

Patricia E. McSorley

August 30, 2022

VIA EMAIL: grrc@azdoa.gov

Nicole Sornsins, Chair
Governor's Regulatory Review Council
100 North 15th Avenue, Suite 305
Phoenix, Arizona 85007

**RE: Arizona Medical Board
One-year-review Report
R4-16-205 and Table 1**

Dear Ms. Sornsins:

Please find enclosed the referenced one-year-review report. The report is due to be submitted by September 22, 2022.

The Board complies with A.R.S. § 41-1091.

For questions about this report, please contact the Board's executive director, Patricia McSorley, at 480-551-2791 or patricia.mcsorley@azmd.gov.

Sincerely,

Patricia McSorley
Executive Director

ONE-YEAR-REVIEW REPORT
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 16. ARIZONA MEDICAL BOARD
Submitted for November 1, 2022

INTRODUCTION

The legislature enacted Laws 2021, Chapter 320, as an emergency measure to expand use of telehealth in meeting the health-care needs of Arizonans. The statute (A.R.S. § 36-3606) included a provision allowing a health care provider not licensed in this state to provide telehealth services to individuals in Arizona if the out-of-state health care provider registered with Arizona’s applicable regulatory board and paid a fee specified by the regulatory board. The Board established the fee for an out-of-state health care provider to register to provide telehealth services in Arizona in a rulemaking that went into effect on September 22, 2021. The Board also amended the Board’s time frame table to include the new registration.

As required under A.R.S. § 41-1095(A), this report focuses on the Board’s review of R4-16-205 and Table 1, the two provisions amended under the exemption provided by Laws 2021, Chapter 320, Sec. 24.

Statute that generally authorizes the agency to make rules: A.R.S. § 32-1403(A)(8)

1. Specific statute authorizing the rule: A.R.S. §§ 36-3606(A)(3) and 41-1073

2. Objective of the rule:

R4-16-205. Fees and Charges: The objective of this rule is to establish the fees the Board charges for the licenses, certificates, and registrations it issues.

Table 1. Time Frames: The objective of this rule is to provide notice of the amount of time the Board requires to act of an application.

3. Is the rule effective in achieving its objective? Yes

4. Were there written criticisms of the rule, including written analyses questioning whether the rule is based on valid scientific or reliable principles or methods? No
5. Is the rule consistent with other rules and statutes? Yes
6. Is the rule enforced as written? Yes
7. Is the rule clear, concise, and understandable? Yes

8. Estimated economic, small business, and consumer impact of the rule:

Because Laws 2021, Chapter 320, Sec. 24, exempted the Board from complying with A.R.S. Title 41, Chapter 6, the Board did not prepare an economic, small business, and consumer impact statement when the rulemaking was done. In the 11 months since the rule went into effect, the Board has received 25 applications to register as an out-of-state provider of medical services by telehealth. The Board has approved 22 of the registrations. One application was not approved because the applicant did not have an active license in another jurisdiction. The remaining two applications are pending receipt of required documentation

Under R4-16-205(B), the 25 applicants paid \$500 each to register. This means that under A.R.S. § 32-1406, the Board deposited \$1,250 into the state’s general fund and \$11,250 into the Arizona Medical Board fund.

The Board acted within the time frames specified in Table 1 for all the applications.

9. Has the agency received any business competitiveness analyses of the rule? No
10. If applicable, whether the agency completed additional processes required by law: NA

11. A determination after analysis that the probable benefits of the rule outweigh within this state the probable costs of the rule and the rule 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:

When the legislature enacted A.R.S. § 36-3606, the legislature determined the benefits from allowing registration of out-of-state providers to practice medicine by telehealth outweigh the costs to the state.

The legislature established the paperwork cost when it specified the content of an application that must be submitted and established multiple compliance requirements at A.R.S. § 36-3606(A)(2) through (A)(9), (B), and (C). In establishing these paperwork and compliance requirements, the legislature determined the requirements imposed the least burden and costs on out-of-state providers practicing medicine by telehealth necessary to achieve the underlying regulatory objective.

The only authority provided to the Board under A.R.S. § 36-3606 is to establish a one-time-only registration fee. The fee is the only compliance cost established by the Board in the reviewed rules. For this one-time fee, the Board is required to evaluate the application information submitted by the out-of-state provider, supervise compliance for as long as the out-of-state provider may choose to provide telehealth services to residents of Arizona, and receive and evaluate an annual update from the out-of-state provider. The legislature did not authorize the Board to establish a fee for the annual renewal of the registration by an out-of-state provider of telehealth services.

The rules reviewed for this report comply with the minimal authority the legislature provided to the Board. R4-16-205 establishes the fee the Board charges for an out-of-state health care provider to register to provide telehealth services in Arizona. In establishing the fee amount, the Board assumed registered out-of-state providers would maintain their telehealth registrations because the only cost to the out-of-state providers is to submit a renewal registration form. The Board is required to supervise compliance of the out-of-state providers and process the annual registration forms without authority to charge a renewal fee. Because this is the only authority provided to the Board and because the legislature determined there is benefit in allowing out-of-state providers of services by telehealth to register to provide the services in Arizona, the Board concludes the benefits of the rule outweigh the costs.

The time frames listed in Table 1 run against the Board. The time frames do not regulate out-of-state health care providers.

12. Is the rule more stringent than corresponding federal laws? No

13. For a rule that requires issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037:

Neither R4-16-205 nor Table 1 requires issuance of a permit, license, or other authorization. The requirements for registration are established in statute. The rule simply specifies the fee required.

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

R4-16-205. Fees and Charges

- A.** As specifically authorized under A.R.S. § 32-1436(A), the Board establishes and shall collect the following fees:
1. Application for a license through endorsement, USMLE Step 3, or Endorsement with SPX Examination, \$500;
 2. Issuance of an initial license, \$500, prorated from date of issuance to date of license renewal;
 3. Renewal of license for two years, \$500;
 4. Application to reactivate an inactive license, \$500;
 5. Locum tenens registration, \$350;
 6. Annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program, \$50;
 7. Annual teaching license at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$250;
 8. Five-day teaching permit at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$100;
 9. Initial registration to dispense drugs and devices, \$200;
 10. Annual renewal to dispense drugs and devices, \$150;
 11. Penalty fee for late renewal of an active license, \$350; and
 12. Application for temporary license, \$250.
- B.** Under the specific authority provided by A.R.S. § 36-3606(A)(3), the Board establishes and shall collect the following fee to register as an out-of-state health care provider of telehealth services: \$500.
- C.** The fees specified in subsections (A) and (B) are nonrefundable unless A.R.S. §§ 32-1436(C) or 41-1077 applies.
- D.** As specifically authorized under A.R.S. § 32-1436(B), the Board establishes the following charges for the services listed:
1. Processing fingerprints to conduct a criminal background check, \$50;
 2. Providing a duplicate license, \$50;
 3. Verifying a license, \$10 per request;
 4. Providing a copy of records, documents, letters, minutes, applications, and files, \$1 for the first three pages and 25¢ for each additional page;
 5. Providing a copy of annual allopathic medical directory, \$30; and
 6. Providing an electronic medium containing public information about licensed physicians, \$100.

Table 1. Time Frames**Time Frames (in calendar days)**

Type of License	Overall Time Frame	Administrative Review Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time Frame	Time to Respond to Request for Additional Information
Initial License by Examination or Endorsement	240	120	365	120	90
Biennial License Renewal	90	45	60	45	60
Locum Tenens or Pro Bono Registration	120	60	90	60	30
Teaching License	40	20	30	20	30
Educational Teaching Permit	20	10	30	10	10
Training Permit	40	20	30	20	30
Short-term Training Permit	40	20	30	20	30
One-year Training Permit	40	20	30	20	30
Annual Registration to Dispense Drugs and Devices	150	45	30	105	30
Registration as an Out-of-state Health Care Provider of Telehealth Services	40	20	30	20	30

32-1403. Powers and duties of the board; compensation; immunity; committee on executive director selection and retention

A. The primary duty of the board is to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of allopathic medicine through licensure, regulation and rehabilitation of the profession in this state. The powers and duties of the board include:

1. Ordering and evaluating physical, psychological, psychiatric and competency testing of licensed physicians and candidates for licensure as may be determined necessary by the board.
2. Initiating investigations and determining on its own motion whether a doctor of medicine has engaged in unprofessional conduct or provided incompetent medical care or is mentally or physically unable to engage in the practice of medicine.
3. Developing and recommending standards governing the profession.
4. Reviewing the credentials and the abilities of applicants whose professional records or physical or mental capabilities may not meet the requirements for licensure or registration as prescribed in article 2 of this chapter in order for the board to make a final determination whether the applicant meets the requirements for licensure pursuant to this chapter.
5. Disciplining and rehabilitating physicians.
6. Engaging in a full exchange of information with the licensing and disciplinary boards and medical associations of other states and jurisdictions of the United States and foreign countries and the Arizona medical association and its components.
7. Directing the preparation and circulation of educational material the board determines is helpful and proper for licensees.
8. Adopting rules regarding the regulation and the qualifications of doctors of medicine.
9. Establishing fees and penalties as provided pursuant to section 32-1436.
10. Delegating to the executive director the board's authority pursuant to section 32-1405 or 32-1451. The board shall adopt substantive policy statements pursuant to section 41-1091 for each specific licensing and regulatory authority the board delegates to the executive director.
11. Determining whether a prospective or current Arizona licensed physician has the training or experience to demonstrate the physician's ability to treat and manage opiate-dependent patients as a qualifying physician pursuant to 21 United States Code section 823(g)(2)(G)(ii).

B. The board may appoint one of its members to the jurisdiction arbitration panel pursuant to section 32-2907, subsection B.

C. There shall be no monetary liability on the part of and no cause of action shall arise against the executive director or such other permanent or temporary personnel or professional medical investigators for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.

D. In conducting its investigations pursuant to subsection A, paragraph 2 of this section, the board may receive and review staff reports relating to complaints and malpractice claims.

E. The board shall establish a program that is reasonable and necessary to educate doctors of medicine regarding the uses and advantages of autologous blood transfusions.

F. The board may make statistical information on doctors of medicine and applicants for licensure under this article available to academic and research organizations.

G. The committee on executive director selection and retention is established consisting of the Arizona medical board and the chairperson and vice chairperson of the Arizona regulatory board of physician assistants. The committee is a public body and is subject to the requirements of title 38, chapter 3, article 3.1. The committee is responsible for appointing the executive director pursuant to section 32-1405. All members of the committee are voting members of the committee. The committee shall elect a chairperson and a vice chairperson when the committee meets but no more frequently than once a year. The chairperson shall call meetings of the committee as necessary, and the vice chairperson may call meetings of the committee that are necessary if the chairperson is not available. The presence of eight members of the committee at a meeting constitutes a quorum. The committee meetings may be held using communications equipment that allows all members who are participating in the meeting to hear each other. If any discussions occur in an executive session of the committee, notwithstanding the requirement that discussions made at an executive session be kept confidential as specified in section 38-431.03, the chairperson and vice chairperson of the Arizona regulatory board of physician assistants may discuss this information with the Arizona regulatory board of physician assistants in executive session. This disclosure of executive session information to the Arizona regulatory board of physician assistants does not constitute a waiver of confidentiality or any privilege, including the attorney-client privilege.

H. The officers of the Arizona medical board and the Arizona regulatory board of physician assistants shall meet twice a year to discuss matters of mutual concern and interest.

I. The board may accept and expend grants, gifts, devises and other contributions from any public or private source, including the federal government. Monies received under this subsection do not revert to the state general fund at the end of a fiscal year.

36-3606. Interstate telehealth services; registration; requirements; venue; exceptions

A. A health care provider who is not licensed in this state may provide telehealth services to a person located in this state if the health care provider complies with all of the following:

1. Registers with this state's applicable health care provider regulatory board or agency that licenses comparable health care providers in this state on an application prescribed by the board or agency that contains all of the following:

(a) The health care provider's name.

(b) Proof of the health care provider's professional licensure, including all United States jurisdictions in which the provider is licensed and the license numbers. Verification of licensure in another state shall be made through information obtained from the applicable regulatory board's website.

(c) The health care provider's address, email address and telephone number, including information if the provider needs to be contacted urgently.

(d) Evidence of professional liability insurance coverage.

(e) Designation of a duly appointed statutory agent for service of process in this state.

2. Before prescribing a controlled substance to a patient in this state, registers with the controlled substances prescription monitoring program established pursuant to chapter 28 of this title.
3. Pays the registration fee as determined by the applicable health care provider regulatory board or agency.
4. Holds a current, valid and unrestricted license to practice in another state that is substantially similar to a license issued in this state to a comparable health care provider and is not subject to any past or pending disciplinary proceedings in any jurisdiction. The health care provider shall notify the applicable health care provider regulatory board or agency within five days after any restriction is placed on the health care provider's license or any disciplinary action is initiated or imposed. The health care provider regulatory board or agency registering the health care provider may use the national practitioner databank to verify the information submitted pursuant to this paragraph.
5. Acts in full compliance with all applicable laws and rules of this state, including scope of practice, laws and rules governing prescribing, dispensing and administering prescription drugs and devices, telehealth requirements and the best practice guidelines adopted by the telehealth advisory committee on telehealth best practices established by section 36-3607.
6. Complies with all existing requirements of this state and any other state in which the health care provider is licensed regarding maintaining professional liability insurance, including coverage for telehealth services provided in this state.
7. Consents to this state's jurisdiction for any disciplinary action or legal proceeding related to the health care provider's acts or omissions under this article.
8. Follows this state's standards of care for that particular licensed health profession.
9. Annually updates the health care provider's registration for accuracy and submits to the applicable health care provider regulatory board or agency a report with the number of patients the provider served in this state and the total number and type of encounters in this state for the preceding year.

B. A health care provider who is registered pursuant to this section may not:

1. Open an office in this state, except as part of a multistate provider group that includes at least one health care provider who is licensed in this state through the applicable health care provider regulatory board or agency.
2. Provide in-person health care services to persons located in this state without first obtaining a license through the applicable health care provider regulatory board or agency.

C. A health care provider who fails to comply with the applicable laws and rules of this state is subject to investigation and both nondisciplinary and disciplinary action by the applicable health care provider regulatory board or agency in this state. For the purposes of disciplinary action by the applicable health care provider regulatory board or agency in this state, all statutory authority regarding investigating, rehabilitating and educating health care providers may be used. If a health care provider fails to comply with the applicable laws and rules of this state, the applicable health care provider regulatory board or agency in this state may revoke or prohibit the health care provider's privileges in this state, report the action to the national practitioner database and refer the matter to the licensing authority in the state or states where the health care provider possesses a professional license. In any matter or proceeding arising from such a referral, the applicable health care provider regulatory board or agency in this state may share any related disciplinary and investigative information in its possession with another state licensing board.

D. The venue for any civil or criminal action arising from a violation of this section is the patient's county of residence in this state.

E. A health care provider who is not licensed to provide health care services in this state but who holds an active license to provide health care services in another jurisdiction and who provides telehealth services to a person located in this state is not subject to the registration requirements of this section if either of the following applies:

1. The services are provided under one of the following circumstances:

(a) In response to an emergency medication condition.

(b) In consultation with a health care provider who is licensed in this state and who has the ultimate authority over the patient's diagnosis and treatment.

(c) To provide after-care specifically related to a medical procedure that was delivered in person in another state.

(d) To a person who is a resident of another state and the telehealth provider is the primary care provider or behavioral health provider located in the person's state of residence.

2. The health care provider provides fewer than ten telehealth encounters in a calendar year.

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.

DEPARTMENT OF ECONOMIC SECURITY

Title 6, Chapter 5, Article 49



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

MEETING DATE: November 1, 2022

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

FROM: Council Staff

DATE: October 14, 2022

SUBJECT: Arizona Department of Economic Security
Title 6, Chapter 5, Article 49

This Five-Year-Review Report (5YRR) from the Department of Economic Security relates to rules in Title 6, Chapter 5, Article 49 regarding Child Care Assistance.

In the last 5YRR of these rules the Department proposed to amend their rules to make them more clear, concise, understandable, effective, and consistent with other rules in statutes. The Department proposed to submit a Notice of Final Rulemaking to the Council by October 2017. The Department indicates they did not complete the rulemaking due significant turnover in both administrative and programmatic staff. Additionally, the Department indicates that during the 2018 Legislative session, the Legislature made several changes that required significant revision to the draft rules that were in progress at the time. The Department was reaching final stages of drafting of the proposed rules, then the pandemic happened, and required the Department to divert all resources to providing pandemic response services.

Proposed Action

The Department is proposing to amend several of the rules to improve their overall clarity, conciseness, understandability, effectiveness and consistency with other rules and statutes. The Department has started the rulemaking process, and engaged in informal stakeholder input in April 2022. Additionally, the Department indicates all comments have been

addressed and the Draft Notice of Proposal Rulemaking is currently in the Department's internal approval process before filing it with the Secretary of State.

The Department plans to submit the Notice of Final Rulemaking to the Council by April 2023.

1. Has the agency analyzed whether the rules are authorized by statute?

Yes, the Department cites to both general and specific statutory authority.

2. Summary of the agency's economic impact comparison and identification of stakeholders:

The Department of Child Safety (DCS) states that since the last rulemaking was completed in 1997, an Economic Impact Statement was not required. Going forward, DCS intends to update the rules with a new rulemaking currently under development.

DCS clarifies that the rules under review instruct members of the public on how to obtain child care assistance. In SFY 2021, DCS reimbursed child care providers \$212.9 million in child care assistance. Further, in SFY 2021 DCS received \$1.3 billion from the federal government to help implement federal programming related to the COVID-19 Pandemic.

Stakeholders include DCS, child care providers, and families eligible for child care assistance.

3. 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 of Child Safety believes the rules covered in this five-year review are outdated. They are in the process of developing new rules for which they believe the benefits will outweigh the costs.

4. Has the agency received any written criticisms of the rules over the last five years?

No, the Department indicates they have not received any written criticisms to the rules.

5. Has the agency analyzed the rules' clarity, conciseness, and understandability?

Yes, the Department indicates the rules are overall clear, concise, and understandable with the exception of the following:

R6-5-4906 - Verification of Eligibility Information

R6-5-4908 - Child Care Assistance Approvals and Denials
R6-5-4910 - Reinstatement of Assistance
R6-5-4911 - General Eligibility Criteria
R6-5-4912 - Eligible Activity of Need

6. Has the agency analyzed the rules' consistency with other rules and statutes?

Yes, the Department indicates the rules are overall consistent with other rules and statutes with the exception of the following:

R6-5-4901 - Definitions
R6-5-4904 - Access to Child Care Assistance
R6-5-4911 - General Eligibility Criteria
R6-5-4912 - Eligible Activity of Need
R6-5-4914 - Income Eligibility Criteria
R6-5-4915 - Fee Level and Copayment Assignment
R6-5-4917 - Waiting List for Child Care Assistance
R6-5-4918 - Authorization of Child Care Assistance
R6-5-4920 - Denial or Termination of Child Care Assistance

7. Has the agency analyzed the rules' effectiveness in achieving its objectives?

Yes, the Department indicates the rules are effective in achieving their objectives with the exception of the following:

R6-5-4914 - Income Eligibility Criteria
R6-5-4920 - Denial or Termination of Child Care Assistance

8. Has the agency analyzed the current enforcement status of the rules?

Yes, the Department indicates the rules are enforced as written with the exception of the following:

R6-5-4904 - Access to Child Care Assistance
R6-5-4905 - Initial Eligibility Interview
R6-5-4911 - General Eligibility Criteria
R6-5-4914 - Income Eligibility Criteria
R6-5-4915 - Fee Level and Copayment Assignment
R6-5-4916 - Special Eligibility Criteria
R6-5-4919 - Time Limit for Child Care Assistance
R6-5-4920 - Denial of Termination of Child Care Assistance
R6-5-4923 - Overpayments
R6-5-4924 - Appeals
R6-5-4925 - Maximum Reimbursement Rates for Child Care

Appendix . Child Care Assistance Gross Monthly Income Eligibility Charts and
Fee Schedule

Appendix B. Maximum Reimbursement Rates for Child Care

9. **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.

10. **For rules adopted after July 29, 2010, 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 the issuance of a general permit or license.

11. **Conclusion**

As mentioned above, and for the specific reasons mentioned in the report, the Department is proposing to amend several of its rules. The Department plans to submit the Notice of Final Rulemaking to the Council by April 2023.

The Department proposed course of actions will result in rules that are more clear, concise, understandable, effective, and consistent with other rules and statutes. Council staff recommends approval of this report.



DEPARTMENT OF ECONOMIC SECURITY

Your Partner For A Stronger Arizona

Douglas A. Ducey
Governor

Michael Wisehart
Director

August 23, 2022

VIA EMAIL: grrc@azdoa.gov

Ms. Nicole Sornsins, Chair
Governor's Regulatory Review Council
100 North 15th Avenue, Suite 305
Phoenix, Arizona 85007

RE: Department of Economic Security, Arizona Administrative Code (A.A.C.)
Title 6, Chapter 5, Article 49, Five-Year Review Report

Dear Ms. Sornsins:

Please find enclosed the Five-Year Review Report of the Arizona Department of Economic Security (Department) for 6 A.A.C. 5, Article 49, which is due on August 31, 2022.

The Department hereby certifies compliance with A.R.S. § 41-1091.

For questions about this report, please contact Melissa Henry, Deputy Administrator, Governance and Innovation Administration, at (480) 647-3110 or melissahenry@azdes.gov.

Sincerely,

Nicole Davis

Nicole Davis
Office of General Counsel

-Preface-

Arizona Department of Economic Security

Five – Year Review Reports

A.R.S. § 41-1056 requires that at least once every five years, each agency shall review its administrative rules and produce reports that assess the rules with respect to considerations including the rule’s effectiveness, clarity, conciseness and understandability. The reports also describe the agency’s proposed action to respond to any concerns identified during the review. The reports are submitted in compliance with the schedule provided by the Governor’s Regulatory Review Council (GRRC). A.R.S. § 18-305, enacted in 2016, requires that statutorily required reports be posted on the agency's website.

Arizona Department of Economic Security

Title 6, Chapter 5, Article 49 - Child Care Assistance

Five-Year Review Report

1. **Authorization of the rule by existing statutes**

General Statutory Authority: A.R.S. §§ 41-1003 and 41-1954(A)(3).

Specific Statutory Authority: A.R.S. §§ 46-802 through 46-805, and 46-809.

2. **The objective of each rule**

Rule	Objective
R6-5-4901	The objective of this rule is to define terms specific to Article 49.
R6-5-4904	The objective of this rule is to explain the ways an individual can access Child Care Assistance through DES, including which applicants require a referral to receive Child Care Assistance and those who may apply of their own initiative.
R6-5-4905	The objective of this rule is to describe the initial eligibility interview that the Department conducts after receiving an application for Child Care Assistance from an applicant.
R6-5-4906	The objective of this rule is to describe when and how the Department verifies information provided by an applicant.
R6-5-4907	The objective of this rule is to describe how a client may withdraw a Child Care Assistance application.
R6-5-4908	The objective of this rule is to describe the actions DES takes to approve or deny a Child Care Assistance application.
R6-5-4909	The objective of this rule is to explain how the Department reviews each client's eligibility factors at least once every 12 months.
R6-5-4910	The objective of this rule is to explain under what conditions and timeframe the Department may reinstate a client's Child Care Assistance after the Department has terminated assistance.
R6-5-4911	The objective of this rule is to describe the eligibility criteria for Child Care Assistance.

R6-5-4912	The objective of this rule is to describe the activities and needs that qualify an applicant or recipient for Child Care Assistance.
R6-5-4913	The objective of this rule is to describe circumstances in which child care providers may care for their own children while also receiving Child Care Assistance.
R6-5-4914	The objective of this rule is to explain income eligibility requirements for applicants and how the Department calculates income to determine eligibility.
R6-5-4915	The objective of this rule is to explain how the Department assigns a fee level and copayment to a family.
R6-5-4916	The objective of this rule is to explain eligibility requirements for Child Care Assistance specifically related to Temporary Assistance for Needy Families (TANF).
R6-5-4917	The objective of this rule is to explain how the Department implements a waiting list for Child Care Assistance and the criteria used to prioritize eligibility categories and select applicants on the waiting list.
R6-5-4918	The objective of this rule is to explain how the Department authorizes Child Care Assistance for a client.
R6-5-4919	The objective of this rule is to explain the time limit for which a child is eligible to receive Child Care Assistance.
R6-5-4920	The objective of this rule is to explain in what situations the Department will deny or terminate Child Care Assistance.
R6-5-4921	The objective of this rule is to explain the Department's requirements to notify a client regarding a decision on an application, a positive or negative action, or a change in the amount of authorized units based on a change in need.
R6-5-4923	The objective of this rule is to explain how the Department pursues collection of overpayments.
R6-5-4924	The objective of this rule is to explain an applicant's right to appeal an adverse action and the procedures associated with an appeal hearing.
R6-5-4925	The objective of this rule is to explain that the Department pays the maximum reimbursement rates for child care as set forth in Appendix B.

Appendix A	The objective of this rule is to provide an appendix that lists the gross monthly income eligibility chart and fee schedule the Department uses to determine an applicant's required copayment.
Appendix B	The objective of this rule is to provide an appendix that lists the Department's maximum reimbursement rate for child care centers.

3. **Are the rules effective in achieving their objectives?** Yes No

If not, please identify the rule(s) that is not effective and provide an explanation for why the rule(s) is not effective.

Rule	Explanation
R6-5-4914	The rule is not effective because the rule does not address whether child support income paid to a former dependent/child over 18 years old is deducted from the income.
R6-5-4920	The rule is not effective because it does not address all situations when the Department terminates Child Care Assistance for a client.

4. **Are the rules consistent with other rules and statutes?** Yes No

If not, please identify the rule(s) that is not consistent. Also, provide an explanation and identify the provisions that are not consistent with the rule.

Rule	Explanation
R6-5-4901	This rule is inconsistent with other rules and statutes because: <ul style="list-style-type: none"> • This rule refers to "CPS." A.R.S. § 8-451 created DCS which led to the dissolution of CPS. • Some definitions within this rule are no longer consistent with state or federal law. Terms used in the Child Care and Development Block Grant Act of 2014 are not yet listed or defined in this rule. Additionally, terms not used within the rules should be eliminated.
R6-5-4904	This rule is inconsistent with other statutes and rules because this rule refers to "CPS." A.R.S. § 8-451 created DCS which led to the dissolution of CPS.
R6-5-4911	This rule is inconsistent with other statutes and rules because this rule refers to "CPS." A.R.S. § 8-451 created DCS which led to the dissolution of CPS.

R6-5-4912	This rule is inconsistent with other statutes and rules because this rule refers to "CPS." A.R.S. § 8-451 created DCS which led to the dissolution of CPS.
R6-5-4914	This rule is inconsistent with other statutes and rules because this rule refers to "CPS." A.R.S. § 8-451 created DCS which led to the dissolution of CPS.
R6-5-4915	This rule is inconsistent with other statutes and rules because this rule refers to "CPS." A.R.S. § 8-451 created DCS which led to the dissolution of CPS.
R6-5-4917	This rule is inconsistent with other statutes and rules because this rule refers to "CPS." A.R.S. § 8-451 created DCS which led to the dissolution of CPS.
R6-5-4918	This rule is inconsistent with 45 CFR 98.21(f) because the rule fails to ensure the Department takes into consideration a child's development and learning when authorizing Child Care Assistance. Additionally, this rule is inconsistent with other statutes and rules because this rule refers to "CPS." A.R.S. § 8-451 created DCS which led to the dissolution of CPS.
R6-5-4920	This rule is inconsistent with the Child Care and Development Block Grant Act of 2014 and changes to A.R.S. § 46-802(B) regarding termination of Child Care Assistance when the client's income exceeds 85% State Median Income during the eligibility determination.

5. **Are the rules enforced as written?**

Yes No

If not, please identify the rule(s) that is not enforced as written and provide an explanation of the issues with enforcement. In addition, include the agency's proposal for resolving the issue.

R6-5-4904	This rule is not enforced as written because the Department no longer waives the application requirement for Cash Assistance participants who were referred for Child Care Assistance. This ensures that application procedures for all families seeking Child Care Assistance are uniform. The Department proposes to amend this rule by removing language stating that Cash Assistance participants are not required to complete an application.
R6-5-4905	This rule is not enforced as written because the Department currently allows ten business days for an applicant to report changes that may affect eligibility, whereas the rule as currently written requires a person to notify the Department within two business days. This practice aligns Child Care Assistance practices with other Department programs including Nutrition Assistance and Cash Assistance. The Department proposes to amend this rule by updating the reporting time frame from two business days to ten

	business days from the date the change becomes known.
R6-5-4911	This rule is not enforced as written because the Department currently gives clients ten business days to report changes to information impacting eligibility to align with other Department programs for which the client may be eligible, compared to the two days given to clients in the rule. The Department proposes to amend this rule from two business days to ten business days for a client to report a change.
R6-5-4914	This rule is not enforced as written because the Department currently takes into consideration a client's fluctuation in earnings when determining income eligibility in accordance with 45 CFR 98.21(c). The Department proposes to amend this rule to include a method to determine eligibility for applicants who have fluctuating income.
R6-5-4915	This rule is not enforced as written because the rule refers to Appendix A for establishing fee levels and copayments, which is outdated. The Department currently updates the fee schedule annually on the DES website at https://des.az.gov/file/25606/download . The Department proposes to amend this rule by removing the reference to Appendix A and providing the formula the Department uses to convert federal poverty level and state median income data for each fee level.
R6-5-4916	This rule is not enforced as written because staff do not review the reason for a client's Cash Assistance closure when determining eligibility for Transitional Child Care. The Department proposes to amend this rule by stating that closure of a client's Cash Assistance case due to a sanction does not preclude receipt of Transitional Child Care.
R6-5-4919	This rule is not enforced as written because the Department does not require a parent or caretaker to sign a self-sufficiency statement to qualify for an extension of the Child Care Assistance time limit and when the Department does grant an extension of the time limit for Child Care Assistance the extension is for 12 months instead of six months. The Department proposes to amend this rule by removing the requirement to sign a self-sufficiency statement to receive an extension of the time limit and increase the extension from six months to 12 months.
R6-5-4920	The rule is not enforced as written because the rule requires a client to be a U.S. citizen or legal resident of the U.S, however under federal law only the child for whom services are requested is required to be a U.S. citizen or legal resident. If the Department considers citizenship of anyone other than the child, the Department may face federal sanctions up to and including the loss of federal funding. The Department proposes to amend

	this rule by stating that the child for whom Child Care Assistance are requested must be a U.S. citizen or legal resident of the U.S.
R6-5-4923	The rule is not enforced as written because overpayments that involve suspected fraud are referred to a different unit of the Department's Office of Inspector General (OIG), not the Office of Special Investigations as stated in the rule. The Department proposes to amend this rule by stating that suspected fraud cases will be referred to OIG for investigation.
R6-5-4924	The rule is not enforced as written because the rule fails to state that applicants and recipients are not entitled to a hearing due to denial or termination of assistance when the denial or termination is based on a reduction of funding appropriated to the Department for the Child Care Assistance program. The Department proposes to amend the rule by adding language that a client is not entitled to a hearing to challenge denial or termination of assistance due to the Department's lack of funds.
R6-5-4925	The rule is not enforced as written because it refers to Appendix B in relation to the maximum reimbursement rates paid by the Department for child care, but the Department no longer maintains Appendix B. The Department proposes to amend this rule by explaining the method the Department uses to set maximum reimbursement rates and the data upon which the determination is made.
Appendix A	This rule is not enforced as written because the Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule is posted on the DES website and is updated annually per A.R.S. § 46-805(F) rather than being updated in the Appendix. The Department proposes to repeal this appendix.
Appendix B	This rule is not enforced as written because the Maximum Reimbursement Rates for Child Care Assistance is posted on the DES website at https://des.az.gov/file/25221/download as consumer information and updated as changes occur in lieu of updating this Appendix. The Department proposes to repeal this appendix.

6. **Are the rules clear, concise, and understandable?** Yes No

If not, please identify the rule(s) that is not clear, concise, or understandable and provide an explanation as to how the agency plans to amend the rule(s) to improve clarity, conciseness, and understandability.

Rule	Explanation
R6-5-4906	This rule is not clear because it fails to specify how a client is required to provide verification of eligible activities and needs as requested by the Department. The Department proposes to amend this rule by adding

	language that states the type of acceptable verification of eligible activities and needs a client may submit to the Department.
R6-5-4908	This rule is not clear because the Department allows a client ten days from the notice date to submit requested information when there is a delay in the DES request for additional information. The rule does not explain this ten day allowance. The Department proposes to amend this rule by adding the information about this ten day period from the notice date.
R6-5-4910	This rule is not clear or understandable because the language is archaic and difficult to interpret. The Department proposes to amend this rule to improve readability and clearly state the reasons the Department will reinstate assistance.
R6-5-4911	This rule is not clear or concise because the structure and language are overly complex. The Department proposes to amend this rule to improve readability and revise language to be more concise and to clarify applicant and client responsibilities related to eligibility for Child Care Assistance.
R6-5-4912	The rule is not concise because the rule includes specificity that is not required to be addressed in rule and is already included in the Division of Child Care's policy manual. The Department proposes to amend this rule by reducing the specificity of an eligible activity or need and adding clarifying language to improve readability.

7. **Has the agency received written criticisms of the rules within the last five years?**

Yes No

If yes, please fill out the table below:

Commenter	Comment	Agency's Response
NA	NA	NA

8. **Economic, small business, and consumer impact comparison:**

The Department last amended Article 49 in 1997 via Exempt Rulemaking, which means the Department was not required to prepare an Economic Impact Statement.

These rules provide the process for the public to request Child Care Assistance, including application, eligibility, and termination of assistance. The Department provides Child Care Assistance to eligible families who participate in employment activities and specific education

and training activities related to employment by providing financial support intended to offset a portion of child care costs. This financial support allows families better access to high-quality, early care, and education settings for their children. Child care assistance is also available for children who are involved with the Department of Child Safety (DCS) due to child abuse or neglect, and families with children experiencing homelessness.

In SFY 2021, the Department reimbursed child care providers a total of \$212.9 million in Child Care Assistance, equating to 59,784 children and 34,707 families. During SFY 2021, Arizona received approximately \$1.3 billion in supplemental Child Care and Development Fund funds for child care providers to prevent, prepare for, and respond to the COVID-19 Pandemic, and expanded flexibility to provide Child Care Assistance to families and children through the following federal relief laws:

- Coronavirus Aid, Relief, and Economic Security (CARES) Act in March 2020;
- Coronavirus Response and Relief Supplemental Appropriations Act in December 2020;
and
- American Rescue Plan Act in March 2021.

With these funds in SFY 2021, the Department developed Arizona's Child Care Recovery Plan focused on four key priorities:

1. Expanding access to care;
2. Investing in quality;
3. Stabilizing the child care network; and
4. Accelerating educational support and early childhood literacy.

9. Has the agency received any business competitiveness analyses of the rules?

Yes No

The Department did not receive a business competitiveness analysis from a member of the public during the process of preparing this report.

10. **Has the agency completed the course of action indicated in the agency's previous five-year review report?** Yes No

Please state what the previous course of action was and if the agency did not complete the action, please explain why not.

The Department indicated in the 2017 Five-Year Review Report that it anticipated submitting a Notice of Final Rulemaking to the Governor's Regulatory Review Council (GRRC) in October 2017. The Department received an exception to the rulemaking moratorium from the Governor's Office on March 7, 2016. However, turnover of both administrative and programmatic staff led to a pause in the planned rulemaking. In addition, during the 2018 legislative session, the legislature made several changes that required significant revision to the draft rules that were in progress. In early 2020, as the Department was reaching the final stages of drafting the proposed rules, the COVID-19 Pandemic required the Department to quickly divert all resources to providing pandemic response services. Child care was needed and provided to not only those families that were traditionally eligible, but also the families of workers who were on the front lines battling the COVID-19 Pandemic. Ultimately, this increase contributed significantly to the Department's January 2022 announcement on the creation of a stand-alone division within the Department to administer all child care related programs, the Division of Child Care.

As the Pandemic has receded and staff availability has stabilized, the Department has renewed its commitment to rulemaking and has made significant progress on these rules. The Department engaged in informal stakeholder input for the draft rules in April 2022. All comments have been addressed and the draft Notice of Proposed Rulemaking (NPR) is in the Department's internal approval process before the NPR is filed with the Secretary of State.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The businesses that are directly affected by the rulemaking are child care providers who choose to contract with the Department. Entering into a contract with the Department is optional and not mandatory. The federal requirements of extending Child Care Assistance for a minimum of 12 months after an eligibility determination and having 85% state median income as an eligibility exit threshold promote continuity of care for children receiving Child Care Assistance. This continuity will benefit child care providers through the receipt of more consistent revenue and less client turnover.

The Department anticipates that this rulemaking will have a positive impact on public and private employment because of the continuity of care for children receiving Child Care Assistance this rulemaking promotes. Child care has been identified as one of the major causes for work disruptions. Having child care services for a longer period of time will provide parents stability and the ability to be more productive and reliable members of the workforce, which in turn will benefit employers' efforts to retain a qualified workforce.

Based on this analysis, there are no negative impacts to small businesses or clients regulated by these rules. The benefits of the rule outweigh the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons necessary to achieve the underlying regulatory objective.

12. **Are the rules more stringent than corresponding federal laws?** Yes No

Please provide a citation for the federal law(s). And if the rule(s) is more stringent, is there statutory authority to exceed the requirements of federal law(s)?

NA

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an**

exception applies:

The Department has determined that A.R.S. § 41-1037 does not apply to these rules, because the Department is not proposing a new rule or an amendment to an existing rule that requires the issuance of a regulatory permit, license, or Department authorization.

14. Proposed course of action:

If possible, please identify a month and year by which the agency plans to complete the course of action.

The Department received a moratorium exception request from the Governor's Office in March 2016 for approval to engage in rulemaking and revise the rules in Article 49 to address issues identified in this report, ensure compliance with federal law, and reduce potential violations of federal law that could result in sanction by the federal government. The regular rulemaking will also address the shift in statutory and regulatory authority from CPS to DCS, as well as to reflect the changes made to the leadership and structure of the Department as they relate to administration of Child Care Assistance. The Department anticipates filing a Notice of Final Rulemaking with the Council by April 2023.

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the case of a rollover to the Designated Beneficiary's Account, no rollover has been made to another account established under an ABLE program within the prior 12 months.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 885, effective May 20, 2019 (Supp. 19-1).

ARTICLE 34. RESERVED**ARTICLE 35. RESERVED****ARTICLE 36. RESERVED****ARTICLE 37. RESERVED****ARTICLE 38. RESERVED****ARTICLE 39. RESERVED****ARTICLE 40. RESERVED****ARTICLE 41. RESERVED****ARTICLE 42. RESERVED****ARTICLE 43. RESERVED****ARTICLE 44. RESERVED****ARTICLE 45. RESERVED****ARTICLE 46. RESERVED****ARTICLE 47. RESERVED****ARTICLE 48. RESERVED****ARTICLE 49. CHILD CARE ASSISTANCE**

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4901. Definitions

The following definitions apply to this Article:

1. "Adequate notice" means written notification that explains the action the Department intends to take, the reason for the action, the specific authority for the action, the client's appeal rights, and right to benefits pending appeal, and that is mailed before the effective date of the action.
2. "Appellant" means an applicant or recipient of assistance who is appealing a negative action by the Department.
3. "Availability" means the portion of time that a parent or caretaker can provide care to their own child, as determined by the Department, because the parent or caretaker is not participating in an eligible activity.
4. "Applicant" means a person who has filed an application for Child Care Assistance.
5. "Authorized" means the specific amount of Child Care Assistance approved by the Department for an eligible family for a specific period of time.
6. "CCA" means the DES Child Care Administration.
7. "Caretaker relative" means a relative who exercises the responsibility for the day-to-day physical care, guidance, and support of a child who physically resides with the relative.
8. "Cash Assistance" means the program administered by the Family Assistance Administration that provides temporary Cash Assistance to needy families.
9. "Cash Assistance participant" means a recipient of Cash Assistance.
10. "Child care" means the compensated service the Department provides to a child who is unaccompanied by a parent or guardian during a portion of a 24-hour day.
11. "Child Care Assistance" means money payments for child care services paid by the Department for the benefit of an eligible family.
12. "Child Care Provider" means a child care facility licensed under A.R.S. Title 36, Chapter 7.1, Article 4, child care home providers, in-home providers, noncertified relative providers, and regulated child care on military installations or federally recognized Indian Tribes.
13. "Client" means a person who has requested, has been referred for, or who is currently receiving Child Care Assistance.
14. "Countable income" means the gross income of individuals included in family size that the Department considers to determine eligibility and calculate an assistance amount.
15. "CPS or Child Protective Services" means the child welfare services administration within the Department's Division of Children, Youth, and Family Services.
16. "Day" means a calendar day unless otherwise specified.
17. "DDD" means the Division of Developmental Disabilities.
18. "Denial" means a formal decision of ineligibility on an application, referral, or request for Child Care Assistance.
19. "Department" means the Arizona Department of Economic Security.
20. "Dependent" child means a person less than age 18, who resides with the applicant and whom the applicant has the legal financial obligation to support.
21. "DES-certified child care provider" means a provider who is certified by the Department of Economic Security under A.R.S. § 46-807 and who provides care in either the child's or the provider's own home.
22. "DHS-certified group home" means a provider who is certified by the Department of Health Services under A.R.S. § 36-897.01.
23. "DHS-licensed child care center" means a provider who is licensed by the Department of Health Services as prescribed in A.R.S. § 36-881.
24. "EITC" means Earned Income Tax Credit and is a federal income tax credit for low-income working individuals and families.
25. "Eligibility criteria" means the requirements an individual or family must meet to receive Child Care Assistance.
26. "Eligible activity" means a specific type of activity that causes an applicant or recipient and any other parent or responsible person in the eligible family to be unavailable to provide care to their children for a portion of a 24-hour day, and that partially determines the amount of Child Care Assistance an eligible family shall receive.
27. "Eligible child" means a child less than 13 years of age.
28. "Eligible family" means a group of persons whose needs, income, and other circumstances are considered as a whole for the purpose of determining eligibility and amount of Child Care Assistance.
29. "Eligible need" means a specific type of need that causes an applicant or recipient, or any other parent or responsible person in the eligible family, to be unavailable or incapable to provide child care to their children for a portion of a 24-hour day, and that partially determines the amount of Child Care Assistance an eligible family shall receive.

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30. "E.S.O.L." means English for Speakers of Other Languages.
31. "Existing client" means an individual who is currently receiving Child Care Assistance or who has an open Child Care Assistance case with the Department.
32. "Family size" means the number of individuals considered when determining income eligibility, and includes the applicant, other parent or responsible person, and their dependent children who reside in the same household, subject to R6-5-4914 (D).
33. "Federal poverty level" (FPL) means the poverty guidelines issued by the United States Department of Health and Human Services under Section 673(2) of the Omnibus Reconciliation Act of 1981; and reported annually in the Federal Register; which are converted into monthly amounts by the Department; which shall become effective for use in determining eligibility for Child Care Assistance on the first day of the state fiscal year immediately following the publication of the annual amount in the Federal Register.
34. "Foster care" means that the Department or an Arizona Tribe placed a child in the custody of a licensed foster parent.
35. "Foster parent" means any person licensed by the Department or an Arizona Tribe to provide for the out of home care, custody, and control of a child.
36. "Gap in employment" means a period of 30 consecutive days of Child Care Assistance that begins the first day after the last day worked and ends the 30th day after the last day worked for an existing client who has lost employment.
37. "G.E.D." means General Equivalency Diploma.
38. "Homebound" means a person who is confined to their home because of physical or mental incapacity.
39. "Homeless shelter" means a public or private nonprofit program that is targeted to assist homeless families and is designed to provide temporary or transitional living accommodations and services to assist such families toward self-sufficiency.
40. "Income" means earned and unearned income combined.
41. "Jobs" means the Department program that assists Cash Assistance participants to prepare for, obtain, and retain employment. "Jobs" Program also includes the Tribal Jobs Program and any other entities that contract with the state to perform this function.
42. "Jobs participant" means a Cash Assistance participant who is participating in the Jobs program as a condition of receiving Cash Assistance.
43. "Local office" means a CCA location that is designated as the location in which Child Care Assistance applications and other documents are filed with the Department and in which eligibility and assistance amounts are determined for a particular geographic area of the state.
44. "Lump sum income" means a single payment of earned or unearned income, such as a retroactive monthly benefit, non-recurring pay adjustment or bonus, inheritance, or personal injury and workers' compensation award.
45. "Mailing date" when used in reference to a document sent first-class, postage prepaid, through the United States mail, means the date:
 - a. Shown on the postmark;
 - b. Shown on the postage meter mark of the envelope, if there is no postmark; or
 - c. Entered on the document as the date of its completion, if there is no legible postmark or postage meter mark.
46. "Minor parent" means a parent less than the age of 18 years.
47. "Negative action" means one of the Department actions described in R6-5-4918, including action to terminate assistance or increase the fee level and copayment for Child Care Assistance.
48. "Noncertified relative provider" means a person who is at least 18 years of age, who is by blood, marriage, or adoption the grandparent, great grandparent, sibling not residing in the same household, aunt, great aunt, uncle or great uncle of the eligible child, who provides child care services to an eligible child, and meets the Department's requirements to be a noncertified relative provider.
49. "Notice date" means the date that appears as the official date of issuance on a document or official written notice the Department sends or gives to an applicant or recipient.
50. "OSI" or "Office of Special Investigations" means the Department office to which CCA refers cases for investigation of certain eligibility information, investigation and preparation of fraud charges, coordination and cooperation with law enforcement agencies and other similar functions.
51. "Other related child" means a child who is related to the applicant or recipient by blood, marriage, or adoption, and who is not the applicant's or recipient's natural, step, or adoptive child.
52. "Overpayment" means a Child Care Assistance payment received by a child care provider or for an eligible family that exceeds the amount to which the provider or family was lawfully entitled.
53. "Parent" means the biological mother or father whose name appears on the birth certificate, the person legally acknowledged as a mother or father, a father who has had an adjudication of paternity, or the adoptive mother or father of the child.
54. "Positive action" means the approval, increase, or resumption of service such as increasing the amount of assistance or decreasing the fee level and copayment.
55. "Recipient" means a person who is a member of an eligible family receiving Child Care Assistance.
56. "Relative" means a person who is by blood, adoption, or marriage a parent, grandparent, great-grandparent, sibling of the whole or half blood, stepbrother, stepsister, aunt, uncle, great-aunt, great-uncle, or first cousin.
57. "Request for Hearing" means a clear written expression by an applicant or recipient, or such person's representative, indicating a desire to appeal a Department decision to a higher authority.
58. "Responsible person" means one or more persons, residing in the same household, who have the legal responsibility to financially support:
 - a. One or more of the children for whom Child Care Assistance is being requested, or
 - b. The applicant or recipient of Child Care Assistance.
59. "Review" means the Department's review of all factors affecting an eligible family's eligibility and assistance amount.
60. "Self-Sufficiency Declaration" means a written statement signed and dated by the child care recipient that lists the specific actions the recipient has taken during the most recent six or 12-month period to maintain or increase self-sufficiency.
61. "Tax Claimant" means a relative more than age 17 who resides with a parent who has applied for or is receiving Child Care Assistance, and who states their intention to

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claim any member of the eligible family as a tax dependent on a federal or state income tax return for the current calendar year, to be filed in the following calendar year.

62. "Tax Dependent" means a member of an eligible family applying for or receiving Child Care Assistance who is included in family size, and who the tax claimant states an intention to claim as a dependent on a federal or state income tax return for the current calendar year, to be filed in the following calendar year.
63. "Time Limit" means that each child in the eligible family may receive no more than 60 cumulative months of Child Care Assistance in a lifetime, unless the parent, caretaker relative, or legal guardian of the child needing care can prove they are making efforts to improve skills and move toward self-sufficiency, under A.R.S. § 46-803(K)(1).
64. "Unit" means a part or full day measurement of Child Care Assistance authorized by the Department to meet the needs of an eligible family based on the participation of parents, caretaker relatives, or legal guardians of the children needing care in an eligible activity.
65. "Waiting List" means the prioritization of applicants by the Department to manage resources within available funding by placing applicants determined eligible for Child Care Assistance on a list, until the Department determines that sufficient funds are available to fund Child Care Assistance for families on the list.
66. "Work" means the performance of duties on a regular basis for wages or salary.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted and repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4902. Repealed**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Section automatically repealed July 31, 1998 (Supp. 98-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4903. Repealed**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Section repealed by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4904. Access to Child Care Assistance

- A. Application for Child Care Assistance.
 1. Any person may apply for Child Care Assistance by filing, either in person or by mail, a Department-approved application form with any CCA office.
 2. The application file date is the date any CCA office receives an identifiable application. An identifiable application contains, at a minimum, the following information:
 - a. The legible name and address of the person requesting assistance; and
 - b. The signature, under penalty of perjury, of the applicant or, if the applicant is incompetent or incapacitated, someone legally authorized to act on behalf of the applicant.
 3. In addition to the identifiable information described in subsection (A)(2), a completed application shall contain:
 - a. The names of all persons living with the applicant and the relationship of those persons to the applicant, and
 - b. All other eligibility information requested on the application form.
- B. Request for Child Care Assistance.
 1. Cash Assistance participants who need Child Care Assistance for employment activities are not required to complete an application.
 2. Child Care Assistance for Cash Assistance participants may begin effective the start date of the eligible activity but not earlier than the date that the participant requests Child Care Assistance from a local CCA office after the Department has verified eligibility criteria.
- C. Referral for Child Care Assistance.
 1. Jobs Participants. Cash Assistance participants in Jobs-approved work participation activities who request child care shall be referred by the Jobs Program for Child Care Assistance.
 2. Child Protective Services Families (CPS). CPS shall refer families that CPS deems eligible for Child Care Assistance on a case-by-case basis.
 3. CPS and DDD Foster Families - CPS or DDD shall determine eligibility for and refer children in the care, custody, and control of DES who need child care services as documented in a foster care case plan.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for

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review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4905. Initial Eligibility Interview

- A. Upon receipt of an identifiable application, the Department shall schedule an initial eligibility interview for the applicant. Upon request, the Department shall conduct the interview at the residence of a person who is homebound.
- B. The applicant shall attend the interview. A person of the applicant's choosing may also attend the interview.
- C. The Department may conduct a telephone interview if the applicant has previously verified citizenship or legal residency status as prescribed in R6-5-4911(E).
- D. During the interview, a Department representative shall:
 1. Assist the applicant in completing the application form;
 2. Witness the signature of the applicant;
 3. Discuss information pertinent to the applicant's child care needs;
 4. Provide the applicant with written information explaining:
 - a. The terms, conditions, and obligations of the Child Care Assistance program;
 - b. Any additional verification information as prescribed in R6-5-4906 which the applicant must provide for the Department to conclude the eligibility evaluation;
 - c. The Department practice of exchanging eligibility and income information among Department programs;
 - d. The coverage and scope of the Child Care Assistance program;
 - e. The applicant's rights, including the right to appeal a negative action; and
 - f. The requirement to report all changes within two work days from the date the change becomes known;
 5. Review the penalties for perjury and fraud, as printed on the application;
 6. Explain to the applicant who is included in family size for the purpose of determining income eligibility, and whose availability is considered in determining the amount of Child Care Assistance authorized for each child needing care as prescribed in R6-5-4914(D);
 7. If the applicant is the parent of the children needing care, explain the tax claimant provision under R6-5-4914(D)(3);
 8. Provide the applicant with the tax claimant declaration form if there is a potential tax claimant in the household;
 9. Provide the following information to assist the family in continuing to move toward self-sufficiency:
 - a. Availability of the Earned Income Tax Credit (EITC). Provide the applicant with the current U.S. Department of Internal Revenue Service (IRS) EITC information if the applicant comes into the office for the initial interview;
 - b. Availability of child support services through the Division of Child Support Enforcement (DCSE) to assist with paternity establishment, establishment of a child support order, or enforcement of an existing child support order. Provide the applicant with written information regarding child support services if the applicant comes into the office for the initial interview; and
 - c. Availability of Department-sponsored or contracted employment services that may assist the applicant and spouse or other parent in finding a job, or pursuing a better job or career. Provide the applicant with

written information regarding employment services if the applicant comes into the office for the initial interview;

10. Explain to the applicant the 60-month per child time limit for Child Care Assistance:
 - a. Describe the child care programs to which the 60-month time limit applies;
 - b. Describe how child care utilization is measured per child to calculate the 60-month limit; and
 - c. Explain the criteria for extensions of the time limit based on continued efforts to improve job skills and move toward self-sufficiency;
11. Discuss the six-child limit for Child Care Assistance:
 - a. Explain that no more than six children in a family may receive Child Care Assistance at any point in time; and
 - b. Explain the child care programs to which the six-child limit applies;
12. Discuss the waiting list for Child Care Assistance:
 - a. Describe the programs to which it applies;
 - b. Explain prioritization for assistance based upon income for families on the waiting list;
 - c. Indicate whether the waiting list is currently in effect; and
 - d. Explain that, based on funding availability, the Department may implement a waiting list at any point in time;
13. Review any verification information already provided;
14. Explain the applicant's duties to:
 - a. Notify the Department regarding initial provider selection or changes in provider in advance of using services or changing providers;
 - b. Pay DES required copayments to the child care provider as assigned by the Department; and
 - c. Pay any additional charges to the provider for the cost of care in excess of the amount paid by the Department; and
15. Review all ongoing reporting requirements, and explain that the applicant may incur overpayments for failure to make timely reports.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4906. Verification of Eligibility Information

- A. The Department shall obtain independent verification or corroboration of information provided by the client when required by law, or when it is necessary to determine eligibility, fee level and copayment assignment, or service authorization amount.
- B. The Department may verify or corroborate information by any reasonable means including:
 1. Contacting third parties such as employers and educational institutions,

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2. Asking the client to provide written documentation such as pay stubs or school schedules, and
 3. Conducting a computer data match through other Department programs' computer systems.
- C. The client is responsible for providing all required verification. The Department shall offer to assist a client who has difficulty in obtaining the verification and requests help.
- D. A client shall provide the Department with all requested verification within 10 calendar days from the notice date of a written request for such information. When a client does not timely comply with a request for information, the Department shall deny the application as provided in R6-5-4908(B).

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4907. Withdrawal of an Application

- A. An applicant may withdraw an application at any time prior to its disposition by providing the Department with a written request for withdrawal signed by the applicant.
- B. If an applicant makes an oral request to withdraw an application:
 1. The Department shall accept the oral request, provide the applicant with a written withdrawal form, and request that the applicant complete the form and return it to the Department. The Department shall inform the applicant of the consequences of not returning the withdrawal form within 10 days of the notice date.
 2. If the applicant fails to return the completed withdrawal form, the Department shall deny the application for failure to provide information unless the applicant rescinds the oral withdrawal request within 10 days of the date the Department provides the applicant a withdrawal form.
- C. A withdrawal is effective as of the application file date unless the applicant specifies a different date on the withdrawal form.
- D. An application that has been withdrawn shall not be reinstated; an applicant who has withdrawn an application shall reapply anew.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-5-4908. Child Care Assistance Approvals and Denials

- A. The Department shall complete the eligibility determination within 30 calendar days of the application file date or referral receipt date, unless:
 1. The application or referral is withdrawn,
 2. The application or referral is rendered moot because the applicant has died or cannot be located, or
 3. There is a delay resulting from a Department request for additional verification information as provided in R6-5-4906(D).
- B. The Department shall deny Child Care Assistance when the applicant fails to:
 1. Complete the application and an eligibility interview, as described in R6-5-4905;
 2. Submit all required verification information within 10 days of the notice date of a written request for verification, or within 30 days of the application file date whichever is later; or
 3. Cooperate during the eligibility determination process as required by R6-5-4911(A).
- C. When an applicant satisfies all eligibility criteria, the Department shall determine the service authorization amount, the fee level and copayment amount (if applicable), approve Child Care Assistance, and send the applicant an approval notice. The approval notice shall include the amount of assistance, fee level and copayment information, and an explanation of the applicant's appeal rights.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-5-4909. 12-month Review

- A. The Department shall complete a review of all eligibility factors for each client at least once every 12 months, beginning with the 12th month following the first month of Child Care Assistance eligibility.
- B. The Department may elect to review eligibility factors more frequently than every 12 months.
- C. At least 30 days prior to the 12-month review date, the Department shall mail the client a notice advising of the need for a review, and the requirement to submit a completed review application and verification of income and other eligibility factors for the most recent calendar month.
- D. In response to such notice, the client shall mail or deliver to the Department a completed review application and verification by the date on the notice.
- E. The Department shall verify the client's income and any eligibility factors that have changed or are subject to change.
- F. The Department shall terminate Child Care Assistance effective the review date and deny the review application if the client:
 1. Fails to submit the review application by the review date, or
 2. Fails to submit requested verification by the review date as required by the Department for a redetermination of eligibility.

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- G. If the client submits the review application and required verification within 30 days after the review date, the Department shall not require the client to appear for an intake interview and shall approve Child Care Assistance effective the date that the application and verification were received if other eligibility criteria are met.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

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R6-5-4910. Reinstatement of Assistance

- A. If the Department has terminated Child Care Assistance, the Department shall not reinstate assistance unless the client files a new application.
- B. Notwithstanding subsection (A), the Department shall reinstate assistance within 10 calendar days when:
1. Termination was due to Department error; the Department shall reinstate assistance effective the date following the date of termination;
 2. The Department receives a court order or administrative hearing decision mandating reinstatement; the Department shall reinstate assistance effective the date prescribed by the court order or hearing decision; or
 3. The recipient files a request for a fair hearing within 10 days of the notice date of the termination notice and requests that assistance be continued pending the outcome of an appeal; the Department shall reinstate assistance effective the date following the date of termination.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-5-4911. General Eligibility Criteria

- A. Applicant and Recipient Responsibility.
1. An applicant for or recipient of Child Care Assistance shall cooperate with the Department as a condition of initial and continuing eligibility. The client shall:
 - a. Give the Department complete and truthful information;
 - b. Within two business days from the date the change becomes known, inform the Department of all changes in:
 - i. Income;
 - ii. Eligible activities as described in R6-5-4912;
 - iii. Work or school schedules;
 - iv. Persons moving in or out of the household;
 - v. Tax claimants moving in or out of the household;
 - vi. Other circumstances affecting eligibility or the amount of assistance authorized; and
- c. Comply with all the Department's procedural requirements.
2. The Department may deny an application for or reduce or terminate assistance, if the client fails or refuses to cooperate with the Department to determine eligibility.
- B. Eligible Applicants.
1. In order to be considered an eligible applicant for Child Care Assistance, a client shall reside with the child needing care and shall be:
 - a. The parent of the child for whom assistance is being requested; or
 - b. The caretaker relative related by blood, adoption, or marriage to the child for whom assistance is requested, including a brother, sister, aunt, uncle, first cousin, grandmother, grandfather, and persons of preceding generations as denoted by "grand," "great," or "great-great."
 - c. A court-appointed legal guardian for the child for whom assistance is requested, or a person who can provide documentation from the court that the process of legal guardianship has been initiated.
 2. When more than one applicant resides in the home, or the child resides with two different caretakers intermittently, the Department shall determine the eligible applicant for Child Care Assistance as follows:
 - a. If both the parent and a caretaker relative are in the home, the parent is the eligible applicant;
 - b. If both a legal guardian and the parent are in the home, the legal guardian is the eligible applicant;
 - c. If a caretaker relative whose legal guardianship has been terminated and the parent are both in the home, the parent is the eligible applicant;
 - d. When the child resides with a caretaker relative or legal guardian who is acting as caretaker at least 51 percent of the time, and the parent either maintains a separate residence and visits the child intermittently, or resides outside of the child's home for an indefinite period of time, the caretaker relative or legal guardian of the child is the eligible applicant for the child.
 - i. An eligible applicant cannot be the noncertified relative provider or certified provider of the child for whom he or she is applying for assistance.
 - ii. The Department shall not consider the tax claimant status of the caretaker relative or legal guardian under R6-5-4914(D) with respect to any member of the eligible family.
 - e. When the child resides with two or more caretaker relatives, the caretaker relative who will be claiming the child as a dependent for income tax purposes is the eligible applicant for Child Care Assistance.
 3. Acceptable verification of guardianship shall include the following court documents:
 - a. Petition for Temporary Appointment of Guardian (date stamped as received by the court);
 - b. Petition for Permanent Appointment of Guardian (date stamped as received by the court);
 - c. Order of Appointment of a Temporary Guardian;
 - d. Order of Appointment of a Permanent Guardian;

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- e. Letters and Acceptance of Permanent Guardianship.
4. If the client has not been appointed as a guardian when the Department authorizes Child Care Assistance, the client shall to continue the legal process for appointment in order to retain eligibility for Child Care Assistance.
 5. The client shall verify relationship or guardianship status as requested by the Department.
- C.** Arizona Residency. The client and the child for whom assistance is requested shall be Arizona residents and shall be physically present within Arizona.
- D.** Age of the Child. An eligible child is birth through 12 years of age only; a child aged 13 or older is ineligible for Child Care Assistance.
- E.** Citizenship and Legal Residency Requirements.
1. The client shall be a United States citizen or shall be a legal resident of the United States.
 2. The client shall verify citizenship or legal residency status as requested by the Department by providing a birth certificate, naturalization documentation, or alien or immigration registration documentation from the U.S. Immigration and Naturalization Service (INS).
- F.** Eligible Activity or Need.
1. The client, and any other parent or responsible person in the household shall be engaged in an eligible activity, or have an eligible need for Child Care Assistance as prescribed in R6-5-4912 that causes each client, parent, or responsible person to be unavailable to provide care to the child for whom assistance is requested.
 2. The Department does not require a tax claimant to be engaged in an eligible activity, unless the tax claimant is the other parent of a child receiving Child Care Assistance.
- G.** Availability of the Client, Parent, and Responsible Person.
1. The Department shall consider the availability of the client, and any other parent or responsible person in the household in determining eligibility and the amount of Child Care Assistance authorized for each individual child needing care.
 2. The client, parent, and any other responsible person in the household shall be unavailable to provide care to the child for whom assistance is being requested for a portion of a 24-hour day due to an eligible activity or need.
 3. In a family with more than one parent or responsible person, the Department shall authorize Child Care Assistance for the period of time that neither the parent nor the responsible person is available due to an eligible activity or need.
 4. The Department shall not consider the availability of a tax claimant in determining eligibility or amount of Child Care Assistance authorized for the client's children, unless the tax claimant is the other parent of a child receiving Child Care Assistance.
- H.** Provider Selection and Arrangements.
1. The Department shall not authorize Child Care Assistance until the applicant has selected a child care provider. An allowable child care provider for DES Child Care Assistance:
 - a. Shall be one of the following:
 - i. A DHS-licensed child care center;
 - ii. A DHS-certified group home;
 - iii. A DES-certified family child care home;
 - iv. A DES-certified in home care provider;
 - v. A DES-noncertified relative provider;
 - vi. A regulated provider meeting requirements established by military installations or federally recognized Indian Tribes.
 - b. Shall have a registration agreement with the Department.
 2. The Department shall not authorize Child Care Assistance with a noncertified relative provider when Child Care Assistance is requested for a CPS referred family, or a CPS or DDD foster family;
 3. The Department shall not authorize Child Care Assistance with a noncertified relative or certified provider when:
 - a. The relative or certified provider is the natural, step, or adoptive parent of the child for whom assistance is requested;
 - b. Child Care Assistance is requested by a Cash Assistance participant and the relative or certified provider is included in the same Cash Assistance grant as the child care applicant; or
 - c. The relative or certified provider is included in family size as prescribed in R6-5-4914(D), is the applicant for Child Care Assistance, or is the applicant's spouse.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

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R6-5-4912. Eligible Activity or Need

- A.** Eligible activities and needs for Child Care Assistance are described in this subsection:
1. Employment. Full or part-time employment for monetary compensation;
 2. Self Employment. Full or part time self employment for monetary compensation.
 3. Education and Training Activities with Minimum Work Requirement. A client who is employed shall be eligible to receive Child Care Assistance for education and training activities as prescribed in subsections (A)(3)(a), (b), and (c).
 - a. Post-secondary education in a college or trade school.
 - i. The client is employed an average of at least 20 hours per week, per calendar month.
 - ii. A self-employed client meets the 20-hour work requirement if the client's monthly net profit, divided by the current minimum wage standard, equates to the average 20-hour weekly work requirement.
 - iii. The education or training activity is related to the client's employment goal.
 - iv. The client's educational level is freshman or sophomore as defined by the educational institution, or the educational activities are in pursuit of an Associate Degree, or the client is in training at a vocational or trade school.
 - v. The client shall maintain satisfactory progress in the educational activity and remain in good

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- standing, as defined by the educational institution.
- vi. The client has not received more than the lifetime limit of 24 months of Child Care Assistance for education and training activities. Child Care Assistance authorized for educational activities before August 1, 1997, does not count toward the 24-month limit.
 - vii. Countable months toward the 24-month limit are those calendar months in which the Department authorized additional child care services for education and training needs; the Department shall not calculate the 24-month limit based on monthly usage.
 - viii. The client assumes full responsibility for employment goals and educational choices made; the Department is under no obligation to provide Child Care Assistance until educational or employment goals are attained.
 - ix. The Department shall authorize Child Care Assistance for actual class time, time between classes as determined by the Department, and travel time to and from school only.
 - x. Correspondence courses, home study courses, and study time are not eligible educational activities for Child Care Assistance.
- b. High School, G.E.D., E.S.O.L., and Remedial Educational Activities for Adults age 20 and Older.
 - i. The client is employed an average of at least 20 hours per week, per month.
 - ii. A self-employed client meets the 20-hour work requirement if the person's monthly net profit, divided by the current minimum wage standard, equates to the average 20-hour weekly work requirement.
 - iii. The educational or training activity is related to the client's employment goal.
 - iv. The client shall maintain satisfactory progress in the educational activity and remain in good standing, as defined by the educational institution.
 - v. The client has not received more than the lifetime limit of 12 months of Child Care Assistance for education and training activities described in this Section. Child Care Assistance authorized for educational activities before August 1, 1997, does not count toward the 12-month limit.
 - vi. Countable months toward the 12-month limit are those calendar months in which the Department authorized additional child care services for education and training needs. The Department shall not calculate the 12-month limit based on monthly usage.
 - vii. The client assumes full responsibility for employment goals and educational choices made; the Department is under no obligation to provide Child Care Assistance until educational and employment goals are attained.
 - viii. Allowable educational activities are attendance at high school, G.E.D. or E.S.O.L. classes, or remedial educational activities as determined allowable by the Department.
 - ix. The Department shall authorize Child Care Assistance for actual class time, time between classes as determined by the Department, and travel time to and from school only.
 - x. Correspondence courses, home study courses, and study time are not allowable educational activities for DES Child Care Assistance.
 - c. Cash Assistance participants who are sanctioned due to Jobs noncompliance are ineligible for Child Care Assistance for education and training activities in any month when a Jobs sanction is applied to the Cash Assistance case, unless the education and training activities are Jobs approved.
4. Teen Parents in Education and Training Activities. Teen parents are eligible for Child Care Assistance for education and training activities according to the following criteria:
 - a. The teen parent is under age 20.
 - b. The teen parent is attending high school, G.E.D., or E.S.O.L. classes, or remedial educational activities in pursuit of a high school diploma.
 - c. Child Care Assistance for teen parents for the educational activities described in this Section is not time-limited. The teen parent shall continue to receive assistance for the educational activity if eligibility criteria are met and until the teen parent:
 - i. Receives a diploma or certificate; or
 - ii. Attains the age of 20 years, whichever occurs first.
 - d. If the teen parent attends post-secondary educational activities, the eligibility criteria outlined under "Post- Secondary Education" in subsection (A)(3)(a) shall apply.
 - e. The Department shall authorize Child Care Assistance for actual class time, time between classes as determined by the Department, and travel time to and from school only.
 - f. Correspondence courses, home study courses, and study time are not allowable educational activities for Child Care Assistance.
 - g. Cash Assistance participants who have been sanctioned due to Jobs noncompliance are ineligible for Child Care Assistance for education and training activities in any month that a Jobs noncompliance sanction is applied to the Cash Assistance case, unless the education and training activities are Jobs approved.
 5. Participation in Jobs Approved Activities. Individuals participating in the Jobs Program and who receive Cash Assistance shall be eligible for Child Care Assistance if the following criteria are met.
 - a. The individual is referred by a Jobs Program Specialist to CCA for Child Care Assistance.
 - b. The individual is required to contact a local DES Child Care Office to notify CCA of the selection of a provider, and to cooperate with CCA to arrange child care services.
 - c. The Child Care service authorization shall be based on the days and hours of the approved Jobs activity as specified by the Jobs Program Specialist in the Jobs referral.
 - d. Jobs participants shall receive Child Care Assistance for Jobs approved educational and training activities only. Educational and training activities that are not Jobs approved are not eligible activities for Child Care Assistance for Jobs participants.
 6. Unable or Unavailable to Provide Care. Clients who are unable or unavailable to care for their own children for a

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portion of a 24-hour day are eligible for Child Care Assistance according to the following criteria.

- a. Clients who are unable to care for their own children due to a physical, mental, or emotional disability are eligible for Child Care Assistance when the diagnosis, inability to care for the children, and anticipated recovery date (or the date of the next medical evaluation) have been verified by a licensed physician, certified psychologist, or certified behavioral health specialist.
 - b. The Department shall authorize Child Care Assistance to cover:
 - i. The amount of time the client is unable to care for the child; and
 - ii. The amount of time needed for ongoing treatment for the specified condition as verified by the physician, certified psychologist, or certified behavioral health specialist.
 - c. Child Care Assistance shall not cover intermittent and routine appointments that are not part of an ongoing treatment plan.
 - d. Clients participating in a drug rehabilitation program are eligible for Child Care Assistance to participate in activities as specified by the drug rehabilitation program.
 - e. Clients participating in a court-ordered community service program are eligible for Child Care Assistance to support required community service participation as specified by the court.
 - f. Clients who are residents of a homeless or domestic violence shelter are eligible for Child Care Assistance based on shelter residency, and on verification provided by an authorized representative at the shelter. Child Care Assistance shall cover:
 - i. The days and hours that the client is unavailable to provide care to their own child due to participation in shelter-directed activities as verified by an authorized representative of the shelter; and
 - ii. The days and hours that the client is unable to provide care to the client's own child due to a physical, mental, or emotional disability as verified by a licensed physician, certified psychologist, or a certified behavioral health specialist.
- B. Gaps In Employment.** Clients receiving Child Care Assistance are eligible for continued assistance during gaps in employment.
1. The Department shall continue Child Care Assistance for each parent, legal guardian, or relative caretaker in the eligible family during no more than two gaps in employment of 30 days in each 12-month period.
 2. The Department shall authorize Child Care Assistance during a 30-day gap in employment beginning the day after the last day worked, after the client provides verification of his or her job termination date.
 3. Gaps in employment may be consecutive (if requested).
 - a. The Department shall continue Child Care Assistance for an additional 30 days upon request of the client, if the client has not already used Child Care Assistance during two gaps in employment in the most recent 12-month period immediately preceding the job termination date.
 - b. The second gap in employment shall begin the day after the last day of the first gap in employment.
 4. The Department shall continue to authorize the same number of units of Child Care Assistance as previously authorized for the employment activity.
 5. The Department shall decrease the client's fee level and copayment under Appendix A, based on the loss of earned income effective the date that terminated employment has been verified, or the day after the last day worked, whichever is the later date.
 6. The Department shall end Child Care Assistance during a gap in employment on the 30th day after the client's last day worked, or on the 60th day after the client's last day worked if two consecutive gaps were authorized, unless the client can verify participation in a new eligible activity.
 7. When a client fails to report job loss timely as described under R6-5-4911(A)(1), and continues to use Child Care Assistance, the Department shall automatically reduce the overpayment period by subtracting any unused gaps in employment in lieu of the corresponding months of overpayment.
 8. Child care utilized during a gap in employment shall count toward the 60 month per child time limit for Child Care Assistance under R6-5-4919.
 9. CPS Referred Families and CPS and DDD Foster Families.
 - a. Child Care Assistance shall be provided to families requiring assistance as documented in a CPS case plan, or to children who are in the care, custody, and control of the Department, and who need Child Care Assistance as documented in a foster care case plan.
 - b. Eligibility for Child Care Assistance under this provision shall be determined by CPS and DDD on a case by case basis.
- C. Verification of Eligible Activity or Need.** The client shall verify eligible activities and needs as requested by the Department. Acceptable verification shall include:
1. Pay stubs for the most recent 30-day period;
 2. Employer's statement verifying start date, hourly rate of pay, work schedule, and frequency of pay including:
 - a. The date of receipt of the first full paycheck if the client is newly employed; and
 - b. The last day worked, if the client's employment has terminated.
 3. Quarterly or annual tax statement for the most recent calendar quarter or year to verify self-employment activities;
 4. Self-employment log to document self-employment activities and income accompanied by receipts for gross sales and business expenses for the most recent calendar month or quarter;
 5. Written verification from an educational institution to verify days and hours of attendance, start and end dates of the activity, educational level, and satisfactory progress;
 6. Written verification from a licensed physician, certified psychologist, or certified behavioral health specialist indicating the diagnosis, inability to care for the child, days and hours that child care is needed, and the anticipated recovery date;
 7. Written verification from a homeless or domestic violence shelter indicating the days, hours, and duration that child care is needed as prescribed in subsection (A)(6)(f).

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R6-5-4913. Applicants and Recipients as Child Care Providers

- A.** The client for Child Care Assistance may also be the child care provider for any child for whom assistance is requested when:
1. The client works for but is not the DES contracted party for the provision of Child Care Assistance;
 2. The client receives monetary compensation for work performed as a child care provider;
 3. The client cares for other unrelated children, for whom client does not receive Child Care Assistance, as well as for the child for whom the client has applied for Child Care Assistance; and
 4. The client is unavailable to provide care to the child for whom assistance is requested. When the client is also the child care provider, this is defined as:
 - a. There is no "not for compensation" slot available for the child; and
 - b. Caring for the child as well as for the other children for whom the child care provider receives compensation, would exceed the ratio per state certification or licensing standards pursuant to A.R.S. § 36-897.01 and 6 A.A.C. 5, Article 52.
- B.** If there is no "not for compensation" slot available for the child, and other eligibility criteria described in this Article are met, the client for Child Care Assistance may also be the child care provider for the child for whom assistance is requested.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3).

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R6-5-4914. Income Eligibility Criteria

- A.** Child Care Assistance Without Regard to Income. The Department shall not determine income eligibility for Child Care Assistance for the following:
1. Jobs participants who need Child Care Assistance to participate in the Jobs Program, and who are referred to CCA as prescribed in R6-5-4904(B).
 2. Cash Assistance participants who need Child Care Assistance to maintain employment.
 3. CPS referred families, and CPS or DDD foster families who need Child Care Assistance as documented in a CPS or foster care case plan, and who are referred to CCA as prescribed in R6-5-4904(B).
- B.** Child Care Assistance With Regard to Income. The Department shall determine income eligibility for Child Care Assistance for the following:
1. Former Cash Assistance participants who need Child Care Assistance to maintain employment as prescribed in R6-5-4916(A).
 2. Clients who are not Cash Assistance participants but who need Child Care Assistance to maintain employment.
 3. Teen parents who need Child Care Assistance for educational activities as prescribed in R6-5-4912(A)(4).
 4. Clients who need Child Care Assistance because they are unable or unavailable to care for their own children due to physical, mental or emotional disability, participation in a drug treatment or court-ordered community service program, or residency in a homeless or domestic violence shelter as prescribed in R6-5-4912(A)(6).
- C.** Income Maximum for Child Care Assistance. The Department shall determine income eligibility by calculating the gross monthly income of all family members included in family size unless otherwise excluded as prescribed in subsections (D), (E), (F), and (H).
1. If the gross monthly income for the family is equal to or less than 165% FPL, the family meets the income eligibility requirements for Child Care Assistance.
 2. If the gross monthly income for the family exceeds 165% FPL, the family does not meet the income eligibility requirements for Child Care Assistance.
- D.** Family Size Determination. The Department shall include the countable income of every person included in family size for the purpose of determining income eligibility as prescribed in this subsection.
1. Family size shall consist of:
 - a. The applicant for Child Care Assistance;
 - b. The applicant's natural, adoptive, and step children;
 - c. Any other parent or responsible person living in the household who is legally and financially responsible for either the applicant, or for the children needing care;
 - d. The children of the other parent or responsible person residing in the same household; and
 - e. The tax claimant under subsection R6-5-4914(D)(3).
 2. When a parent applies for Child Care Assistance for a natural, adoptive, or step child, the Department shall:
 - a. If the applicant and other adult in the household are married, or have children in common who need child care, make one family size determination for the family.
 - b. Count the income of both parents.
 3. When a tax claimant resides in the household with a parent who is applying for or receiving Child Care Assistance, the Department shall include the tax claimant in family size if:
 - a. The tax claimant states an intention to claim any of the following members of the eligible family residing in the same household as a dependent on the tax claimant's federal or state income tax return for the current calendar year:
 - i. The parent who is the applicant;
 - ii. The parent's natural, adoptive, or step children less than 18 years of age;
 - iii. The parent's spouse;
 - iv. The other parent of the children for whom assistance is requested, or who are receiving Child Care Assistance; or
 - v. The dependent children of the other parent residing in the household, and who are included in family size.
 - b. The tax claimant signs a declaration stating the intention to claim specific members of the eligible

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- family as tax dependents for the current calendar year.
4. The Department shall include the tax claimant's dependent children under age 18 and spouse residing in the same household in family size.
 5. When the applicant and his or her spouse are legally married and do not reside in the same household, but have the intention of remaining a family, the Department shall include the spouse in family size if the absent spouse is engaged in an eligible activity under R6-5-4912.
 6. When a caretaker relative applies for Child Care Assistance for another related child only:
 - a. Family size shall consist of the other related child or children only; and
 - b. The Department shall exclude both the caretaker relative and his or her spouse from the family size determination.
 7. When the applicant applies for Child Care Assistance for natural, adoptive, or step children, and also for another related child, the Department shall make one family size determination for the family:
 - a. Family size shall consist of the applicant, the applicant's child, any other related eligible children who need care, and any other parent or responsible person in the household.
 - b. Any income received by or for an "other related" child less than 13 years of age shall be counted.
 - c. If there is another relative in the household who states an intention to claim an other related child as a dependent for income tax purposes, this tax claimant must be the applicant for the child. The Department shall determine family size separately for this child under R6-5-4914(D)(6).
 8. When an unwed minor parent applies for Child Care Assistance for his or her own child, and resides with his or her parents:
 - a. The Department shall include the following in family size, unless the minor parent or the minor parent's children are tax dependents as described under subsection (d) below:
 - i. The minor parent; and
 - ii. The minor parent's child.
 - b. The Department shall not include the parents and siblings of the unwed minor parent in family size.
 - c. The Department shall deem a portion of the monthly gross countable income received by the parent of the minor parent to be available to meet the needs of the unwed minor parent and his or her children as described in this subsection, unless the parent of the minor parent is a tax claimant, under subsection (d) below.
 - i. The Department shall calculate the monthly gross countable income of the parents of the unwed minor parent;
 - ii. The Department shall subtract the amount of monthly gross countable income that equates to 165% FPL as specified in Appendix A, for the number of parents and siblings of the unwed minor parent residing in the same household only; and
 - iii. The Department shall count the remaining monthly gross countable income received by the parents of the unwed minor parent as available to meet the needs of the unwed minor parent and his or her children in the income eligibility determination.
 - d. If a parent of the minor parent is a tax claimant who intends to claim the minor parent or the minor parent's child as a tax dependent, the Department shall determine family size as follows:
 - i. The Department shall include the tax claimant, the tax claimant's spouse, and the tax claimant's dependent children residing in the same household in family size with the minor parent, and his or her child; and
 - ii. The Department shall count all countable income received by the tax claimant and the tax claimant's spouse in the income eligibility determination.
 9. When a married, separated, widowed, or divorced minor parent applies for Child Care Assistance for his or her own children:
 - a. The Department shall include the minor parent and his or her own dependent children in family size;
 - b. The Department shall include monthly gross countable income received by the minor parent and the other parent or responsible person residing in the home in the income eligibility determination;
 - c. The Department shall not consider income received by the parent of the minor parent in the income eligibility determination, unless the parent of the minor parent is a tax claimant, under subsection (8)(d); and
 - d. The Department shall not include parents and siblings of the minor parent in family size, unless the parent of the minor parent is a tax claimant, under subsection (8)(d).
 10. If a tax claimant included in family size is also a parent who needs Child Care Assistance for his or her own child, the tax claimant shall submit a separate application.
 - a. The Department shall make a separate eligibility and family size determination for the tax claimant's dependent children less than age 18.
 - b. The Department shall include the parent, spouse or other parent or responsible person, and their dependent children in family size.
 11. When a guardian applies for Child Care Assistance for a child in guardianship only, the Department shall:
 - a. Make one family-size determination for the child in guardianship.
 - b. Include all children in guardianship in family size.
 - c. Exclude the guardian and the guardian's spouse from family size.
 - d. Count the income received by or for the children in guardianship.
 - e. If the parent of the child needing care is also in the household, the Department shall not include the parent in family size; and shall not count his or her income.
 12. When the applicant applies for Child Care Assistance for natural, step, or adoptive children in addition to the children in guardianship, the Department shall:
 - a. Make one family-size determination.
 - b. Include in family size the applicant, the applicant's children, the children in guardianship less than 13 years of age who need care, and any other parent or responsible person in the household.
 - c. Count the applicant's and other parent's or responsible person's income.
 - d. Count the income received by or for the children in guardianship less than 13 years of age.
 13. When a foster parent applies for Child Care Assistance for his or her own children:

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- a. The Department shall include the applicant, other parent or responsible person, and their children in family size; and
- b. The Department shall not include the foster child in family size unless the foster child is a relative.
- E. Verification of Tax Claimant Status**
1. The Department shall verify tax claimant status as described in R6-5-4914(D) by requiring:
 - a. The client to submit a signed and dated declaration stating that no relative 18 years of age or older residing in the same household intends to claim any member of the eligible family as a tax dependent for the current calendar year; or,
 - b. The client and the relative 18 years of age or older residing in the same household who intends to claim a member of the eligible family as a tax dependent for the current calendar year to:
 - i. Submit a signed and dated declaration stating that fact; and,
 - ii. State the name of the family member whom the relative intends to claim as a tax dependent.
 2. The Department shall include the tax claimant, his or her spouse, and dependent children in family size upon receipt of the signed declaration.
 3. If the tax claimant no longer intends to claim a member of the eligible family as a tax dependent, the client must sign and date a new declaration.
 - a. The new declaration shall specify that the tax claimant no longer intends to claim a member of the eligible family as a tax dependent.
 - b. The Department shall remove the tax claimant, tax claimant's spouse, and his or her dependent children from family size after receipt of the signed declaration.
- F. Countable Income.** The Department shall count the gross monthly income of a family as prescribed in subsection (D); countable income shall include:
1. Gross earnings received for work including wages, salary, armed forces pay (with the exception of specifically designated allotments for food and shelter costs), commissions, tips, overtime, piece-rate payments, and cash bonuses earned, before any deductions.
 2. Net income from non-farm self employment including gross receipts minus business expenses. Gross receipts include the value of all goods sold and services rendered. Business expenses include costs of goods and services purchased or produced, rent, heat, light, power, depreciation charges, wages, and salaries paid, business taxes, and other expenses incurred in operating the business. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income. Payments on loans or mortgages obtained to increase capital investments in property or equipment are not allowed as deductible expenses.
 3. Net income from farm self employment which includes gross receipts minus operating expenses. Gross receipts include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include costs of feed, fertilizer, seed, and other farming supplies, wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes, and other expenses incurred in operation of the farm. The value of fuel, food, or other farm products used for family living is not included as part of net income. Payments on loans or mortgages obtained to increase capital investments in property or equipment are not allowed as deductible expenses.
4. Social Security payments prior to deductions for medical insurance including Social Security benefits and "survivors" benefits, and permanent disability insurance payments made by the Social Security Administration.
 5. Railroad retirement insurance income.
 6. Dividends including interest on savings, stocks and bonds, income and receipts from estates or trusts, net rental income or royalties, receipts from boarders or lodgers (net income received from furnishing room and board shall be 1/3 of the total amount charged). Interest on Series H. United States Government Savings bonds.
 7. Mortgage payments received shall be prorated on a monthly basis.
 8. Public assistance payments including payments from the following programs: Cash Assistance, Supplemental Security Income (SSI), State Supplementary Payments (SSP), General Assistance (GA), Bureau of Indian Affairs General Assistance (BIAGA), and Tuberculosis Control (TC).
 9. Pensions and annuities including pensions or retirement benefits paid to a retired person or their survivors by a former employer or by a union, or distributions or withdrawals from an individual retirement account.
 10. Unemployment Insurance payments including compensation received from government unemployment insurance agencies or private companies during periods of unemployment, and any strike benefits received from union funds.
 11. Workers' compensation payments.
 12. Money received from the Domestic Volunteer Act when the adjusted hourly payment is equal to or greater than minimum wage; Action Volunteer Programs include VISTA, Foster Grandparent Program (FGP), Retired Senior Volunteer Program (RSVP), and Senior Companion Program (SCP).
 13. Alimony or spousal maintenance which shall be counted the month received.
 14. Child support which shall be counted the month received.
 15. Veterans' pensions including benefits and disability payments paid periodically by the Veterans Administration to members of the Armed Forces or to a survivor of deceased veterans.
 16. Cash gifts received on a monthly basis from relatives, other individuals, and private organizations, as a direct payment in the form of money.
 17. Money received through the lottery, sweepstakes, contests, or through gambling ventures whether received on an annuity or lump sum basis.
 18. Any other source of income not specifically excluded in subsection (F).
- G. Excluded Income.** The Department shall exclude the items listed in this subsection when determining a family's gross monthly income.
1. Per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission or the Court of Claims;
 2. Payments made pursuant to the Alaska Native Claims Settlement Act to the extent such payments are exempt from taxation under Section 21(a) of the Act;
 3. Money or capital gains received as a lump sum, from the sale of personal or real property, such as stocks, bonds, or a car (unless the person was engaged in the business of

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- selling such property, in which case the net proceeds would be counted as income from self employment);
4. Withdrawals of bank deposits;
 5. Loans; money borrowed;
 6. Tax refunds;
 7. Any monies received through the federal Earned Income Credit (EIC);
 8. One time lump sum awards or benefits, including:
 - a. Inherited funds;
 - b. Insurance awards;
 - c. Damages recovered in a civil suit;
 - d. Monies contributed by a client to a retirement fund that are later withdrawn prior to actual retirement; and
 - e. Retroactive public assistance payments;
 9. The value of U.S. Department of Agriculture (USDA) Food Stamps;
 10. The value of USDA-donated food;
 11. The value of any supplemental food assistance received under the Child Nutrition Act of 1966 and special food service program for children under the National School Lunch Act, the Women, Infant, and Children Program (WIC), Child and Adult Care Food Program (C.A.C.F.P.), and the School Lunch Program;
 12. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (for example, Navajo/Hopi Relocation Act);
 13. Earnings of a child who is under the age of 18 and attending high school or other training program, and who is not a minor parent who needs Child Care Assistance for his or her own child;
 14. Home produce used for household consumption;
 15. Government-sponsored training program expenses (TRE payments) such as training-related expenses paid to JOBS participants and Job Training Partnership Act (JTPA) training expenses paid directly to the client;
 16. The value of goods or services received in exchange for work;
 17. Interest on Series E, United States Government Savings bonds;
 18. Foster care maintenance payments received for care of foster children;
 19. Adoption subsidy payments received for the care of adopted children;
 20. Educational loans, grants, awards, and scholarships regardless of their source, including Pell Grants, Supplemental Educational Opportunity Grants (SEOG), Bureau of Indian Affairs (BIA) Student Assistance Grants, college work-study income, Carl D. Perkins Vocational and Applied Technology Education Act income, and any other state or local, public, or private educational loans, grants, awards, and scholarships;
 21. Money received from the Domestic Volunteer Act when the adjusted hourly payment is less than minimum wage; Action Volunteer Programs include VISTA, Foster Grandparent Program (FGP), Retired Senior Volunteer Program (RSVP), and Senior Companion Program (SCP);
 22. Housing and Urban Development (HUD) benefits, cash allowances and credits against rent;
 23. Vendor payments including payments made directly to a third party by friends, relatives, charities, or agencies to pay bills for the client;
 24. Vocational Rehabilitation training-related expenses (TRE) which are reimbursements for expenses paid. Subsistence and maintenance allowances, and incentive payments not designated as wages;
 25. Disaster relief funds and emergency assistance provided under the Federal Disaster Relief Act, and comparable assistance provided by a state or local government, or disaster assistance organization;
 26. Energy assistance including all state or federal benefits designated as "energy assistance" or assistance from a municipal utility or non-profit agency;
 27. Agent Orange payments;
 28. Any other income specifically excluded by applicable state or federal law.
- H. Income Deduction.** Child support that is paid for dependents who do not reside in the same household with the eligible family shall be deducted from the monthly gross countable income prior to income calculation and fee level and copayment assignment as prescribed in subsection (I) and R6-5-4915.
- I. Income Calculation.** The Department shall calculate monthly income as prescribed in this subsection.
1. The Department shall include all income of all family members included in the family-size determination, other than income excluded as prescribed in R6-5-4914(F) in the determination of income eligibility.
 2. The Department shall calculate a monthly figure for each source of income separately with the appropriate method used for calculation.
 3. After calculating monthly income for each source of income, the Department shall add the monthly amounts from each source to obtain the total monthly income.
 4. The Department shall convert income received less often than monthly to a monthly figure as provided in this subsection.
 - a. The Department shall prorate the total income over the number of months that the income is intended to cover.
 - b. If the income is received on or after the date of application, a monthly share of income shall be considered beginning with its earliest possible effective date and for a number of months equal to the number of months which the income covers.
 - c. If the family receives the income prior to the date of application, the number of months that the income is intended to cover shall be equal to the number of months of coverage remaining.
 5. The Department shall anticipate income for a current or future month based on the averaged income received in the most recent 30-day period, unless the Department receives new information that indicates that the income has changed, as verified under subsection (J).
 - a. If the income received by the household has increased due to receipt of a new source of income, an increased work schedule, or a raise in salary or wages, the Department shall calculate the gross monthly countable income for the household based on the amount of income anticipated to be received on a monthly basis. The Department shall begin counting the new or increased income as described under subsection (6).
 - b. If the income received by the household has decreased due to loss of a source of income, a decreased work schedule, or a reduction in salary or wages, the Department shall cease counting the income effective the date that the client provides verification of the loss or reduction in income.

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6. When a family receives a new or increased income source that will be received monthly, weekly, bi-weekly, or semi-monthly:
 - a. The income shall not be considered available to the family until the date that the first full payment is received.
 - b. The Department shall not assess a new fee level or ineligibility to the client until the monies are available.
 - c. Once the client has already received the payment that includes the new or increased income source, and a higher fee level or ineligibility results:
 - i. The Department shall increase the fee level or terminate assistance no earlier than 10 days after the first full paycheck has been received; and
 - ii. The Department shall send a 10-day negative action notice prior to increasing the fee level or terminating assistance.
7. The Department shall convert income received more often than monthly, for a period covering less than a month, to a monthly amount by one of the methods listed below.
 - a. If the income amount does not vary and is received monthly, weekly, bi-weekly, or semi-monthly, the conversion to a monthly amount will be obtained by multiplying the pay period amount by:
 - i. 1, if monthly;
 - ii. 4.3, if weekly;
 - iii. 2.15, if bi-weekly; or
 - iv. 2, if semi-monthly.
 - b. This amount shall be applied as income on an ongoing monthly basis until there is a change in the income.
 - c. If the monthly income received varies in amount and frequency, and exact monthly figures are unavailable, the Department shall use an average monthly figure.
8. When the Department calculates the gross monthly income for the family, the whole dollar amount only shall be used to determine income eligibility, and fee level and copayment assignment; any amount that is a fraction of a whole dollar shall be rounded down to the next whole dollar.
- J. Verification of Income. The client shall verify income by providing written documentation of income as requested by the Department such as:
 1. Pay stubs for the most recent calendar month, or for any month of potential overpayment;
 2. Employer's statement verifying work schedule, hourly rate of pay, and frequency of pay;
 3. Benefit award statements for the most recent benefit period;
 4. Statements of account to verify interest income;
 5. Quarterly or annual tax returns for the most recent quarter or year for self-employment income;
 6. Self-employment log accompanied by gross sales receipts and business expense receipts for the most recent calendar month or quarter; and
 7. Other written documentation from the source of the income indicating the amount of income received, source of income, frequency received, and naming the payee.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp.

97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4915. Fee Level and Copayment Assignment

- A. The Department shall assign a fee level to the family based on family size and monthly gross countable income, as specified in Appendix A.
- B. The Department shall assign individual minimum required copayment amounts for each child in the family based on the fee level assignment, and the number of children needing care, as specified in Appendix A.
- C. The Department shall not assign a fee level or minimum required copayment to Jobs participants, Cash Assistance participants who need Child Care Assistance for employment, or families determined eligible and referred by CPS or DDD.
- D. When a client fails to pay the DES-required copayment, or fails to make satisfactory arrangements for payment of the DES-required copayment with a child care provider, the client is ineligible for Child Care Assistance.
- E. When the Department has determined that an client is ineligible for Child Care Assistance due to nonpayment of the copayment, the client is ineligible for any Child Care Assistance program that requires a copayment until past-due copayments have been paid, or until satisfactory arrangement have been made with the provider for payment.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

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R6-5-4916. Special Eligibility Criteria

- A. Transitional Child Care
 1. Former Cash Assistance participants who are attempting to achieve independence from the Cash Assistance program, who need Child Care Assistance for employment, and who are otherwise eligible shall receive up to 24 months of Transitional Child Care Assistance.
 2. The former Cash Assistance participant shall have received Cash Assistance in Arizona in at least one month and shall apply for Child Care Assistance within six months after the Cash Assistance case closure date.
 3. The former Cash Assistance participant and any other parent or responsible person in the household shall need Child Care Assistance to maintain employment.
 4. The most recent Cash Assistance case closure shall not have been due to a sanction for Jobs or Child Support noncompliance, and the Cash Assistance participant shall

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not have been sanctioned due to intentional program violation (IPV) at the time of the most recent Cash Assistance case closure.

- B. Cash Assistance Diversion Participants.**
1. Applicants for Cash Assistance who are diverted from long-term Cash Assistance through the Cash Assistance Diversion program shall be treated as Cash Assistance participants during the three-month period that the Cash Assistance Diversion payment covers.
 2. Cash Assistance Diversion participants shall be eligible for Child Care Assistance for employment activities without regard to income as prescribed in R6-5-4914(A) during the three-month Diversion period.
 3. Cash Assistance Diversion participants shall be eligible for Child Care Assistance for job search activities during the three-month Diversion period.
 4. Cash Assistance Diversion participants shall be eligible for Transitional Child Care after the three-month Diversion period if the income eligibility requirements in R6-5-4914(B) and the TCC requirements in subsection (A) of this provision are met.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

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R6-5-4917. Waiting List for Child Care Assistance

- A. Implementation of a Waiting List for Child Care Assistance.**
1. The Department may implement a waiting list for Child Care Assistance whenever it determines that sufficient funding is not available to sustain benefits for all of the applicants requesting assistance.
 - a. The Department may implement a waiting list for all applicants under subsection (B); or,
 - b. The Department may implement a partial waiting list and prioritize access to Child Care Assistance for applicants based on income under subsection (D).
 2. When the waiting list is in effect, the Department shall place applicants determined to be eligible for Child Care Assistance on the waiting list under this subsection, and shall not authorize Child Care Assistance until the Department determines that sufficient funding is available.
- B. Applicants Who Are Subject To the Waiting List.** When the waiting list is in effect, the Department shall place applicants determined to be eligible for Child Care Assistance on the waiting list, including individuals who are reapplying for Child Care Assistance following case closure. The Department shall place the following applicants on the waiting list:
1. Applicants who are not Cash Assistance participants but who need Child Care Assistance to maintain employment under R6-5-4912(A).
 2. Teen parents who need Child Care Assistance for educational activities under R6-5-4912(D).
 3. Applicants who need Child Care Assistance because they are unable or unavailable to care for their own children due to physical, mental, or emotional disability, participation in a drug treatment or court-ordered community service program, or residency in a homeless or domestic violence shelter under R6-5-4912(F).
- C. Applicants Who Are Not Subject To the Waiting List.** When the waiting list is in effect, the Department shall not place the following applicants determined eligible for Child Care Assistance on the waiting list, and shall proceed to authorize Child Care Assistance under R6-5-4918.
1. Jobs participants who need Child Care Assistance to participate in the Jobs Program, and who are referred to CCA under R6-5-4904(B).
 2. Cash Assistance participants who need Child Care Assistance to maintain employment under R6-5-4904(B).
 3. CPS referred families, and CPS or DDD foster families who need Child Care Assistance as documented in a CPS or foster care case plan, and who are referred to CCA under R6-5-4904(B).
 4. Former Cash Assistance participants who need Child Care Assistance to maintain employment under R6-5-4916(A).
- D. Prioritization of Applicants for Child Care Assistance When the Waiting List Is In Effect.** The Department shall prioritize applicants for authorization of Child Care Assistance when the waiting list is in effect under this subsection.
1. Prioritization Based On Income.
 - a. Families with gross monthly incomes at or below 100% of the Federal Poverty Level (FPL) receive the highest priority for assistance;
 - b. The Department shall prioritize the remainder of families applying for Child Care Assistance when the waiting list is in effect in the following order:
 - i. Families with gross monthly incomes between 101% FPL and 110% FPL;
 - ii. Families with gross monthly incomes between 111% FPL and 120% FPL;
 - iii. Families with gross monthly incomes between 121% FPL and 130% FPL;
 - iv. Families with gross monthly incomes between 131% FPL and 140% FPL;
 - v. Families with gross monthly incomes between 141% FPL and 150% FPL;
 - vi. Families with gross monthly incomes between 151% FPL and 160% FPL;
 - vii. Families with gross monthly incomes between 161% FPL and 165% FPL;
 2. Prioritization Based On Application Date. The Department shall place clients determined eligible for Child Care Assistance on the waiting list effective the date that the Department receives an identifiable application, under R6-5-4904(A)(2).
- E. Cooperation Requirement for Clients on the Waiting List.**
1. Clients shall cooperate with the Department to maintain eligibility while on the waiting list, under R6-5-4911(A).
 2. If the family's household income changes, the client shall notify the Department of the change in income within 2 workdays.
 3. If someone moves in or out of the household, the client is required to notify the Department within 2 workdays.
 4. The Department shall recalculate gross household income and notify the client of any changes in priority status described under subsection (D) based on the change in income or family size.
- F. Loss of Employment While On the Waiting List.**

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1. If the parent or caretaker of the child loses employment while on the waiting list, the family may remain on the waiting list without an eligible activity.
 2. When the Department selects the family for release from the waiting list under subsection (H), the Department shall require the parent or caretaker of the child to verify participation in an eligible activity under R6-5-4912 before the Department authorizes the family to receive Child Care Assistance.
- G. Determination of Ineligibility While On the Waiting List.**
1. If the family becomes ineligible for Child Care Assistance while on the waiting list, or during release from the waiting list under subsection (J), the Department shall remove the client from the waiting list and close the case.
 2. The client shall submit a new application and verify eligibility for Child Care Assistance in order to be added back onto the list effective the new application date.
- H. Selection from the Waiting List.**
1. The Department shall select clients for release from the waiting list within each level of income priority as described under subsection (D), and in application date order.
 2. When the Department notifies the client that he or she is being released from the waiting list, the Department may require the client to verify income, employment, other household circumstances or provider selection prior to being authorized for Child Care Assistance.
- I. Clients Determined Eligible Upon Selection for Release from the Waiting List.**
1. The Department shall authorize Child Care Assistance effective a date specified by the Department based on the availability of funding, after the client has submitted any requested verification and the Department has determined that the family remains eligible for Child Care Assistance.
 2. If the client is eligible for Child Care Assistance, the Department shall authorize Child Care Assistance, and shall notify the client in writing regarding:
 - a. The start date of Child Care Assistance;
 - b. The amount of assistance authorized for each child under R6-5-4918; and
 - c. The assigned fee level and copayment for each child.
- J. Clients Determined Ineligible Upon Selection for Release from the Waiting List.**
1. If the client is not eligible for Child Care Assistance as described in R6-5-4920, the Department shall notify the client regarding ineligibility under R6-5-4921.
 2. The Department shall require the client to submit a new application and verify eligibility for Child Care Assistance in order to be added back onto the list effective the new application date, if a waiting list remains in effect.
- K. Clients Selected for Release from the Waiting List in Error.**
1. If the Department determines that a client was not eligible for selection from the waiting list, and the waiting list remains in effect, the Department shall proceed as described under this subsection.
 2. If the Department determines that the client is currently at a lower level of priority for assistance under subsection (D)(1) due to a previously unreported change in income or family size, the Department shall not authorize Child Care Assistance.
 3. The Department shall reinstate the client on the waiting list effective the existing application date; and,
 4. Notify the family in writing of reinstatement to the waiting list and the newly assigned level of priority.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Former R6-5-4917 renumbered to R6-5-4918; new R6-5-4917 made by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4918. Authorization of Child Care Assistance

- A. Authorization Based on Eligible Activity or Need.** The Department shall authorize Child Care Assistance for a portion of each 24-hour day based on the verified eligible activity or need of the parent and responsible person for the child needing care.
- B. Authorization Based on Unavailability.** The amount of Child Care Assistance authorized by the Department shall be based on the amount of time that the client and any other parent or responsible person in the household are unavailable or incapable to provide care to their own children due to an eligible activity or need as prescribed in R6-5-4911(F) and R6-5-4912. When there are two or more parents or responsible persons in the household, Child Care Assistance shall be authorized for the amount of time that neither parent or responsible person is available due to an eligible activity or need.
- C. Authorization for Self-employment Activities.**
1. The Department shall authorize Child Care Assistance for self-employment activities based on monthly net income divided by the current hourly minimum wage standard.
 2. Authorization of Child Care Assistance for self-employment activities shall not exceed the lesser of:
 - a. The maximum number of Child Care Assistance units that can be authorized as prescribed in subsections (B) and (D), or
 - b. The number of hours calculated by dividing monthly net income from self-employment by the amount of the hourly minimum wage standard, or
 - c. The number of hours of Child Care Assistance needed by the client to perform self employment activities.
- D. Six-child Authorization Limit.**
1. The Department shall authorize no more than six children in the eligible family at any given point in time.
 - a. The six-child authorization limit applies to clients under this subsection.
 - i. Clients who are not Cash Assistance participants but who need Child Care Assistance to maintain employment;
 - ii. Teen parents who need Child Care Assistance for educational activities under R6-5-4912(D); and
 - iii. Clients who need Child Care Assistance because they are unable or unavailable to care for their own children due to physical, mental, or emotional disability, participation in a drug treatment or court-ordered community service program, or residency in a homeless or domestic violence shelter under R6-5-4912(F).

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- b. The six-child authorization limit shall not apply to the following clients:
 - i. Jobs participants who need Child Care Assistance to participate in the Jobs Program, and who are referred to CCA under R6-5-4904(B);
 - ii. Cash Assistance participants who need Child Care Assistance to maintain employment;
 - iii. CPS referred families, and CPS or DDD foster families who need Child Care Assistance as documented in a CPS or foster care case plan, and who are referred to CCA under R6-5-4904(B); and
 - iv. Former Cash Assistance participants who need Child Care Assistance to maintain employment under R6-5-4916(A).
- c. For eligible families who are not subject to the six-child limit, there is no limit to the number of eligible children whom the Department can authorize to receive Child Care Assistance in the eligible family.
- 2. If the eligible family requests Child Care Assistance for more than six children, the family shall select the six children to be authorized to receive Child Care Assistance.
- 3. If the family fails to designate six children to receive Child Care Assistance as requested, the Department shall authorize the six youngest children.
- 4. If the client is already receiving Child Care Assistance for six children and requests assistance for a new child, the Department shall not authorize assistance for the new child until the client notifies the Department which child will no longer receive Child Care Assistance.
- E. Units of Child Care Assistance.
 - 1. The Department shall authorize Child Care Assistance in full- and part-day units;
 - 2. The Department shall not authorize more than 31 units for each child, per child care provider in a calendar month;
 - 3. A part-day unit of Child Care Assistance is less than six hours;
 - 4. A full-day unit of Child Care Assistance is six hours or more;
 - 5. Each child care provider determines the upper limit of what constitutes a full day of care for that provider.
- F. Date of Eligibility. The Department shall approve eligibility for Child Care Assistance effective the application file date or referral receipt date as described in R6-5-4904 if the client satisfies all applicable conditions of eligibility as prescribed in this Article.
- G. Date of Authorization.
 - 1. The Department shall authorize Child Care Assistance to begin effective the start date of the eligible activity or need, but not earlier than application file date, request date, or referral receipt date as described in R6-5-4904.
 - 2. The Department may authorize Child Care Assistance with an effective date that precedes the referral receipt date when the referral is received untimely due to administrative delay and the eligible start date of the activity or need precedes the referral receipt date for clients who are referred for Child Care Assistance as described in R6-5-4904 (B).
- H. Exclusion from Authorization. The Department shall not authorize Child Care for educational services for children enrolled in grades 1 through 12 when such services are provided during the regular school day.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Former R6-5-4918 renumbered to R6-5-4920; new

R6-5-4918 renumbered from R6-5-4917 and amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4919. Time Limit for Child Care Assistance

Under A.R.S. § 46-803(K), each child shall receive time-limited Child Care Assistance, unless the child's parents or caretakers qualify for an extension under this Section.

- A. Clients Who Are Subject To the Time Limit.
 - 1. Clients who are not Cash Assistance participants but who need Child Care Assistance to maintain employment;
 - 2. Teen parents who need Child Care Assistance for educational activities under R6-5-4912(D); and
 - 3. Clients who need Child Care Assistance because they are unable or unavailable to care for their own children due to physical, mental, or emotional disability, participation in a drug treatment or court-ordered community service program, or residency in a homeless or domestic violence shelter under R6-5-4912(F).
- B. Clients Who Are Not Subject To the Time Limit.
 - 1. Jobs participants who need Child Care Assistance to participate in the Jobs Program, and who are referred to CCA under R6-5-4904(B);
 - 2. Cash Assistance participants who need Child Care Assistance to maintain employment;
 - 3. CPS referred families, and CPS or DDD foster families who need Child Care Assistance as documented in a CPS or foster care case plan, and who are referred to CCA under R6-5-4904(B); and
 - 4. Former Cash Assistance participants who need Child Care Assistance to maintain employment under R6-5-4916(A).
- C. Effective Date of the Time Limit. The 60-month time limit shall begin:
 - 1. For applicants of Child Care Assistance eligible under any of the categories listed in subsection (A) who file an application on or after January 1, 2007, on the date the application is received by the Department.
 - 2. For clients receiving Child Care Assistance on January 1, 2007 under subsection (A), January 1, 2007.
 - 3. For clients receiving Child Care Assistance on January 1, 2007 under subsection (B), the first date that the Department determines that the existing client is eligible for Child Care Assistance under one of the categories described in subsection (A).
- D. Calculation of the Time Limit.
 - 1. Each child receiving Child Care Assistance under subsection (A) shall receive time-limited assistance for:
 - a. Any combination of 1380 paid full or part day child care units; or
 - b. Child Care Assistance that spans 60 calendar months, whichever is later. A calendar month is one in which the Department pays for at least one full- or part-day unit.
 - 2. Any unit of assistance used by the child, and later identified as a provider or agency caused overpayment shall not count toward the child's time limit.

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3. Any unit of assistance used by the child, and later identified as a client-caused overpayment shall not count toward the child's time limit, if the family repays the overpayment.
 4. The Department shall apply the time limit individually to each child in the family, and not to the parent or caretaker of the child.
 - a. If a different caretaker applies for the child at a later point in time, each child will be entitled to the remaining portion of time-limited Child Care Assistance that has not yet been utilized.
 - b. Any Child Care Assistance utilized by the child as part of an eligible family that was exempt from the time limit under subsection (B) shall not count toward the child's time limit.
- E. Expiration of the Time Limit.**
1. When a child exhausts time-limited of Child Care Assistance under this subsection, the Department shall stop assistance for the child unless the parents or caretakers of the child qualify for an extension under Section (F).
 2. When all of the children in a family have exhausted the time limits of Child Care Assistance, the Department shall terminate assistance for the family unless the parents or caretakers:
 - a. Qualify for an extension under subsection (F); or,
 - b. Are no longer subject to the time limit as described in subsection (B).
- F. Extension of the Time Limit for Child Care Assistance.**
1. The Department shall grant a 6-month extension to the time limit if the parents or caretakers show efforts toward self-sufficiency during the most recent 6-month period. The Department may elect to grant extensions on a 12-month basis. In order to qualify for an extension, the parents or caretakers in the family shall:
 - a. Currently be engaged in an activity that promotes self-sufficiency, which means the parents or caretakers continue to:
 - i. Be employed a monthly average of 20 or more hours per week;
 - ii. Be employed less than 20 hours per week and earning at least minimum wage;
 - iii. Be employed a monthly average of at least 20 hours per week while attending school or training;
 - iv. Remain self-employed with a net profit equating to a monthly average of 20 hours per week times minimum wage;
 - v. Attend high school, G.E.D. classes, or remedial education for the attainment of a high school diploma for a teen parent under 20 years of age;
 - vi. Follow the treatment plan prescribed by a physician, psychiatrist, psychologist for the treatment of a specified mental, physical, or emotional condition, which precludes the parent or caretaker for caring for his or her own child for a portion of a 24-hour day;
 - vii. Participate in a drug/alcohol rehabilitation plan or court-ordered community service plan; or
 - viii. Participate in a homeless or domestic violence case plan while residing in a shelter; and,
 - b. Sign and date the "Self-Sufficiency Statement" and declare that the parents or caretakers have taken at least one of the following actions during the most recent six or 12-month period to promote self-sufficiency:
 - i. Received a job promotion, or an increase in wages, hours, or benefits;
 - ii. Remained consistently employed;
 - iii. Remained self-employed and consistently demonstrated a net profit;
 - iv. Applied for a better job;
 - v. Left one job for a better job (higher pay, more hours, better schedule, or better benefits);
 - vi. Registered with DES Employment Services (e.g., One Stop Career Center or DES Job Service) or another public or private employment agency, or job searched independently;
 - vii. Not requested Cash Assistance;
 - viii. Engaged in activities to pursue or maintain child support payments from an absent parent through DES Child Support Enforcement, the county attorney's office, or a private attorney;
 - ix. Attended work-related school or training, or pursued a degree or certificate that will lead to enhanced career opportunities;
 - x. Attended high school, remedial education for the attainment of a high school diploma or G.E.D. classes;
 - xi. Attended English for Speakers of Other Languages (E.S.O.L.) classes;
 - xii. Attended a trade or vocational school, college or university and made satisfactory progress in the activity;
 - xiii. Continued with a course of treatment under the direction of a physician, psychiatrist, or psychologist;
 - xiv. Followed a shelter case plan while residing in a domestic violence/homeless shelter;
 - xv. Participated in or completed a drug/alcohol rehabilitation or court-ordered community service program;
 - xvi. Participated in other employment-related activities or career-related training activities; or
 - xvii. Any other similar action acceptable to the Department that demonstrates that the parents or caretakers are moving toward self-sufficiency.
 2. If the parents or caretakers do not meet the conditions specified at subsections (1)(a) and (b), the family does not qualify for an extension of the time limit.
 3. If the parents or caretakers meet the conditions specified at subsections (1)(a) and (b), and all other eligibility criteria are met, the family shall qualify for additional six or 12-calendar month extension periods if the parents or caretakers continue to meet the criteria at the end of each extension period.
- G. Extension of the Time Limit after Case Closure.** When a parent or caretaker applies for Child Care Assistance after the time limit for the child in care has been exhausted, the parent or caretaker of the child may qualify for an extension as follows:
1. The parent or caretaker shall be an eligible applicant under R6-5-4911(B), and shall meet the criteria for Child Care Assistance eligibility;
 2. All parents or caretakers shall meet the self-sufficiency criteria prescribed at R6-5-4919(F); and
 3. The parent or caretaker may qualify for successive extensions of the time limit under subsection (F).

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp.

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97-3). Former R6-5-4919 renumbered to R6-5-4921; new R6-5-4919 made by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4920. Denial or Termination of Child Care Assistance

The Department shall deny or terminate Child Care Assistance and provide written notification as prescribed in R6-5-4921 when the client:

1. Is not an eligible applicant as prescribed in R6-5-4911(B);
2. Is not a U.S. citizen or legal resident of the U.S.;
3. Is not a resident of the state of Arizona;
4. Has no children under the age of 13;
5. Has income that exceeds the maximum allowable as prescribed in R6-5-4914(C);
6. Does not have an eligible need, and is not engaged in an eligible activity as prescribed in R6-5-4912;
7. Is available to care for the children for whom assistance is requested (or there is another parent or responsible person in the household who is not engaged in an eligible activity and is available to provide care);
8. Has not provided the information or documentation required for a determination or redetermination of eligibility;
9. Has failed to cooperate in the arrangement of child care services;
10. Has not selected a child care provider who is registered with the Department;
11. Has requested that the application be withdrawn or that assistance be terminated;
12. Is a member of a family that already has an active case or pending application on file for Child Care Assistance;
13. Cannot be located by phone or mail and mail addressed to last known address has been returned;
14. Is deceased, incarcerated, or confined to an institution; or
15. Does not satisfy one or more eligibility criteria listed in R6-5-4904 through R6-5-4916;
16. Has exhausted the 60-month lifetime limit for all children in the eligible family under R6-5-4919(D) and does not qualify for an extension.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Former R6-5-4920 renumbered to R6-5-4923; new R6-5-4920 renumbered from R6-5-4918 and amended by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for

review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4921. Notification Requirements

- A. The Department shall mail or deliver written notice to the client as follows:
 1. On a decision about an application, within 30 calendar days of the date that the Department receives the completed application.
 2. On a positive action, the Department shall mail adequate notice on or before the date the action will become effective.
 3. On a change in the amount of authorized units based on a change in need, the Department shall mail adequate notice on or before the date the action will become effective.
 4. On a negative action, the Department shall mail the notice at least 10 calendar days in advance of the date the action will become effective.
 5. On changes in law or policy which affect entire classes or groups and concern issues not related to individual questions of fact, the Department shall issue notice of such action at least 10 calendar days in advance of the effective date of the action.
- B. The Department shall not provide notice on a negative action when:
 1. Child Care Assistance authorized for a specified period of time is terminated and the individual was informed in writing of the termination date when the Child Care Assistance was initiated;
 2. The applicant, client, or child is deceased; and
 3. There is a loss of contact with the client and mail addressed to the last known address has been returned.
- C. Written notice shall include a statement of the action to be taken, the reasons for the intended action, citation to the specific rule supporting the action, and an explanation of the client's rights regarding a request for a fair hearing.

Historical Note

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Former R6-5-4921 renumbered to R6-5-4924; new R6-5-4921 renumbered from R6-5-4919 by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Ch. 300, § 74(A). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Section.

R6-5-4922. Repealed**Historical Note**

Adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Section repealed by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005(A)(27). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and

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approval; and the Department was not required to hold public hearings on this Section.

R6-5-4923. Overpayments

- A. Overpayments; Date of Discovery.**
1. The Department shall pursue collection of all client- and provider-caused overpayments.
 2. The Department discovers an overpayment on the date the Department determines that an overpayment exists.
 3. The Department shall write an overpayment report within 90 days of the discovery date.
 4. If the CCA office suspects that an overpayment was caused by fraudulent activity, it shall refer the overpayment report to the Department's Office of Special Investigations for potential prosecution.
 5. The Department shall not attempt to recover an overpayment from a person who is not a current recipient when the overpayment was not the result of fraud, and the Department has exhausted reasonable efforts to collect the overpayment and has determined that it is no longer cost effective to pursue the claim.
- B. Overpayments: Persons Liable.** The Department shall pursue collection of an overpayment from:
1. The client if the overpayment was caused by the client;
 2. Any individual member of the family who was included in family size as prescribed in R6-5-4914 (D) during the overpayment period if the overpayment was caused by the client; or
 3. The child care provider if the overpayment was caused by the provider.

Historical Note

Adopted effective July 1, 1998, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed in the Secretary of State's Office June 30, 1998 (Supp. 98-2). Former R6-5-4923 renumbered to R6-5-4925; new R6-5-4923 renumbered from R6-5-4920 by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

R6-5-4924. Appeals

- A. Entitlement to a Hearing.**
1. An applicant for or recipient of Child Care Assistance is entitled to a hearing to contest the following Department actions:
 - a. Denial of the right to apply for assistance;
 - b. Complete or partial denial of an application for assistance;
 - c. Failure to make an eligibility determination on an application within 30 days of the application file date;
 - d. Suspension, termination, reduction, or withholding of assistance except as provided in subsection (B);
 - e. Increase in the fee level and DES-required copayment amount; or
 - f. The existence or amount of an overpayment attributed to the family or the terms of a plan to repay the overpayment.
 2. Applicants and recipients are not entitled to a hearing to challenge benefit adjustments made automatically as a result of changes in federal or state law, unless the Department has incorrectly applied such law to the individual seeking the hearing.
- B. Request for Hearing; Time Limits.**
1. A person who wishes to appeal a negative action shall file a written request for a fair hearing with a local CCA office, within 10 days of the negative action notice date.
 2. A request for a hearing is deemed filed;
 - a. On the date it is mailed, if transmitted via the United States Postal Service or its successor. The mailing date is as follows:
 - i. As shown by the postmark;
 - ii. As shown by the postage meter mark of the envelope in which it is received, if there is no postmark; or
 - iii. The date entered on the document as the date of its completion, if there is no postmark or no postage meter mark, or if the mark is illegible.
 - b. On the date actually received by the Department, if not sent through the mail as provided in subsection (B)(2)(a).
- C. Hearing Requests; Preparation and Processing.**
1. Within two work days of receiving a request for appeal, the local CCA office shall notify the Office of Appeals of the hearing request.
 2. Within 10 days of receiving a request for appeal, the local CCA office shall prepare and forward to the Office of Appeals a prehearing summary which shall include:
 - a. The appellant's name (and case name, if different);
 - b. The appellant's SSN (or case number, if different);
 - c. The local office responsible for the appellant's case;
 - d. A brief summary of the facts surrounding, and the grounds supporting, the negative action;
 - e. Citations to the specific provisions of this Article or the Department's CCA manual which support the Department's action; and
 - f. The decision notice and any other documents relating to the appeal.
 3. The local office shall mail the appellant a copy of the summary. Upon receipt of a hearing request, the Office of Appeals shall schedule the hearings.
- D. Continuation of Assistance Pending Appeal; Exceptions.**
1. If an appellant files a request for appeal within 10 calendar days of the negative action notice date, the Department shall continue assistance at the current level unless:
 - a. The appellant waives continuation of current assistance,
 - b. The appeal results from a change in federal or state law which mandates an automatic adjustment for all classes of recipients and does not involve a misapplication of the law, or
 - c. The appellant is requesting continuation of TCC benefits for longer than the 24-month eligibility period.
 2. The negative action shall be stayed until receipt of an official written decision in favor of the Department, except in the following circumstances:
 - a. At the hearing and on the record, the hearing officer finds that the sole issue involves application of law, and the Department properly applied the law and computed the assistance due the appellant;

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- b. A change in eligibility or assistance amount occurs for reasons other than those being appealed, and the eligible family receives and fails to timely appeal a notice of negative action concerning such change;
- c. Federal or state law mandates an automatic adjustment for classes of recipients;
- d. The appellant withdraws the request for hearing; or
- e. The appellant fails to appear for a scheduled hearing without prior notice to the Office of Appeals, and the hearing officer does not rule in favor of the appellant based upon the record.
3. Upon receipt of a decision in favor of the Department, the Department shall write an overpayment for the amount of any assistance the family received in excess of the correct amount, while the stay was in effect.

Historical Note

Section R6-5-4924 renumbered from R6-5-4921 by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

R6-5-4925. Maximum Reimbursement Rates For Child Care

The Department shall pay the maximum reimbursement rates for child care as set forth in Appendix B.

Historical Note

Section R6-5-4925 renumbered from R6-5-4923 by exempt rulemaking at 13 A.A.R. 92, effective December 31, 2006 (Supp. 06-4).

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Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule

ARIZONA DEPARTMENT OF ECONOMIC SECURITY
CHILD CARE ASSISTANCE GROSS MONTHLY INCOME ELIGIBILITY CHART AND FEE SCHEDULE
Effective October 1, 2015

FAMILY SIZE	FEE LEVEL 1 (L1) INCOME MAXIMUM EQUAL TO OR LESS THAN 85% FPL*	FEE LEVEL 2 (L2) INCOME MAXIMUM EQUAL TO OR LESS THAN 100% FPL*	FEE LEVEL 3 (L3) INCOME MAXIMUM EQUAL TO OR LESS THAN 135% FPL*	FEE LEVEL 4 (L4) INCOME MAXIMUM EQUAL TO OR LESS THAN 145% FPL*	FEE LEVEL 5 (L5) INCOME MAXIMUM EQUAL TO OR LESS THAN 155% FPL*	FEE LEVEL 6 (L6) INCOME MAXIMUM EQUAL TO OR LESS THAN 165% FPL*
1	0 – 834	835 – 981	982 – 1,325	1,326 – 1,423	1,424 – 1,521	1,522 – 1,619
2	0 – 1,129	1,130 – 1,328	1,329 – 1,793	1,794 – 1,926	1,927 – 2,059	2,060 – 2,192
3	0 – 1,424	1,425 – 1,675	1,676 – 2,262	2,263 – 2,429	2,430 – 2,597	2,598 – 2,764
4	0 – 1,718	1,719 – 2,021	2,022 – 2,729	2,730 – 2,931	2,932 – 3,133	3,134 – 3,335
5	0 – 2,013	2,014 – 2,368	2,369 – 3,197	3,198 – 3,434	3,435 – 3,671	3,672 – 3,908
6	0 – 2,308	2,309 – 2,715	2,716 – 3,666	3,667 – 3,937	3,938 – 4,209	4,210 – 4,480
7	0 – 2,602	2,603 – 3,061	3,062 – 4,133	4,134 – 4,439	4,440 – 4,745	4,746 – 5,051
8	0 – 2,897	2,898 – 3,408	3,409 – 4,601	4,602 – 4,942	4,943 – 5,283	5,284 – 5,624
9	0 – 3,192	3,193 – 3,755	3,756 – 5,070	5,071 – 5,445	5,446 – 5,821	5,822 – 6,196
10	0 – 3,486	3,487 – 4,101	4,102 – 5,537	5,538 – 5,947	5,948 – 6,357	6,358 – 6,645**
11	0 – 3,781	3,782 – 4,448	4,449 – 6,005	6,006 – 6,450	6,451 – 6,783**	
12	0 – 4,076	4,077 – 4,795	4,796 – 6,474	6,475 – 6,922**		

MINIMUM REQUIRED COPAYMENTS

Per child in care	full day = \$1.00 part day = \$.50	full day = \$2.00 part day = \$1.00	full day = \$3.00 part day = \$1.50	full day = \$5.00 part day = \$2.50	full day = \$7.00 part day = \$3.50	full day = \$10.00 part day = \$5.00
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For families receiving Transitional Child Care (TCC) there is no co-pay assigned beyond the third child in the family

Full day = Six or more hours; Part day = Less than six hours.

Families receiving Child Care Assistance based on Department of Child Safety Foster Care, the Jobs Program or those who are receiving Cash Assistance (CA) and are employed, do not have an assigned fee level or a minimum required copayment. However, all families may be responsible for charges above the minimum required copayments if a provider’s rates exceed allowable state reimbursement maximums or the provider has other additional charges.

*Federal Poverty Level (FPL) = US Department of Health and Human Services 2015 poverty guidelines. The Arizona state statutory limit for child care assistance is 165 percent of the Federal Poverty Level.

**The Federal Child Care & Development Fund (CCDF) statutory limit for child care assistance is 85 percent of the Low Income Home Energy Assistance Program State Median Income (SMI) Estimates for Federal Fiscal Year (FFY) 2016, October 1, 2015 through September 30, 2016. 80 FR, Page 32958-32959, June 10, 2015.

Historical Note

Appendix A adopted effective July 31, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 97-3). Appendix A repealed; new Appendix A adopted effective July 1, 1998, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed with the Office of the Secretary of State June 30, 1998 (Supp. 98-2). Appendix A repealed; new Appendix A adopted by exempt rulemaking at 5 A.A.R. 2379, effective July 1, 1999 (Supp. 99-3). Amended by exempt rulemaking at 6 A.A.R. 2726, effective July 1, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 3111, effective July 1, 2001 (Supp. 01-2). Amended by exempt rulemaking at 8 A.A.R. 2952, effective July 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9 A.A.R. 3207, effective July 1, 2003 (Supp. 03-3). Amended by exempt rulemaking at 10 A.A.R. 2938, effective July 1, 2004 (Supp. 04-3). Appendix A repealed; new Appendix A made by exempt rulemaking at 11 A.A.R. 2731, effective July 1, 2005 (Supp. 05-2). Appendix A repealed; new Appendix A made by exempt rulemaking at 11 A.A.R. 4137, effective October 1, 2005 (Supp. 05-3). Appendix A repealed; new Appendix A made by exempt rulemaking at 12 A.A.R. 2700, effective July 1, 2006 (Supp. 06-3). Appendix A amended by exempt rulemaking at 13 A.A.R. 2583, effective July 1, 2007 (Supp. 07-2). Appendix A amended by exempt rulemaking at 14 A.A.R. 2859, effective July 1, 2008 (Supp. 08-2). Appendix A amended by exempt rulemaking at 15 A.A.R. 702, effective April 1, 2009 (Supp. 09-1). Appendix A repealed; new Appendix A made by exempt rulemaking at 15 A.A.R. 1222, effective July 1, 2009 (Supp. 09-2). Appendix A repealed; new Appendix A made by exempt rulemaking at 17 A.A.R. 1334, effective July 1, 2011 (Supp. 11-2). Appendix A repealed; new Appendix A made by exempt rulemaking at 18 A.A.R. 2070, effective July 1, 2012 (Supp. 12-3). Appendix A repealed; new Appendix A made by exempt rulemaking at 19 A.A.R. 1988, effective July 1, 2013 (Supp. 13-3). Appendix A repealed; new Appendix A made by exempt rulemaking at 22

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY - SOCIAL SERVICES

A.A.R. 1603, effective October 1, 2014, with an automatic repeal date of September 30, 2015; filed June 3, 2016, therefore these exempt rules were in effect prior to the release of Supp. 16-1 (Supp. 16-1). Appendix A repealed; new Appendix A made by exempt rulemaking at 22 A.A.R. 1607, effective October 1, 2015; filed June 3, 2016, therefore these exempt rules were in effect prior to the release of Supp. 16-2 (Supp. 16-2).

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Editor's Note: The following Appendix was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005(A)(27). Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit this Appendix to the Governor's Regulatory Review Council for review and approval; and the Department was not required to hold public hearings on this Appendix.

Appendix B. Maximum Reimbursement Rates for Child Care

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY
DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES
CHILD CARE ADMINISTRATION
MAXIMUM REIMBURSEMENT RATES FOR CHILD CARECENTERS
(effective for services provided on or after 7/1/2007)**

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	31.71	28.35	23.52	22.05	31.50	33.60
Part day	23.52	20.79	19.32	19.95	26.25	26.25
1 yr < 3 yrs:						
Full day	27.93	26.25	21.84	19.95	29.40	21.84
Part day	21.00	19.07	18.90	18.90	15.75	18.48
3 yrs < 6 yrs:						
Full day	24.99	23.19	21.00	18.90	21.00	19.95
Part day	17.85	16.80	15.75	16.80	13.02	13.65
6 yrs < 13 yrs:						
Full day	24.57	23.10	17.85	17.85	20.10	19.95
Part day	16.80	15.75	14.70	15.75	14.00	13.65

GROUP HOMES

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	25.20	23.10	24.15	21.00	19.95	22.26
Part day	16.80	16.80	24.15	14.70	13.13	18.90
1 yr < 3 yrs:						
Full day	23.10	23.10	23.10	18.90	19.95	22.31
Part day	15.75	16.80	15.75	12.60	12.60	17.85
3 yrs < 6 yrs:						
Full day	21.00	21.00	23.10	18.90	19.95	19.43
Part day	15.75	16.80	14.65	12.60	12.60	16.80
6 yrs < 13 yrs:						
Full day	18.90	21.00	17.85	18.90	19.95	19.42
Part day	14.70	16.60	14.65	12.60	12.60	17.85

CERTIFIED FAMILY HOMES AND CERTIFIED IN-HOME PROVIDERS

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	21.00	19.95	18.90	18.90	21.00	18.90
Part day	14.70	12.60	10.50	11.03	12.60	10.50
1 yr < 3 yrs:						
Full day	21.00	18.90	17.85	17.85	20.10	17.85
Part day	13.65	12.60	10.50	11.03	11.55	10.50
3 yrs < 6 yrs:						
Full day	18.90	18.90	16.80	17.85	18.90	16.80
Part day	12.60	12.60	10.50	11.03	10.50	10.50
6 yrs < 13 yrs:						
Full day	17.85	18.90	16.80	16.80	18.90	16.80
Part day	12.60	11.55	10.50	10.50	10.50	10.50

The actual reimbursement amount is equal to the reimbursement rate minus any DES designated co-payment. However, in no event shall the amount reimbursed exceed the lesser of the provider's actual charges or the maximum reimbursement rate minus any DES designated co-payment.

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY - SOCIAL SERVICES

Payment Rates for Non-Certified Relative Providers (NCRPs) will be \$11.03 for Full day and \$6.30 for Part day, minus any DES designated co-payment. This rate will be paid to NCRPs statewide for care provided to children of all ages.

The maximum reimbursement rates may be increased by up to ten percent for child care providers who are nationally accredited.

Full day = six or more hours per day. Part day = less than six hours per day.

Historical Note

Appendix B adopted effective July 1, 1998, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed with the Office of the Secretary of State June 30, 1998 (Supp. 98-2). Appendix B repealed; new Appendix B adopted by exempt rulemaking at 5 A.A.R. 2379, effective July 1, 1999 (Supp. 99-3). "Non-Certified Relative Providers" section amended by exempt rulemaking at 6 A.A.R. 2726, effective July 1, 2000 (Supp. 00-2). "Centers," "Group Homes," and "Certified Family Homes and Certified In-home Providers" sections amended by exempt rulemaking at 7 A.A.R. 4884, effective October 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 9 A.A.R. 3207, effective July 1, 2003 (Supp. 03-3). Appendix B amended by exempt rulemaking at 13 A.A.R. 2443, effective July 1, 2006 (Supp. 07-1). Appendix B amended by exempt rulemaking at 13 A.A.R. 2586, effective July 1, 2007 (Supp. 07-2).

ARTICLE 50. CHILD CARE RESOURCE AND REFERRAL SYSTEM**R6-5-5001. Definitions**

The following definitions apply in this Article.

1. "ADE" means the Arizona Department of Education, which administers the CACFP at the state level.
2. "Alternate approval" means a status the ADE confers on an uncertified, unlicensed provider that demonstrates compliance with CACFP child care standards to the ADE.
3. "Caregiver state licensing ratio requirements" means Arizona Department of Health Services (DHS) regulations that mandate DHS oversight of child care facilities with five or more children in care for compensation where child care is provided for periods of less than 24 hours per day.
4. "Child care" means a compensated service that is provided to a child unaccompanied by a parent or guardian during a portion of a 24-hour day. The service includes supervised and planned care, training, recreation, and socialization.
5. "CACFP" means the Child and Adult Care Food Program, funded and administered at the federal level by the Food and Consumer Services, a program of the U.S. Department of Agriculture.
6. "CCR&R" means child care resource and referral, a service the Department administers under A.R.S. § 41-1967.
7. "Center" means the same as "child care facility" in A.R.S. § 36-881(3).
8. "Certified" or "licensed" means a provider holds a license as prescribed in A.R.S. § 36-882, or is certified under A.R.S. § 46-807 or A.R.S. § 36-897.
9. "Child with special needs" means a child who needs increased supervision, modified equipment, modified activities, or a modified facility, within a child care setting, due to any physical, mental, sensory, or emotional delay, or medical condition, and includes a child with a disability.
10. "Compensation" means something given or received in return for child care, such as money, goods, or services.
11. "Contractor" means an agency with which the Department contracts for provision of CCR&R services.
12. "Customer" means a person who is requesting information from a CCR&R contractor.
13. "Database" means a computerized collection of CCR&R facts, figures, and information for licensed, certified, and registered providers and customers arranged for ease and speed of retrieval.
14. "Department" or DES means the Arizona Department of Economic Security.
15. "Dropped for cause" means an ADE Sponsoring Organization has terminated a family child care provider from participation in the CACFP.
16. "Exclude" means to refuse to include a particular provider in or to remove a provider from the CCR&R database.
17. "Family child care" means child care provided by a certified or registered provider in the provider's own home.
18. "In-home child care" means child care provided in a child's own home.
19. "Information only listing" means a provider listed on the CCR&R who will receive training information and other information about child care issues and activities, but who will not receive any referrals.
20. "Listing status" means the condition under which a provider may receive a referral (referral listing) or is restricted from receiving a referral (information only listing).
21. "Over-Ratio Referral Form" means a communication tool used to relay to the Department of Health Services (DHS) information concerning a potential violation of caregiver state licensing ratio requirements.
22. "Personally identifiable information" means any information about a person other than a provider, that, when considered alone, or in combination with other information, identifies or permits another person to readily identify the person who is the subject of the information. Personally identifiable information includes:
 - a. Name, address, and telephone number;
 - b. Date of birth or age;
 - c. Physical description;
 - d. School;
 - e. Place of employment; and
 - f. Any unique identifying number, such as driver's license number, a social security number, or regulatory license number.
23. "Program Administrator" means the person who oversees the Child Care Administration, a unit of the Department.
24. "Provider" means an adult who, or a facility that, provides child care services.
25. "Provider type" means a category of provider or program such as a center, family child care, and in-home child care.
26. "Referral" means the information listed in R6-5-5005(C), (D), and (E), that a Contractor gives to a customer.
27. "Referral listing" means that a contractor may refer a provider listed on the CCR&R registry or database to customers, and the provider may receive training and other information about child care issues and activities.
28. "Registered provider" means a family child care provider who is an adult and is not licensed or certified by any

41-1003. Required rule making

Each agency shall make rules of practice setting forth the nature and requirements of all formal procedures available to the public.

41-1954. Powers and duties

A. In addition to the powers and duties of the agencies listed in section 41-1953, subsection E, the department shall:

1. Administer the following services:

(a) Employment services, including manpower programs and work training, field operations, technical services, unemployment compensation, community work and training and other related functions in furtherance of programs under the social security act, as amended, the Wagner-Peyser act, as amended, the federal unemployment tax act, as amended, 33 United States Code, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(b) Individual and family services, which shall include a section on aging, services to children, youth and adults and other related functions in furtherance of social service programs under the social security act, as amended, title IV, except parts B and E, grants to states for aid and services to needy families with children and for child welfare services, title XX, grants to states for services, the older Americans act, as amended, the family support act of 1988 (P.L. 100-485) and other related federal acts and titles.

(c) Income maintenance services, including categorical assistance programs, special services unit, child support collection services, establishment of paternity services, maintenance and operation of a state case registry of child support orders, a state directory of new hires, a support payment clearinghouse and other related functions in furtherance of programs under the social security act, title IV, grants to states for aid and services to needy families with children and for child welfare services, title XX, grants to states for services, as amended, and other related federal acts and titles.

(d) Rehabilitation services, including vocational rehabilitation services and sections for the blind and visually impaired, communication disorders, correctional rehabilitation and other related functions in furtherance of programs under the vocational rehabilitation act, as amended, the Randolph-Sheppard act, as amended, and other related federal acts and titles.

(e) Administrative services, including the coordination of program evaluation and research, interagency program coordination and in-service training, planning, grants, development and management, information, legislative liaison, budget, licensing and other related functions.

(f) Manpower planning, including a state manpower planning council for the purposes of the federal-state-local cooperative manpower planning system and other related functions in furtherance of programs under the comprehensive employment and training act of 1973, as amended, and other related federal acts and titles.

(g) Economic opportunity services, including the furtherance of programs prescribed under the economic opportunity act of 1967, as amended, and other related federal acts and titles.

(h) Intellectual disability and other developmental disability programs, with emphasis on referral and purchase of services. The program shall include educational, rehabilitation, treatment and training services and other related functions in furtherance of programs under the developmental disabilities services and facilities construction act (P.L. 91-517) and other related federal acts and titles.

(i) Nonmedical home and community based services and functions, including department-designated case management, housekeeping services, chore services, home health aid, personal care, visiting nurse services, adult day care or adult day health, respite sitter care, attendant care, home delivered meals and other related services and functions.

2. Provide a coordinated system of initial intake, screening, evaluation and referral of persons served by the department.

3. Adopt rules it deems necessary or desirable to further the objectives and programs of the department.
4. Formulate policies, plans and programs to effectuate the missions and purposes of the department.
5. Employ and determine the conditions of employment and prescribe the duties and powers of administrative, professional, technical, secretarial, clerical and other persons subject to chapter 4, article 4 and, as applicable, article 5 of this title as may be necessary in the performance of its duties, contract for the services of outside advisors, consultants and aides as may be reasonably necessary and reimburse department volunteers, designated by the director, for expenses in transporting clients of the department on official business.
6. Make contracts and incur obligations within the general scope of its activities and operations subject to the availability of funds.
7. Contract with or assist other departments, agencies and institutions of the state, local and federal governments in the furtherance of its purposes, objectives and programs.
8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.
9. Accept and disburse grants, matching funds and direct payments from public or private agencies for the conduct of programs that are consistent with the overall purposes and objectives of the department.
10. 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 its duties subject to the departmental rules on the confidentiality of information.
11. Establish and maintain separate financial accounts as required by federal law or regulations.
12. Advise and make recommendations to the governor and the legislature on all matters concerning its objectives.
13. Have an official seal that is judicially noticed.
14. Annually estimate the current year's population of each county, city and town in this state, using the periodic census conducted by the United States department of commerce, or its successor agency, as the basis for such estimates and deliver such estimates to the economic estimates commission before December 15.
15. Estimate the population of any newly annexed areas of a political subdivision as of July 1 of the fiscal year in which the annexation occurs and deliver such estimates as promptly as is feasible after the annexation occurs to the economic estimates commission.
16. Establish and maintain a statewide program of services for persons who are both hearing impaired and visually impaired and coordinate appropriate services with other agencies and organizations to avoid duplication of these services and to increase efficiency. The department of economic security shall enter into agreements for the utilization of the personnel and facilities of the department of economic security, the department of health services and other appropriate agencies and organizations in providing these services.
17. Establish and charge fees for deposit in the department of economic security prelayoff assistance services fund to employers who voluntarily participate in the services of the department that provide job service and retraining for persons who have been or are about to be laid off from employment. The department shall charge only those fees necessary to cover the costs of administering the job service and retraining services.
18. Establish a focal point for addressing the issue of hunger in this state and provide coordination and assistance to public and private nonprofit organizations that aid hungry persons and families throughout this state. Specifically such activities shall include:

- (a) Collecting and disseminating information regarding the location and availability of surplus food for distribution to needy persons, the availability of surplus food for donation to charity food bank organizations, and the needs of charity food bank organizations for surplus food.
- (b) Coordinating the activities of federal, state, local and private nonprofit organizations that provide food assistance to the hungry.
- (c) Accepting and disbursing federal monies, and any state monies appropriated by the legislature, to private nonprofit organizations in support of the collection, receipt, handling, storage and distribution of donated or surplus food items.
- (d) Providing technical assistance to private nonprofit organizations that provide or intend to provide services to the hungry.
- (e) Developing a state plan on hunger that, at a minimum, identifies the magnitude of the hunger problem in this state, the characteristics of the population in need, the availability and location of charity food banks and the potential sources of surplus food, assesses the effectiveness of the donated food collection and distribution network and other efforts to alleviate the hunger problem, and recommends goals and strategies to improve the status of the hungry. The state plan on hunger shall be incorporated into the department's state comprehensive plan prepared pursuant to section 41-1956.
- (f) Establishing a special purpose advisory council on hunger pursuant to section 41-1981.

19. Establish an office to address the issue of homelessness and to provide coordination and assistance to public and private nonprofit organizations that prevent homelessness or aid homeless individuals and families throughout this state. These activities shall include:

- (a) Promoting and participating in planning for the prevention of homelessness and the development of services to homeless persons.
- (b) Identifying and developing strategies for resolving barriers in state agency service delivery systems that inhibit the provision and coordination of appropriate services to homeless persons and persons in danger of being homeless.
- (c) Assisting in the coordination of the activities of federal, state and local governments and the private sector that prevent homelessness or provide assistance to homeless people.
- (d) Assisting in obtaining and increasing funding from all appropriate sources to prevent homelessness or assist in alleviating homelessness.
- (e) Serving as a clearinghouse on information regarding funding and services available to assist homeless persons and persons in danger of being homeless.
- (f) Developing an annual state comprehensive homeless assistance plan to prevent and alleviate homelessness.
- (g) Submitting an annual report to the governor, the president of the senate and the speaker of the house of representatives on the status of homelessness and efforts to prevent and alleviate homelessness. The department shall provide a copy of this report to the secretary of state.

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. Exchange information, including case specific information, and cooperate with the department of child safety for the administration of the department of child safety's programs.

B. If the department of economic security has responsibility for the care, custody or control of a child or is paying the cost of care for a child, it may serve as representative payee to receive and administer social security and United States department of veterans affairs benefits and other benefits payable to such child.

Notwithstanding any law to the contrary, the department of economic security:

1. Shall deposit, pursuant to sections 35-146 and 35-147, such monies as it receives to be retained separate and apart from the state general fund on the books of the department of administration.

2. May use such monies to defray the cost of care and services expended by the department of economic security for the benefit, welfare and best interests of the child and invest any of the monies that the director determines are not necessary for immediate use.

3. Shall maintain separate records to account for the receipt, investment and disposition of funds received for each child.

4. On termination of the department of economic security's responsibility for the child, shall release any funds remaining to the child's credit in accordance with the requirements of the funding source or in the absence of such requirements shall release the remaining funds to:

(a) The child, if the child is at least eighteen years of age or is emancipated.

(b) The person responsible for the child if the child is a minor and not emancipated.

C. Subsection B of this section does not pertain to benefits payable to or for the benefit of a child receiving services under title 36.

D. Volunteers reimbursed for expenses pursuant to subsection A, paragraph 5 of this section are not eligible for workers' compensation under title 23, chapter 6.

E. In implementing the temporary assistance for needy families program pursuant to Public Law 104-193, the department shall provide for cash assistance to two-parent families if both parents are able to work only on documented participation by both parents in work activities described in title 46, chapter 2, article 5, except that payments may be made to families who do not meet the participation requirements if:

1. It is determined on an individual case basis that they have emergency needs.

2. The family is determined to be eligible for diversion from long-term cash assistance pursuant to title 46, chapter 2, article 5.

F. The department shall provide for cash assistance under temporary assistance for needy families pursuant to Public Law 104-193 to two-parent families for no longer than six months if both parents are able to work, except that additional assistance may be provided on an individual case basis to families with extraordinary circumstances. The department shall establish by rule the criteria to be used to determine eligibility for additional cash assistance.

G. The department shall adopt the following discount medical payment system for persons who the department determines are eligible and who are receiving rehabilitation services pursuant to subsection A, paragraph 1, subdivision (d) of this section:

1. For inpatient hospital admissions and outpatient hospital services the department shall reimburse a hospital according to the rates established by the Arizona health care cost containment system administration pursuant to section 36-2903.01, subsection G.

2. The department's liability for a hospital claim under this subsection is subject to availability of funds.
3. A hospital bill is considered received for purposes of paragraph 5 of this subsection on initial receipt of the legible, error-free claim form by the department if the claim includes the following error-free documentation in legible form:
 - (a) An admission face sheet.
 - (b) An itemized statement.
 - (c) An admission history and physical.
 - (d) A discharge summary or an interim summary if the claim is split.
 - (e) An emergency record, if admission was through the emergency room.
 - (f) Operative reports, if applicable.
 - (g) A labor and delivery room report, if applicable.
4. The department shall require that the hospital pursue other third-party payors before submitting a claim to the department. Payment received by a hospital from the department pursuant to this subsection is considered payment by the department of the department's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third-party payors or in situations covered by title 33, chapter 7, article 3.
5. For inpatient hospital admissions and outpatient hospital services rendered on and after October 1, 1997, if the department receives the claim directly from the hospital, the department shall pay a hospital's rate established according to this section subject to the following:
 - (a) If the hospital's bill is paid within thirty days of the date the bill was received, the department shall pay ninety-nine percent of the rate.
 - (b) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the department shall pay one hundred percent of the rate.
 - (c) If the hospital's bill is paid any time after sixty days of the date the bill was received, the department shall pay one hundred percent of the rate plus a fee of one percent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.
6. For medical services other than those for which a rate has been established pursuant to section 36-2903.01, subsection G, the department shall pay according to the Arizona health care cost containment system capped fee-for-service schedule adopted pursuant to section 36-2904, subsection K or any other established fee schedule the department determines reasonable.
- H. The department shall not pay claims for services pursuant to this section that are submitted more than nine months after the date of service for which the payment is claimed.
- I. To assist in the location of persons or assets for the purpose of establishing paternity, establishing, modifying or enforcing child support obligations and other related functions, the department has access, including automated access if the records are maintained in an automated database, to records of state and local government agencies, including:
 1. Vital statistics, including records of marriage, birth and divorce.
 2. State and local tax and revenue records, including information on residence address, employer, income and assets.

3. Records concerning real and titled personal property.
4. Records of occupational and professional licenses.
5. Records concerning the ownership and control of corporations, partnerships and other business entities.
6. Employment security records.
7. Records of agencies administering public assistance programs.
8. Records of the motor vehicle division of the department of transportation.
9. Records of the state department of corrections.
10. Any system used by a state agency to locate a person for motor vehicle or law enforcement purposes, including access to information contained in the Arizona criminal justice information system.

J. Notwithstanding subsection I of this section, the department or its agents shall not seek or obtain information on the assets of an individual unless paternity is presumed pursuant to section 25-814 or established.

K. Access to records of the department of revenue pursuant to subsection I of this section shall be provided in accordance with section 42-2003.

L. The department also has access to certain records held by private entities with respect to child support obligors or obligees, or individuals against whom such an obligation is sought. The information shall be obtained as follows:

1. In response to a child support subpoena issued by the department pursuant to section 25-520, the names and addresses of these persons and the names and addresses of the employers of these persons, as appearing in customer records of public utilities, cable operators and video service providers.
2. Information on these persons held by financial institutions.

M. Pursuant to department rules, the department may compromise or settle any support debt owed to the department if the director or an authorized agent determines that it is in the best interest of this state and after considering each of the following factors:

1. The obligor's financial resources.
2. The cost of further enforcement action.
3. The likelihood of recovering the full amount of the debt.

N. Notwithstanding any law to the contrary, a state or local governmental agency or private entity is not subject to civil liability for the disclosure of information made in good faith to the department pursuant to this section.

46-802. Child care services

The department shall establish and administer child care services. Child care services include:

1. Child care assistance to eligible families.
2. Certification of child care home and in-home providers who are not required to be licensed pursuant to title 36, chapter 7.1 for the purposes of caring for children eligible for child care assistance.
3. Establishment of rights and duties of providers and the department for the provision of child care assistance and services.
4. Consumer education to families and the public, including activities that help families make informed decisions about child care options.
5. Activities that improve the quality and availability of child care.
6. Consultation, technical assistance, training and resources to improve the provision and expand the access to child care services.

46-803. Eligibility for child care assistance

(Caution: 1998 Prop. 105 applies)

A. The department shall provide child care assistance to eligible families who are attempting to achieve independence from the cash assistance program and who need child care assistance in support of and as specified in their personal responsibility agreement pursuant to chapters 1 and 2 of this title.

B. The department shall provide child care assistance to eligible families who are transitioning off cash assistance due to increased earnings or child support income in order to accept or maintain employment. Eligible families must request this assistance within six months after the cash assistance case closure. Child care assistance may be provided for up to twenty-four months after the case closure and shall cease after a time period specified in rule by the department once the family income exceeds one hundred sixty-five percent of the federal poverty level but remains below eighty-five percent of the state median income. If the family income exceeds eighty-five percent of the state median income, child care assistance shall cease on notification by the department.

C. The department shall provide child care assistance to eligible families who are diverted from cash assistance pursuant to section 46-298 in order to obtain or maintain employment. Child care assistance may be provided for up to twenty-four months after the case closure and shall cease after a time period specified in rule by the department once the family income exceeds one hundred sixty-five percent of the federal poverty level but remains below eighty-five percent of the state median income. If the family income exceeds eighty-five percent of the state median income, child care assistance shall cease on notification by the department.

D. The department may provide child care assistance to support eligible families with incomes of one hundred sixty-five percent or less of the federal poverty level at the time of application to accept or maintain employment. Child care assistance shall cease after a time period specified in rule by the department once the family income exceeds one hundred sixty-five percent of the federal poverty level but remains below eighty-five percent of the state median income. If the family income exceeds eighty-five percent of the state median income, child care assistance shall cease on notification by the department. Priority for this child care assistance shall be given to families with incomes of one hundred percent or less of the federal poverty level.

E. The department may provide child care assistance to families referred by the department of child safety and to children in foster care pursuant to title 8, chapter 4 to support child protection.

F. The department may provide child care assistance to special circumstance families whose incomes are one hundred sixty-five percent or less of the federal poverty level at the time of application and who are unable to provide child care for a portion of a twenty-four-hour day due to a crisis situation of domestic violence or homelessness, or a physical, mental, emotional or medical condition, participation in a drug treatment or drug rehabilitation program or court-ordered community restitution. Child care assistance shall cease after a time period specified in rule by the department once the family income exceeds one hundred sixty-five percent of the federal poverty level but remains below eighty-five percent of the state median income. If the family income exceeds eighty-five percent of the state median income, child care assistance shall cease on notification by the department. Priority for this child care assistance shall be given to families with incomes of one hundred percent or less of the federal poverty level.

G. Notwithstanding any other provision of this section, the department may reduce maximum income eligibility levels for child care assistance in order to manage within appropriated and available monies. The department shall notify the joint legislative budget committee of any change in maximum income eligibility levels for child care assistance within fifteen days after implementing the change.

H. In lieu of the employment activity required in subsection B, C or D of this section, the department may allow eligible families with teenaged custodial parents under twenty years of age to complete a high school diploma or its equivalent or engage in remedial education activities reasonably related to employment goals.

I. The department may provide child care assistance for department-approved education and training activities if the eligible parent, legal guardian or caretaker relative is working at least a monthly average of twenty hours per week and the education and training are reasonably related to employment goals. The eligible parent, legal guardian or caretaker relative must demonstrate satisfactory progress in the education or training activity.

J. The department may waive a portion of or the entire work requirement prescribed in subsection I of this section to continue to provide child care assistance to a person who is receiving full-time child care assistance and who is enrolled full time in an accredited educational institution, remedial education activity or employment training program that will lead to a vocational, technical or trade certification or an associate degree or bachelor's degree and the education or training program is reasonably related to employment goals. The person shall confirm the person's intent to obtain education or training that will lead to employment in an occupation that has starting wages that are sufficient to eliminate the need for public assistance for the person once employed. The department shall review the education or training program that is being pursued by the person receiving child care assistance to verify that the education or training program is related to employment goals. The person must demonstrate satisfactory progress to the department in the education or training activity.

K. The department shall establish waiting lists for child care assistance and prioritize child care assistance for different eligibility categories in order to manage within appropriated and available monies. Priority of children on the waiting list shall start with those families at one hundred percent of the federal poverty level and continue with each successive ten percent increase in the federal poverty level until the maximum allowable federal poverty level of one hundred sixty-five percent. Priority shall be given regardless of time spent on the waiting list.

L. The department shall establish criteria for denying, reducing or terminating child care assistance that include:

1. Whether there is a parent, legal guardian or caretaker relative available to care for the child.
2. Financial or programmatic eligibility changes or ineligibility.
3. Failure to cooperate with the requirements of the department to determine or redetermine eligibility.
4. Hours of child care need that fall within the child's compulsory academic school hours.
5. Reasonably accessible and available publicly funded early childhood education programs.
6. Whether an otherwise eligible family has been sanctioned and cash assistance has been terminated pursuant to chapter 2 of this title.
7. Other circumstances of a similar nature.
8. Whether sufficient monies exist for the assistance.

M. Families receiving child care assistance under subsection D or F of this section are also subject to the following requirements for that child care assistance:

1. Each child is limited to not more than sixty cumulative months of child care assistance. The department may provide an extension if the family can prove that the family is making efforts to improve skills and move towards self-sufficiency.
2. Families are limited to not more than six children receiving child care assistance.

3. Copayments shall be imposed for all children receiving child care assistance. Copayments for each child may be higher for the first child in child care than for additional children in child care.

N. The department shall review each case not more than once a year to evaluate eligibility for child care assistance.

O. The department shall report on December 31 and June 30 of each year to the joint legislative budget committee the total number of families who applied for child care assistance and the total number of families who were denied assistance under this section because the parents, legal guardians or caretaker relatives who applied for assistance were not citizens or legal residents of the United States or were not otherwise lawfully present in the United States.

P. This section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

Q. The department shall refer all child care subsidy recipients to child support enforcement and to local workforce services and provide information on the earned income tax credit.

46-804. [Appeals](#)

A decision denying, reducing or terminating child care assistance is subject to appeal pursuant to title 41, chapter 6, article 6 and title 41, chapter 14.

46-805. Child care assistance; rates; definitions

A. The department shall establish payment rates for child care assistance. Payment rates shall provide for equal access for eligible families to comparable child care services provided to families who are not eligible to receive child care assistance.

B. Payment rates shall be identical in form for all child care assistance.

C. The department may pay different levels of child care assistance according to the category of child care provider, age of children, geographic area, level of national accreditation or another state-approved quality indicator, varying child care costs for children with special needs or other circumstances to meet the child care needs of eligible families.

D. Each federal fiscal year, the department shall pay at least thirty-three percent of quality set-aside monies for tiered reimbursement of child care providers that meet the quality standard.

E. The department shall establish a sliding fee scale and formula for determining child care assistance based on:

1. Income and earnings of the family.

2. Family size.

3. Number of children receiving child care assistance.

4. Child support to other minor dependent children of the parent living outside the family unit.

5. Income and earnings of a family member who is at least eighteen years of age and who is residing in the home with a parent who is receiving child care assistance, if the family member claims any member of a family unit applying for assistance as a dependent on a federal or state income tax return.

6. Income and earnings of a nonfamily member who is at least eighteen years of age and who is residing in the home of and cohabiting with a parent who is receiving child care assistance if the cohabiting nonfamily member claims any member of a family unit applying for assistance as a dependent on a federal or state income tax return.

7. Other factors of a similar nature.

F. The department shall annually review and adjust the sliding fee scale and formula for determining child care assistance pursuant to subsection D of this section and section 46-803.

G. The department shall post on the department's website the payment rates and the most current sliding fee scale and formula for determining child care assistance established pursuant to this section.

H. All child care providers shall remain in good standing with licensing and certification laws and adopted rules.

I. For the purposes of this section:

1. "Quality set-aside monies" means the total amount of federal child care and development fund monies that must be used for activities that do one or more of the following:

(a) Improve the quality of child care services.

(b) Increase parental options for and access to high quality child care.

(c) Relate to the quality of care for infants and toddlers.

2. "Quality standard" means accreditation from a national organization or a state-approved quality indicator that is recognized by the department.
3. "Tiered reimbursement" means a child care assistance system that is offered by the department and that provides higher payments for child care services that meet higher quality standards.

46-809. Rules

The department shall adopt rules it deems reasonable or necessary to implement child care services and to further the objectives of this article. Rules adopted by the department shall include:

1. Criteria for making child care assistance eligibility determinations.
2. Criteria for certifying child care home and in-home providers.
3. Criteria for operating child care resource and referral services and for suspending and terminating referrals to participating child care providers pursuant to section 41-1967.

ARIZONA STATE LOTTERY COMMISSION

Title 19, Chapter 3, Article 6



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

MEETING DATE: November 1, 2022

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

FROM: Council Staff

DATE: October 14, 2022

SUBJECT: Arizona State Lottery Commission
Title 19, Chapter 3, Article 6

This Five-Year-Review Report from the Lottery Commission relates to rules in Title 19, Chapter 3, Article 6 regarding Annuity Assignments. The report covers one rule, R19-3-601. The rule sets forth provisions regarding the voluntary assignment of an annuity, which includes a fee due to the Lottery Commission, when a prize winner requests an assignment of all or a portion of the remaining installments of an annuity.

The Lottery Commission did not propose any changes to the rules in the last 5YRR.

Proposed Action

The Lottery commission indicates the rule is overall clear, concise, understandable, effective and consistent with other rules and statutes. The Commission indicates it plans to request permission from the Governor's Office in 2023 to increase the processing fee.

1. Has the agency analyzed whether the rules are authorized by statute?

Yes, the Commission cites to both general and specific statutory authority.

2. Summary of the agency's economic impact comparison and identification of stakeholders:

The Lottery Commission states that due to the length of time since the last EIS, which was prepared in 2005, the Commission completed a detailed reevaluation for this review. Upon reevaluation, the actual economic impact on the Lottery Commission has changed since 2005. The rule continues to primarily affect the agency and the prize winner requesting an annuity assignment. Costs to the Lottery Commission include time spent by Lottery Commission administrative staff and the Attorney General's Office to process the assignment. The established fee of \$235 was based on the average cost per assignment in 2005. After the recent review, the current fee recovers only about 2/3 of the Lottery Commission's total administrative costs, which are currently estimated to be \$386.65 per case. The Attorney General's time requires less use of a legal assistant due to the decreased volume of assignment cases, however the Assistant Attorney General now handles more aspects of annuity assignments, resulting in a higher personnel rate. The direct handling of the case by the attorney results in faster and more efficient processing of each case and therefore better service to the prize winners and annuity companies. The Lottery Commission's processing time has also decreased due to the automation of previously manual procedures and the quicker response times from the Attorney General's Office. Consistent with the previous EIS, the impact on state revenues has been minimal.

Stakeholders include the Lottery Commission, Lottery winners, and the Attorney General's Office.

3. **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 Lottery Commission believes the rule itself imposes the least burden and cost to persons regulated by the rule.

4. **Has the agency received any written criticisms of the rules over the last five years?**

No, the Commission indicates they have not received any written criticisms to the rules.

5. **Has the agency analyzed the rules' clarity, conciseness, and understandability?**

Yes, the Commission indicates the rule is clear, concise, and understandable.

6. **Has the agency analyzed the rules' consistency with other rules and statutes?**

Yes, the Commission indicates the rules are consistent with other rules and statutes.

7. **Has the agency analyzed the rules' effectiveness in achieving its objectives?**

Yes, the Commission indicates the rule is effective in achieving its objective.

8. **Has the agency analyzed the current enforcement status of the rules?**

Yes, the Commission indicates the rule is enforced as written.

9. **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 commission indicates there are no corresponding federal laws.

10. **For rules adopted after July 29, 2010, do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable. The rule does not require the issuance of a general permit or license.

11. **Conclusion**

As mentioned above, the Department indicates that the rule is overall clear, concise, understandable, and effective in achieving its objective.

Council staff recommends approval of this report



Douglas A. Ducey
Governor

Gregory R. Edgar
Executive Director

August 24, 2022

Nicole Sornsin, Chair
Governor's Regulatory Review Council
100 N. 15th Avenue # 305
Phoenix, AZ 85007

RE: Five Year Review Report
19 A.A.C. 3, Article 6. Annuity Assignments

Dear Ms. Sornsin:

Pursuant to A.R.S. § 41-1056, the Lottery has reviewed 19 A.A.C. 3, Article 6 and hereby submits its five-year-review report. Copies of the existing rules and authorizing statutes are attached to the report. A revised economic impact statement completed for this review of Article 6 is also attached.

The Lottery is in compliance with A.R.S. § 41-1091 that governs the directory of rules and substantive policy statements.

Please contact Sherri Zendri at 480-921-4401, or by email at szendri@azlottery.gov, with any questions regarding the report.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory R. Edgar", with a long horizontal flourish extending to the right.

Gregory R. Edgar
Executive Director

Enclosures

**ARIZONA STATE LOTTERY COMMISSION
FIVE-YEAR-REVIEW REPORT**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING
CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION
ARTICLE 6. ANNUITY ASSIGNMENTS**

AUGUST 2022

Historical overview of agency

Agency Mission:

To support Arizona programs for the public benefit by maximizing net revenue in a responsible manner.

Agency Background:

The Arizona Lottery was voted into existence by a public initiative in November 1980. Lottery sales began July 1, 1981. Since its inception, the Lottery’s mandate has been to “maximize net revenue consonant with the dignity of the state.” The Lottery currently offers seven draw games and has more than 50 instant ticket games in market each year. Additionally, the Lottery also provides instant tab games that are sold by charitable organizations.

The Lottery is overseen by an Executive Director appointed by the Governor, in addition to a five-member Commission, also appointed by the Governor. The Lottery is entirely self-supporting, receiving no monies from the state general fund. The Lottery sells products and redeems prizes through a state-wide network of approximately 3,300 licensed retailers, who receive a commission on each ticket sold. A portion of Lottery proceeds is appropriated to pay for Lottery operating costs, and at least 50% of revenues must be utilized for payment of prizes by statute. Remaining Lottery funds are statutorily directed to various benefiting funds including the state general fund. The Lottery has achieved record sales levels in recent years. In fiscal year 2021, total sales exceeded \$1.4 billion and transfers to statutory beneficiaries totaled \$287,832,983.

Overview of 5-Year Review

A.R.S. § 5-554(B) requires the Commission to authorize the Lottery Director to adopt rules in accordance with Title 41, Chapter 6. Rules adopted may include matters necessary or desirable for the efficient and economical operation and administration of the Lottery, as provided in A.R.S. § 5-554(B)(7). The Lottery may also adopt rules relating to the payment of prizes, including the purchase of annuities, as provided in A.R.S. § 5-554(B)(3). A.R.S. § 5-563(A)(3) specifically addresses the voluntary assignment of a Lottery annuity to another party and authorizes a fee paid to the Lottery to defray the cost of processing the

assignment.

19 A.A.C. 3, Article 6 became effective in July 2005 and has not been amended since that time. The rule sets forth provisions regarding the voluntary assignment of an annuity, including a fee due to the Lottery when a prize winner requests an assignment of all or a portion of the remaining installments of an annuity. The fee is intended to recover the Lottery’s cost to process the assignment.

The review of this rule was conducted by Arizona Lottery, including a full reevaluation of the Economic Impact Statement. As a result of the evaluation, the agency proposes to request permission from the Governor’s Office in October 2023 to increase the processing fee.

Authorization of the rule by existing statutes [ARS 41-1056(A)(3)]

General Statutory Authority: Arizona Revised Statutes (A.R.S.) §5-554(B) authorizes the director to adopt rules generally, including rules for “[m]atters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.”

Specific Statutory Authority: A.R.S. 5-563(A)(3) limits the assignability of a prize to among other circumstances, the voluntary assignment of an annuity through a judicial order. The statute authorized the Lottery to determine and subsequently require, an assignment fee “to defray the expenses incurred by the commission in processing the assignment.”

The objective of each rule

Rule	Objective
R19-3-601	This rule explains the procedures for a Lottery prize winner to request an assignment of all or a portion of the remaining installments of an annuity

Are the rules effective in achieving their objectives? [ARS 41-1056(A)(1)] Yes No

The rule is effective in informing Lottery prize winners regarding the procedure for requesting a voluntary assignment of an annuity.

Has the agency received written criticisms of the rules within the last five years? [ARS 41-1056(A)(2)] Yes No

Are the rules consistent with other rules and statutes? [ARS 41-1056(A)(4)] Yes No

The rules are consistent with other Lottery rules and Arizona statutes.

Are the rules enforced as written? [ARS 41-1056(A)(4)

Yes No

The Lottery follows the rules as written. The rules are fairly and consistently enforced.

Are the rules clear, concise, and understandable? [ARS 41-1056(A)(5)

Yes No

Economic, small business, and consumer impact comparison [ARS 41-1056(A)(6):

An economic impact statement (EIS) was prepared when this rule was initially filed with Council in March 2005. Given the length of time since that EIS, the Lottery completed a detailed reevaluation and drafted a revised EIS for this review. Upon reevaluation, the actual economic impact of this rule on the Lottery has changed from the EIS submitted in 2005. The rule continues to primarily affect the agency and the prize winner (or assignee of the prize winner) requesting an annuity assignment. Costs to the Lottery include time spent by Lottery administrative staff and the Attorney General's Office to process the assignment. The established fee of \$235 was based on the average cost per assignment in 2005. After the recent review, the current fee recovers only about 2/3 of the Lottery's total administrative costs, which are currently estimated to be \$386.65 per case. The Attorney General's time requires less use of a legal assistant due to the decreased volume of assignment cases, however the Assistant Attorney General now handles more aspects of annuity assignments, resulting in a higher personnel rate. The direct handling of the case by the attorney results in faster and more efficient processing of each case and therefore better service to the prize winners and annuity companies. The Lottery's processing time has also decreased due to the automation of previously manual procedures and the quicker response times from the Attorney General's Office.

The rule does not have an economic impact on political subdivisions of the state, private and public employment, or Lottery retailers. Consistent with the previous EIS, the impact on state revenues has been minimal.

Has the agency received any business competitiveness analyses of the rules? [ARS 41-1056(A)(7)

Yes No

Has the agency completed the course of action indicated in the agency's previous five-year-review report?[ARS 41-1056(A)(8)

Yes No

The previous five-year review for this Article submitted in August 2017 and was approved by Council in November 2017. No changes were recommended or made as a result of the 2017 five-year review.

Do the probable benefits of the rule outweigh the probable costs within this state? Does the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective? [ARS 41-1056(A)(9)]

Yes No

The agency believes the rule itself imposes the least burden and cost to persons regulated by the rule. The assignment of a Lottery prize is voluntary and at the discretion of the prize winner. Annuity assignments create additional work and expenses for the Lottery that would not otherwise be incurred. The statute permits a fee to allow the agency to recover these costs and the current fee is less than the costs incurred by the agency. Even with a fee increase to cover the full amount of the agency's expenses the rule is the least burdensome process to transfer or assign a prize winner annuity.

Are the rules more stringent than corresponding federal laws? [ARS 41-1056(A)(10)] Yes No

There are no corresponding federal laws that are applicable.

For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, are the rules in compliance with the general permit requirements of A.R.S. §41-1037? [ARS 41-1056(A)(11)]

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

Proposed course of action

The agency proposes to request permission from the Governor's Office in October 2023 to increase the processing fee.

5-554. Commission; director; powers and duties; definitions

A. The commission shall meet with the director not less than once each quarter to make recommendations and set policy, receive reports from the director and transact other business properly brought before the commission.

B. The commission shall oversee a state lottery to produce the maximum amount of net revenue consonant with the dignity of the state. To achieve these ends, the commission shall authorize the director to adopt rules in accordance with title 41, chapter 6. Rules adopted by the director may include provisions relating to the following:

1. Subject to the approval of the commission, the types of lottery games and the types of game play-styles to be conducted.
2. The method of selecting the winning tickets or shares for noncomputerized online games, except that no method may be used that, in whole or in part, depends on the results of a dog race, a horse race or any sporting event.
3. The manner of payment of prizes to the holders of winning tickets or shares, including providing for payment by the purchase of annuities in the case of prizes payable in installments, except that the commission staff shall examine claims and may not pay any prize based on altered, stolen or counterfeit tickets or based on any tickets that fail to meet established validation requirements, including rules stated on the ticket or in the published game rules, and confidential validation tests applied consistently by the commission staff. No particular prize in a lottery game may be paid more than once, and in the event of a binding determination that more than one person is entitled to a particular prize, the sole remedy of the claimants is the award to each of them of an equal portion of the single prize.
4. The method to be used in selling tickets or shares, except that no elected official's name may be printed on such tickets or shares. The overall estimated odds of winning some prize or some cash prize, as appropriate, in a given game shall be printed on each ticket or share.
5. The licensing of agents to sell tickets or shares, except that a person who is under eighteen years of age shall not be licensed as an agent.
6. The manner and amount of compensation to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public, including provision for variable compensation based on sales volume.
7. Matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

C. The commission shall authorize the director to issue orders and shall approve orders issued by the director for the necessary operation of the lottery. Orders issued under this subsection may include provisions relating to the following:

1. The prices of tickets or shares in lottery games.

2. The themes, game play-styles, and names of lottery games and definitions of symbols and other characters used in lottery games, except that each ticket or share in a lottery game shall bear a unique distinguishable serial number.
 3. The sale of tickets or shares at a discount for promotional purposes.
 4. The prize structure of lottery games, including the number and size of prizes available. Available prizes may include free tickets in lottery games and merchandise prizes.
 5. The frequency of drawings, if any, or other selections of winning tickets or shares, except that:
 - (a) All drawings shall be open to the public.
 - (b) The actual selection of winning tickets or shares may not be performed by an employee or member of the commission.
 - (c) Noncomputerized online game drawings shall be witnessed by an independent observer.
 6. Requirements for eligibility for participation in grand drawings or other runoff drawings, including requirements for the submission of evidence of eligibility within a shorter period than that provided for claims by section 5-568.
 7. Incentive and bonus programs designed to increase sales of lottery tickets or shares and to produce the maximum amount of net revenue for this state.
 8. The method used for the validation of a ticket, which may be by physical or electronic presentation of a ticket.
- D. Notwithstanding title 41, chapter 6 and subsection B of this section, the director, subject to the approval of the commission, may establish a policy, procedure or practice that relates to an existing online game or a new online game that is the same type and has the same type of game play-style as an online game currently being conducted by the lottery or may modify an existing rule for an existing online game or a new online game that is the same type and has the same type of game play-style as an online game currently being conducted by the lottery, including establishing or modifying the matrix for an online game by giving notice of the establishment or modification at least thirty days before the effective date of the establishment or modification.
- E. The commission shall maintain and make the following information available for public inspection at its offices during regular business hours:
1. A detailed listing of the estimated number of prizes of each particular denomination expected to be awarded in any instant game currently on sale.
 2. After the end of the claim period prescribed by section 5-568, a listing of the total number of tickets or shares sold and the number of prizes of each particular denomination awarded in each lottery game.
 3. Definitions of all play symbols and other characters used in each lottery game and instructions on how to play and how to win each lottery game.

F. Any information that is maintained by the commission and that would assist a person in locating or identifying a winning ticket or share or that would otherwise compromise the integrity of any lottery game is deemed confidential and is not subject to public inspection.

G. The commission, in addition to other games authorized by this article, may establish multistate lottery games to be conducted concurrently with other lottery games authorized under subsection B of this section. The monies for prizes, for operating expenses and for payment to the state general fund shall be accounted for separately as nearly as practicable in the lottery commission's general accounting system. The monies shall be derived from the revenues of multistate lottery games.

H. The commission, in addition to other games authorized by this article, shall establish special instant ticket games with play areas protected by paper tabs designated for use by charitable organizations. The monies for prizes and for operating expenses shall be accounted for separately as nearly as practicable in the lottery commission's general accounting system. Monies saved from the revenues of the special games, by reason of operating efficiencies, shall become other revenue of the lottery commission and revert to the state general fund, except that the commission shall transfer the proceeds from any games that are sold from a vending machine in an age-restricted area to the state treasurer for deposit in the following amounts:

1. Nine hundred thousand dollars each fiscal year in the internet crimes against children enforcement fund established by section 41-199.
2. One hundred thousand dollars each fiscal year in the victims' rights enforcement fund established by section 41-1727.
3. Any monies in excess of the amounts listed in paragraphs 1 and 2 of this subsection, in the state lottery fund established by section 5-571.

I. The commission or director shall not establish or operate any online or electronic keno game or any game played on the internet.

J. The commission or director shall not establish or operate any lottery game or any type of game play-style, either individually or in combination, that uses gaming devices or video lottery terminals as those terms are used in section 5-601.02, including monitor games that produce or display outcomes or results more than once per hour.

K. The director shall print, in a prominent location on each lottery ticket or share, a statement that help is available if a person has a problem with gambling and a toll-free telephone number where problem gambling assistance is available. The director shall require all licensed agents to post a sign with the statement that help is available if a person has a problem with gambling and the toll-free telephone number at the point of sale as prescribed and supplied by the director. The requirements of this subsection apply to tickets and shares printed after July 18, 2000.

L. For the purposes of this section:

1. "Charitable organization" means any nonprofit organization, including not more than one auxiliary of that organization, that has operated for charitable purposes in this state for at least two years before submitting a license application under this article.
2. "Game play-style" means the process or procedure that a player must follow to determine if a lottery ticket or share is a winning ticket or share.

3. "Matrix" means the odds of winning a prize and the prize payout amounts in a given game.

5-563. Right to prize not assignable; exceptions

A. The right of any person to a prize is not assignable, except that:

1. Payment of any prize drawn or the remainder of any annuity purchased may be paid to any of the following:

- (a) The estate of a deceased prize winner.
- (b) The beneficiary of a deceased prize winner.
- (c) A person pursuant to an appropriate judicial order.

2. Payments to winners in an amount of six hundred dollars or more are subject to setoff pursuant to section 5-575.

3. In the event of a voluntary assignment, the remainder of any annuity, or a portion of the remainder of the annuity, may be assigned by a prize winner pursuant to an appropriate judicial order if all of the following conditions are met:

- (a) The prize winner provides an affidavit to the court to the effect that the affiant is of sound mind, is not acting under duress and has received independent financial and tax advice concerning the assignment.
- (b) The assignee pays the prize winner a lump sum for all amounts that are due to the prize winner under the assignment agreement on or before the date that the assignment takes effect.
- (c) The parties to the assignment pay a fee to the commission to defray the expenses incurred by the commission in processing the assignment. The commission shall determine the amount of the fee. Monies collected by the commission pursuant to this subdivision shall be deposited in the state lottery fund established by section 5-571.

B. On receipt of a court order that meets the requirements of subsection A, paragraph 3 of this section, the director shall make the voluntary assignment.

C. The commission and director shall be discharged of all further liability upon payment of a prize pursuant to this section.

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

R19-3-568. Controversies Involving Lottery Claims Against the Contractor

If the procurement officer is unable to resolve, by mutual agreement, a claim asserted by the Lottery against a contractor, the procurement officer shall seek resolution under A.R.S. § 41-1092.07. The procurement officer shall furnish a copy of the claim to the Director.

Historical Note

New Section R19-3-568 renumbered from R19-3-562 and amended by final rulemaking at 19 A.A.C. 1641, effective August 4, 2013 (Supp. 13-2). Section renumbered to R19-3-569; new Section R19-3-568 renumbered from R19-3-567 by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

R19-3-569. Guidance

If a procedure is not provided by these rules, the procurement officer may issue a written determination using for guidance A.R.S. § 41-2501 through § 41-2591 or 2 A.A.C. 7, including, but not limited to a procurement utilizing a cooperative contract.

Historical Note

New Section R19-3-569 renumbered from R19-3-568 and amended by final rulemaking at 22 A.A.R. 2966, effective November 21, 2016 (Supp. 16-4).

ARTICLE 6. ANNUITY ASSIGNMENTS**R19-3-601. Voluntary Assignment of Prizes Paid in Installments**

- A.** A prize winner may request a voluntary assignment of an annuity or a portion of the remaining installments of the annuity by filing an action in a court of competent jurisdiction requesting judicial approval of the assignment. The prize winner and the purchaser of the annuity shall name the state of Arizona as a defendant in the action and shall bear all costs associated with filing the request for judicial approval of the assignment.
- B.** A prize winner shall include in the request for judicial approval under subsection (A) the following:
1. The affidavit required under A.R.S. § 5-563(A)(3);
 2. A copy of the signed assignment agreement between the prize winner and the assignee; and
 3. Proof that the fee under subsection (D) has been paid to the Lottery.
- C.** After the court approves the assignment, the prize winner shall send the written judicial approval to the Lottery. Upon receipt of judicial approval of the voluntary assignment, the Director shall direct the insurance company to make future annuity payments as provided in the Court order.
- D.** The prize winner or assignee shall pay a fee of \$235.00 to the Lottery to process the voluntary assignment.

Historical Note

Adopted as an emergency effective October 31, 1986, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 86-5). Adopted without change as a permanent rule effective February 25, 1987 (Supp. 87-1). Amended effective May 7, 1993 (Supp. 93-2). R19-3-601 recodified from R4-37-601 (Supp. 95-1). Repealed effective June 14, 1997 (Supp. 97-2). New Section made by final rulemaking at 11 A.A.R. 2028, effective July 2, 2005 (Supp. 05-2). Pursuant to authority of A.R.S. § 41-1011(C), Laws 2010, 6th Special Session, Ch. 2, authorizes the transfer of A.R.S. citations. Therefore the A.R.S. citation in subsection (B)(1) was updated. Agency

request filed September 24, 2012, Office File No. M12-343 (Supp. 12-3).

ARTICLE 7. DESIGN AND OPERATION OF INSTANT GAMES**R19-3-701. Definitions**

In this Article, unless the context otherwise requires:

1. "Caption" means the printed characters appearing below a play symbol or prize symbol that verify and correspond with that symbol. No more than one caption will appear under a symbol.
2. "Game profile" means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all of the non-confidential game fundamentals required by these rules for an instant game.
3. "Instant game" means a game that is played by removing the protective covering from a ticket to reveal the play symbols, or prize symbols, or both that determine if a ticket holder is entitled to a prize or prizes.
4. "Instant scratch game" means an instant game where the protective covering is made of latex or another substance that is scratched off.
5. "Instant tab game" means an instant game where the protective covering is a perforated paper tab that is opened.
6. "Pack" means a group of tickets bearing a common identification number.
7. "Pack-ticket number" means a unique multi-digit number that includes a game number, a pack number, and a ticket number which distinguishes each ticket from every other ticket within an instant game.
8. "PIN" means the designated characters within the validation number that allows an on-line terminal to validate an instant ticket.
9. "Play area" means the portion or portions of the ticket which contains the play symbol or symbols. More than one play area may appear on a ticket.
10. "Play symbols" means the printed image or images that appear within the defined play area of the ticket that determine if the ticket holder is entitled to a prize or prizes.
11. "Prize structure" means the estimated number of prizes, prize values, and odds of winning prizes for an individual game.
12. "Prize symbol" means the printed image or images that indicates the prize or prizes available in that game.
13. "Retailer validation code" means the multiple letters in the play area, under the protective covering that verify prizes less than \$600.
14. "Validation code" means the unique multi-positional code on each ticket that is used to authenticate winning tickets.

Historical Note

Adopted effective October 25, 1996 (Supp. 96-4). Amended by final rulemaking at 13 A.A.R. 1031, effective April 27, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 53, effective December 28, 2010 (Supp. 10-4).

R19-3-702. Game Profile

- A.** Each game shall have a Game Profile and at a minimum, the Profile shall contain the following information:
1. Game name;
 2. Game number;
 3. Prize structure;
 4. Game Playstyle;
 5. Play symbols;
 6. Retailer validation codes, if any;

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title 4, Chapter 12, Articles 1-6



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

MEETING DATE:

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

FROM: Council Staff

DATE: **October 17, 2022**

SUBJECT: BOARD OF FUNERAL DIRECTORS AND EMBALMERS
Title 4, Chapter 12, Articles 1-6

Summary

This Five-Year Review Report (5YRR) from the Board of Funeral Directors and Embalmers relates to rules in Title 4, Chapter 12, Articles 1-6. Article 1 (General Provisions) relates to definitions, general time frames, and administrative hearings. Article 2 (Licensing Provisions) relates to applications and state equivalency exams. Article 3 (Regulatory Provisions) relates to funeral requirements, cemetery requirements, and sanitation practices. Article 4 (Continuing Education) relates to continuing education requirements. Article 5 (Prearranged Funeral Agreements) relates to financial documents and records. Article 6 (Crematory and Cremation Regulation) relates to crematory services and records.

In the last 5YRR, the Board proposed to amend Article 3, Regulatory Provisions and Article 5, Prearranged Funeral Agreements. The Board has failed to make those amendments due to high staff turnover. Currently, the Board is scheduled to sunset on March 31, 2023 and is in process of setting up stakeholder meetings that will determine the future of the Board and regulation of the death care/funeral industry.

Proposed Action

Because the Board is scheduled to sunset on March 31, 2023, the Board intends to wait on making any changes because it is unlikely that it will go through sunrise legislation. If sunrise legislation does occur, the Board intends to amend articles 3, 5, and 6. The Board also intends to request an exempt rulemaking to address House Bill 2024 to oversee licensure for alkaline hydrolysis facilities and operators. If the Board is continued, the Agency plans to begin working on amending all articles in 2024 and have the updates completed by December of 2025.

Council staff encourages the Council to follow up with the Agency representative for more details regarding the sunset review.

1. Has the agency analyzed whether the rules are authorized by statute?

Yes. The Department cites both general and specific statutory authority for these rules

2. Summary of the agency's economic impact comparison and identification of stakeholders:

The Board indicates that the rules have had minimal economic impact on the Board, other state agencies, private entities, small businesses and consumers. The Board further states that since R4-12-311 contains requirements for embalming, the economic impact ranges from minimal to moderate on embalmers or funeral establishments, depending on the extent to which the embalmers or funeral establishments meet the requirements before licensure. In addition, because R4-12-312 is discretionary, the equipment and sanitation cost will vary depending on what equipment the funeral establishment chooses to maintain in the preparations room. Stakeholders include the Board, funeral establishments and embalmers.

3. 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 states that after reviewing the economic impact statements written at the time of promulgation, the Board has determined that the rules outweigh the probable costs of the rules. The Board believes that rules impose the least burden and costs to applicants, licensees, or registrants and there are no less costly alternatives to the rules.

4. Has the agency received any written criticisms of the rules over the last five years?

The Board has not received any criticisms of the rules over the last five years, but licensees have questioned the practicality of R4-12-631(B).

5. Has the agency analyzed the rules' clarity, conciseness, and understandability?

The Board states that generally, the rules are clear, concise, and understandable with the following exceptions:

These rules are mostly clear, concise, and understandable

R4-12-101, R4-12-106, R4-12-108, R4-12-120, R4-12-208, R4-12-211, R4-12-305, R4-12-523, R4-12-552, R4-12-561, R4-12-565.

These rules are partially clear, concise, and understandable:

R4-12-306, R4-12-541, R4-12-551, R4-12-556, R4-12-631.

These rules are not clear, concise, and understandable:

R4-12-301, R4-12-302, R4-12-303, R4-12-304, R4-12-306, R4-12-307, R4-12-311, R4-12-312, R4-12-413, R4-12-544, R4-12-545, R4-12-546, R4-12-548, R4-12-554.

6. Has the agency analyzed the rules' consistency with other rules and statutes?

The Board states that the rules are consistent with other rules and statutes with the following exceptions:

R4-12-301, R4-12-303, R4-12-311, R4-12-312, R4-12-413, R4-12-554, R4-12-559.

7. Has the agency analyzed the rules' effectiveness in achieving its objectives?

The Board states the rules are generally effective in achieving their objectives with the following exceptions:

These rules are mostly effective in achieving their objectives:

R4-12-305, R4-12-541, R4-12-551, R4-12-552, R4-12-561, R4-12-565, Appendix B, Appendix D, Appendix E.

These rules are partially effective in achieving their objectives:

R4-12-302, R4-12-303, R4-12-304, R4-12-306, R4-12-545, R4-12-546, R4-12-548, R4-12-554, R4-12-556, R4-12-55, R4-12-631.

These rules are not effective in achieving their objectives:

R4-12-301, R4-12-307, R4-12-311, R4-12-312, R4-12-413.

8. Has the agency analyzed the current enforcement status of the rules?

The Board states all the rules are enforced as written with the following exceptions:

R4-12-301, R4-12-302, R4-12-303, R4-12-311, R4-12-312, R4-12-413, R4-12-556, R4-

12-559, R4-12-631, Appendix B.

9. 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 indicates the rules under review are not more stringent than corresponding federal law.

10. For rules adopted after July 29, 2010, do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?

The Board states that it does not issue general permits and therefore this provision does not apply to the Board's rules.

11. Conclusion

Due to the potential legislative constraints, Council staff believes the Board has submitted an adequate report. As indicated above, if the Board does not sunset, the Board will make minor amendments to Articles 1, 2, and 4 and major amendments to articles 3, 5, and 6.

Therefore, Council staff recommends approval of the report.



Doug A. Ducey

**Arizona State Board of Funeral
Directors & Embalmers**

Executive Director Natasha Culbertson

1740 West Adams, Suite 3006
Phoenix, Arizona 85007
(602)542-3095
funeralboard.az.gov

August 31, 2022

Sent via Email

Nicole Sornsin, Chairperson
Governor's Regulatory Review Council
100 North 15th Avenue, Suite 305
Phoenix, Arizona 85007
grrc@azdoa.gov

RE: Arizona State Board of Funeral Directors and Embalmers Arizona Administrative Code
Title 4, Chapter 12, Articles 1-6, Five Year Review Report

Dear Ms. Sornsin,

Please find enclosed the Five Year Review Report of the Arizona State Board of Funeral
Directors and Embalmers for Arizona Administrative Code Title 4, Chapter 12, Articles 1-6
which is due on August 31, 2022.

The Arizona State Board of Funeral Directors and Embalmers hereby certifies compliance with
A.R.S. 41-1091.

For questions about this report, please contact Executive Director Natasha Culbertson at 602-
542-8152 or Natasha.Culbertson@funeralboard.az.gov.

Thank you,

Natasha Culbertson
Executive Director
Arizona State Board of Funeral Directors and Embalmers
Natasha.Culbertson@funeralboard.az.gov

Arizona State Board of Funeral Directors and Embalmers

5 YEAR REVIEW REPORT

Arizona Administrative Code Title 4, Chapter 12, Articles 1-6

August 31, 2022

1. Authorization of the rule by existing statutes

All of the rules have general authority under A.R.S. § 32-1307(A)(5). Article 5 rules have general authority under A.R.S. § 32-1391.01(A). Specific authority is stated in the applicable rule.

2. The objective of each rule:

Rule	Objective
R4-12-101: Definitions	<ol style="list-style-type: none">2. The objective of the rule is to define terms used in the rules to make the rules understandable to the reader, achieve clarity in the rules, and afford consistent interpretation.3. Analysis of effectiveness in obtaining objective: Except as stated in paragraph 6, most of the rule is effective.6. Analysis of clarity, conciseness, and understandability: The rule has a spelling error in A.A.C. R4-12-101(1)(c)(iv) – “manger” should be updated to “manager”.
R4-12-106: Time-frames for Board Approval	<ol style="list-style-type: none">1. Authorization of the rule by existing statutes: A.R.S. § 41-1072 through § 41-1079.2. The objective of the rule is to provide an applicant with a timeframe in which the applicant may expect an approval, license, endorsement, or registration to be approved or denied by the Board.3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective.6. Analysis of clarity, conciseness, and understandability: The Board believes that shortening the 360 day time-frame to correct deficiencies as stated in A.A.C. R4-12-106(D) to 90 days would allow for quicker and more efficient processing of applications. It would also encourage applicants to complete their licensure applications in a timely manner. In the past two years, the Board has had difficulties with licensees completing the requirements of their renewal applications as well and the 360 day time-frame allows licensees to continue to practice without actually completing their renewal in a timely manner. Amending this time-frame would aid in ensuring renewal and initial application deficiencies are being met within a reasonable amount of time.
Table 1: Time-frames (in days)	<ol style="list-style-type: none">1. Authorization of the rule by existing statutes: A.R.S. § 41-1072 through § 41-10792. The objective of the rule is to set forth, in table form, the time-frames for the Board to approve or deny an approval, license, endorsement, or registration.

R4-12-108: Fees	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1307(B)(5), 32-1309, 32-1391.16, 39-121.03. 2. The objective of the rule is to provide notice of the fees for copying, filing an annual trust report, and publishing, distributing, and mailing consumer information pamphlets to a funeral establishment. 3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: The Board would like to amend the language to reflect current terminology; the term “diskette” is outdated.
R4-12-109: Enforcement Advisement Committee	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1307(B)(2). 2. The objectives of the rule are to inform persons that the Board may appoint an enforcement advisory committee, set out the membership of the committee, and state the responsibilities of the enforcement advisory committee.
R4-12-120: Inspection Procedures	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1307(A)(5)(b), 32-1383(C). 2. The objectives of the rule are to inform applicants, licensees, and the public of the frequency of inspections conducted by the Board to determine whether the licensee meets the requirements of statutes and rules, what an inspection includes, what is required of the Board at an inspection site, and what is required of the Board, applicant, or licensee following an inspection. 3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: The Board would like to amend the language to reflect current terminology of establishments and crematories. The term “plant” is not actively used, but rather locations are referred to as a “facility”.
R4-12-121: Investigation Procedures	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1307(A)(4), 32-1367. 2. The objectives of the rule are to inform a licensee or registrant of what is required of the Board after receipt of a complaint, what is required of a licensee or registrant after receipt of the Board’s written notice of the complaint, and state that the Board may request additional information of a complainant, licensee, or registrant.
R4-12-123: Informal Interview	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1367. 2. The objective of the rule is to provide the process for conducting an informal interview.
R4-12-125: Hearing Procedures	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1367 2. The objective of the rule is to provide standards, procedures, and the process for conducting disciplinary hearings.
R4-12-126: Rehearing or Review of Board’s Decision	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1367(I). 2. The objectives of the rule are to describe the procedures for a party to request a rehearing or review after a hearing has been held and explain the Board’s process for denying or granting such a request.

R4-12-201: Application for a State Equivalent Examination or Embalmer Assistant Practical Examination	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(A)(3), 32-1309(A)(4), 32-1309(B)(5), 32-1322, 32-1327. 2. The objective of the rule is to specify the documents and fees that are required to be submitted to the Board when applying to take a state equivalent examination or embalmer assistant practical examination.
R4-12-202: Application for an Intern, an Embalmer, or a Funeral Director License	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(A)(1), 32-1309(A)(2), 32-1309(A)(4), 32-1309(A)(5), 32-1309(C)(1), 32-1309(C)(2), 32-1309(C)(4), 32-1323, 32-1335, 32-1384. 2. The objective of the rule is to inform an individual of the documents and fees that are required to be submitted when the individual applies for an intern, embalmer, or funeral director license so the Board can determine the qualifications of the applicant.
R4-12-203: Application for an Embalmer's Assistant Registration	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(A)(3), 32-1309(C)(3), 32-1325.01, 32-1335. 2. The objective of the rule is to inform an individual of the documents and fees that are required to be submitted to the Board when the individual applies for an embalmer's assistant registration so the Board can determine the qualifications of the applicant.
R4-12-204: Application for a Funeral Establishment License or an Interim Funeral Establishment Permit	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(A)(7), 32-1381, 32-1383, 32-1388(C). 2. The objective of the rule is to inform an individual of the documents and fees that are required to be submitted to the Board when the individual applies for an establishment license or interim funeral establishment permit so the Board can determine the qualifications of the applicant..
R4-12-205: Application for a Prearranged Funeral Sales Endorsement	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(A)(8), 32-1391.12. 2. The objective of the rule is to inform an individual of the fee and documents that are required to be submitted to the Board when the individual applies for a prearranged funeral sales endorsement so the Board can determine the qualifications of the applicant.
R4-12-206: Application for a Prearranged Funeral Salesperson Registration	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(A)(6), 32-1309(C)(5), 32-1391.14. 2. The objective of the rule is to inform an individual of the fee and documents that are required to be submitted to the Board when the individual applies for a prearranged funeral sales registration so the Board can determine the qualifications of the applicant.
R4-12-207: Application for a Crematory License	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(A)(9), 32-1395. 2. The objective of the rule is to inform an individual of the fee and documents that are required to be submitted to the Board when the individual applies for a crematory license so the Board can determine the qualifications of the applicant.

R4-12-208: Annual Intern, Apprentice Embalmer, or Embalmer's Assistant Report	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1330. 2. The objective of the rule is to specify what information is needed for the annual report for interns, apprentice embalmers, and embalmers assistants. 3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: The amount of hours required in rule is not practical or reasonable for the schedule a licensed intern or embalmer's assistant may work. The Board also no longer offers the license of "apprentice embalmer" and therefore the rule should be amended to reflect this.
R4-12-209: State Equivalent Examination	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1327. 2. The objective of the rule is to inform an individual of the subjects that are tested on the arts and science sections of the state equivalent examination
R4-12-210: Application for a Cremationist License	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(A)(10), 32-1309(C)(6), 32-1394, 32-1394.01. 2. The objective of the rule is to inform an individual of the documents and fees that are required to be submitted to the Board when the individual applies for a cremationist license so the Board can determine the qualifications of the applicant.
R4-12-211: Renewal	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(D), 32-1331. 2. The objective of the rule is to inform an individual of the time, fee, and documents that are required to be submitted to the Board when renewing a license, registration, or endorsement. 3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: To allow for more efficient processing of renewal applications, the Board would like to amend this rule to reflect the same due date of August 1st for salespeople and sales endorsement registrations.
R4-12-212: Reinstatement	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1309(E), 32-1331, 32-1391.12, 32-1391.14(C). 2. The objective of the rule is to inform an individual of the fees and documents that are required to be submitted to the Board when requesting reinstatement.

<p>R4-12-301: General funeral services requirements</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1307(A)(5)(b), 32-1307(A)(5)(c). 2. The objective of the rule is to inform a funeral director, embalmer, funeral establishment, or other person licensed by the Board of the standards of conduct required for the care, transportation, and handling of a decedent and for communications with a decedent’s family. 3. Analysis of effectiveness in obtaining objective: The rule is not effective for the reasons stated in paragraphs 4, 5, and 6. 4. Analysis of consistency with state and federal rules and statutes: Most of the rule is consistent with state and federal rules and statutes. Subsection (A)(3) is inconsistent because it states that licensees are required to follow the enumerated statutes and rules “to the extent possible.” The Board’s statutes do not give licensees this latitude, but require that all of the Board’s statutes and rules be followed by licensees. 5. Although the Board relies heavily on subsections (A)(1) and (A)(2), the Board has difficulty enforcing the other subsections because they are capable of multiple interpretations as a result of ambiguous language as stated in paragraph 6. 6. The rule is not clear, concise, and understandable because it uses passive, ambiguous, and unenforceable language such as “reasonable efforts”, “adequately inform”, and “unnecessary”. It also contains gender specific language.
<p>R4-12-302: Deceptive practices prohibited</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1307(A)(5)(b), 32-1307(A)(5)(c). 2. The objective of the rule is to provide prohibited practices related to the cost of funeral goods or services to prevent licensees from using deceptive or unfair tactics to entice consumers to choose higher priced goods or services. 3. Analysis of effectiveness in obtaining objective: The rule is partially effective for the reasons stated in paragraph 6. 5. Status of enforcement of the rule: The Board enforces the rule to the extent possible considering the issues raised in paragraph 6. 6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable because the rule’s language does not conform to current rule writing style and format requirements. The rule uses passive and ambiguous language.

<p>R4-12-303: Misrepresentation of legal or cemetery requirements</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1307(A)(5)(b), 32-1307(A)(5)(c). 2. The objectives of the rule are to inform of the acts that constitute deceptive practices and state the possible penalties for failure to substantially comply with the rule. 3. Analysis of effectiveness in obtaining objective: The rule is partially effective for the following reasons; R4-12-203(A)(1) is confusing because it appears that a body must be embalmed if burial or cremation does not occur within 24 hours of death or the body is not refrigerated immediately after death. Subsection (A)(2) seems to suggest that an unfinished wooden box is the only container that can be used for cremation, but a container can be made of cardboard or fiberboard. Subsection (B) is ambiguous because it is not clear whether the provision is meant to provide legal standards for malpractice cases in addition to professional incompetence. 4. Analysis of consistency with state and federal rules and statutes: The rule may conflict with A.A.C. R9-19-312, which requires that a body be refrigerated if it is not cremated, buried, or embalmed within 24 hours following death. The rule in subsection (A)(1) is confusing because it seems to require that embalming occur if burial or cremation does not occur within 24 hours of death or if the body is not refrigerated. The rest of the rule is consistent with state and federal rules and statutes. 5. Status of enforcement of the rule: The Board enforces subsection (A)(1) consistent with A.A.C. R9-12-312. The rest of the rule is enforced according to the language of the rule. 6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable for the reasons stated in paragraphs 3 and 4 and because it does not provided standards for refrigeration or substantial compliance. R4-12-303(4) also contains gender specific language.
<p>R4-12-304: Telephone price disclosure requirement</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1375. 2. The objectives of the rule are to require funeral establishments to provide information about funeral goods and services to a person who requests the information over the telephone and to send a price list to the caller if requested. 3. Analysis of effectiveness in obtaining objective: The rule is partially effective for the reasons stated in paragraph 6 and the following: The rule provides discretion for the postage and handling charge for mailing a funeral price list, but provides no standards for determining the charge. 6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable because its language does not conform to current rule writing style and format requirements. The first sentence in subsection (A) is awkwardly worded. The rule uses ambiguous language.

<p>R4-12-305: Price lists requirement</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1371. 2. The objective of the rule is to require that licensees and registrants provide a standardized written or printed price list to persons who inquire about funeral arrangements or prices of funeral goods and services. 3. Analysis of effectiveness in obtaining objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: Most of the rule is clear, concise and understandable. It is unclear what is meant by “on beginning a discussion” in subsection (A). The incorporation by reference language needs to be updated to meet current rule writing style and format requirements.
<p>R4-12-306: Merchandise price card requirement</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1307(A)(5)(c), 32-1307(A)(5)(d), 32-1372. 2. The objective of the rule is to provide notice to a consumer about the actual price of specified funeral goods. 3. Analysis of effectiveness in obtaining objective: The rule is partially effective for the reasons stated in paragraph 6. 6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable because it is poorly organized, uses passive language, uses ambiguous language, and does not contain standards for cremation containers. The rule also does not account for the electronic display of merchandise.

R4-12-307: Funeral goods and services memorandum

1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1307(A)(5)(c), 32-1307(A)(5)(d), 32-1373.
2. The objective of the rule is to provide an example of a form that a funeral establishment, funeral director, or embalmer may use to itemize the funeral goods and services that are sold to each potential purchaser before the purchaser enters into a contract with the funeral establishment, funeral director, or embalmer for the goods and services.
3. Analysis of effectiveness in obtaining objective: The rule is not effective for the reasons stated in paragraph 6 and because the relationship between subsections (A), (B), and (C) is unclear. Subsection (A) seems to require the use of Appendices B or C, but subsection (B) seems to allow the information on any contract, statement, or other document. Subsection (C) states that if the statement is used as a final bill, a disclosure must be added to the statement as shown in Appendix C, but there is no disclosure included in Appendix C.
6. Analysis of clarity, conciseness, and understandable: The rule is not clear, concise, and understandable because it does not conform to current rule writing style and format requirements. The rule uses passive voice, is poorly worded, and incorrectly uses “must” instead of “shall”. In subsection (B), it is unclear what is meant by “information required by this Section” and “clear and conspicuous manner”. The use of the word “memorandum” in the rule and the rule’s title does not reflect that the funeral establishment, funeral director, or embalmer is required to provide an itemized written or printed statement of funeral goods and services to each potential purchaser.

R4-12-311: Minimum embalming requirements

1. Authorization of the rule by existing statutes: A.R.S. § 32-1307(A)(5)(b).
2. The objective of the rule is to require that only licensed embalmers or registered apprentice embalmers can embalm human dead bodies and to specify minimum embalming procedures for health and safety reasons and to protect the dignity of the deceased.
3. Analysis of effectiveness in obtaining objective: The rule is not effective for the reasons stated in paragraphs 4, 5, and 6 and because the rule needs to include embalmer's assistants and to be updated to include current standards of embalming practices, such as universal precautions and blood borne pathogen requirements.
4. Analysis of consistency with state and federal rules and statutes: Subsection (A)(1) is not consistent with A.R.S. § 32-1324 because the statute voids apprentice embalmer registration after July 31, 2002. Additionally, embalmer's assistants need to be added to the rule. The rest of the rule is consistent.
5. Status of enforcement of the rule: The Board does not enforce the requirements for apprentice embalmers in subsection (A)(1). The Board enforces for full compliance rather than substantial compliance as stated in subsection (D) of the rule. The rest of the rule is enforced.
6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable because it uses passive language; ambiguous language, such as "to the extent feasible under the circumstances", "adequate", "diligent effort", "substantially removed"; and incorrect references to regulations rather than rules.

<p>R4-12-312: Equipment and sanitation requirements</p>	<ol style="list-style-type: none">1. Authorization of the rule by existing statutes: A.R.S. § 32-1382.2. The objectives of the rule are to list the instruments, equipment, and supplies that the Board recommends be maintained in a preparation room of a funeral establishment; require a sanitary embalming table; and provide the sanitation requirements for a funeral establishment.3. Analysis of effectiveness in obtaining objective: The rule is not effective for the reasons stated in paragraphs 4, 5, and 6 and because the Board needs to update the rule to include current standards for instruments, equipment, and supplies that are required in a preparation room.4. Analysis of consistency with state and federal rules and statutes: The rule is not consistent with A.R.S. § 32-1382 because the statute requires that the Board establish minimum standards for a preparation room. By providing discretionary standards, the Board has not met its statutory mandate.5. Status of enforcement of the rule: The rule is not being enforced because subsections (A) and (D) are discretionary, not mandatory; there are no standards for “clean and sanitary” in subsection (B); there are no standards for “sanitary” in subsection (C); and there are no standards for “health nuisance or hazard” in subsection (E).6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable because it uses passive, discretionary, and ambiguous language and undefined terms such as “preparation room”, and “health nuisance or hazard”.
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R4-12-413: Continuing Education Hours Required	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1338. 2. The objective of the rule is to specify the number of continuing education hours required each calendar year of a funeral director, embalmer, and embalmer’s assistant to apprise them of new techniques or a refresher in the current techniques. 3. Analysis of effectiveness in obtaining objective: The rule is not effective for the reasons stated in paragraphs 4, 5 and 6. 4. Analysis of consistency with state and federal rules and statutes: The rule is not consistent with A.R.S. § 32-1338 because the statute requires that anyone licensed or registered with the Board shall complete continuing education but the rule does not include interns in the hour breakdown. R4-12-211 also states that interns are required to provide continuing education but rule R4-12-413 does not state how many hours are required for interns. 5. Status of enforcement of the rule: The rule is being enforced to include interns. Currently interns are being required to submit 6 hours of continuing education as part of their renewal application. 6. Analysis of clarity, conciseness, and understandability: The rule is outdated in the amount of continuing education hours that are required. The State of Arizona currently requires more continuing education hours than what the industry average is across the United States. The Board would like to lower the required amount of hours to 6 hours for funeral directors, embalmers, interns and embalmer’s assistants and require hours to be completed both in-person and online.
R4-12-414: Waiver of Continuing Education	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1338. 2. The objectives of the rule are to describe the good cause standards for waiver of continuing education and specify the information required by the Board when submitting an application for waiver of continuing education.
R4-12-415: Continuing Education Determinations	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1338. 2. The objective of the rule is to allow a person to submit, before renewal, a request to the Board for determination of whether continuing education meets the requirements in A.R.S. § 32-1338 and R4-12-413.
R4-12-416: Documentation of Continuing Education	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1338. 2. The objective of the rule is to specify the information for continuing education that must be sent to the Board when renewing a license or registration.

<p>R4-12-523: Surety bond requirements</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1391.01(A), 32-1391.12(A)(4). 2. The objectives of the rule are to specify the amount of the surety bond required of a funeral establishment applying for a prearranged funeral sales endorsement and instruct a person to provide the document in Appendix D. 3. Analysis of effectiveness in achieving objective: Although the rule is effective, the Board has determined that a funeral establishment should have a choice of using the surety company’s bond form or Appendix D. 6. Analysis of clarity, conciseness, and understandability: The rule is mostly clear however, the language used for the breakdown in the number of contracts sold can leave room for interpretation and should list specific contract number amounts.
<p>R4-12-541: Consumer disclosures</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1391.01(A), 32-1391.02, 32-1391.09. 2. The objective of the rule is to state the location of the consumer notice required by A.R.S. 32-1391.09. 3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: The rule is partially clear, concise, and understandable because it uses passive language and an incorrect citation to A.R.S. § 32-1391.08 in subsection (A).
<p>R4-12-545: Deceptive, misleading or professionally negligent practices</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1391.01. 2. The objective of the rule is to specify practices that the Board considers deceptive, misleading, or professionally negligent concerning the offer or sale of prearranged funeral arrangements or handling of trust funds. 3. Analysis of effectiveness in achieving objective: The rule is partially effective for the reasons stated in paragraph 6. 6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable because it uses passive language; gender specific language, the incorrect term “will”, and undefined terms.
<p>R4-12-546: Description of casket</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1391.01(A)(2). 2. The objective of the rule is to state the information required on a prearranged funeral agreement for a casket and what is considered misleading to a customer. 3. Analysis of effectiveness in achieving objective: The rule is partially effective for the reasons stated in paragraph 6. 6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable because it is poorly written, contains undefined terms, and does not state what must be included in a prearranged funeral agreement when a casket is sold.

<p>R4-12-548: Possession of trust account passbook</p>	<ol style="list-style-type: none"> 2. The objective of the rule is to provide a purchaser with the option of personally obtaining a copy of a financial institution passbook, certificate of deposit, or similar documentation or authorizing a funeral establishment to maintain the documentation on behalf of the purchaser. 3. Analysis of effectiveness in achieving objective: The rule is partially effective for the reasons stated in paragraph 6. 6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable because it uses gender specific language, contains undefined terms, and does not contain standards for “other similar documentation.”
<p>R4-12-551: Certificate of entitlement</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1391.06(B). 2. The objectives of the rule are to specify what information must be on a completed certificate of entitlement and what must occur after a financial institution receives the certificate signed and dated by the owner or responsible funeral director. 3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: The rule is partially clear, concise, and understandable because it does not conform to the numbering and letter system established by the Secretary of State, uses passive language, and incorrectly uses “which” instead of “that.”
<p>R4-12-552: Certificate of performance</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1391.08(B). 2. The objectives of the rule are to specify the information that must be on the certificate of performance, additional information that must be submitted if the certificate of performance concerns a fixed price prearranged funeral agreement, additional information that must accompany the certificate of performance, and the process for releasing funds after death of the beneficiary. 3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: Although the rule uses passive language, incorrectly uses “which” instead of “that”, and uses an incorrect numbering system, it is mostly clear, concise, and understandable.

<p>R4-12-554: Statement of accrued taxes</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1391.06(C). 2. The objective of the rule is to specify what must be submitted by a funeral establishment to a financial institution for accrued taxes for a prearranged funeral trust account. 3. Analysis of effectiveness in achieving objective: The rule is partially effective for the reasons stated in paragraphs 4 and 6. 4. Analysis of consistency with state and federal rules and statutes: Because the rule only allows payment to a taxing authority, the rule is inconsistent with A.R.S. § 32-1391.06(C), which authorizes payment to either the taxing authority or the beneficiary upon a proper showing that the beneficiary has paid the taxes. 6. Analysis of clarity, conciseness, and understandability: The rule is not clear, concise, and understandable because subsection (4) is poorly written and organized, it is unclear what is meant by “one other employee of the establishment”, it is not clear whether anyone other than the responsible funeral director is necessary to sign the statement required in subsection (4), and the last sentence conflicts with A.R.S. § 32-1391.06(C).
<p>R4-12-556: Notice of trust account transfer</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1391.05(C). 2. The objectives of the rule are to state when a funeral establishment must notify a participant and the Board of a transfer or change in status of a prearranged funeral trust account and the information that must be provided with the notice. 3. Analysis of effectiveness in achieving objective: The rule is partially effective for the reasons stated in paragraphs 5 and 6. 5. Status of enforcement of the rule: Except for the second and third sentences in subsection (B), the Board enforces the rule. 6. Analysis of clarity, conciseness, and understandability: The rule is partially clear, concise, and understandable because it contains undefined terms and an incorrect citation to A.R.S. § 32-1391.04(C) instead of A.R.S. § 32-1391.05(C).
<p>R4-12-559: Purchaser cancellation requests</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1391.07(A). 2. The objective of the rule is to specify the information that must be contained in a written request to terminate a prearranged funeral agreement and have trust funds refunded. 3. Analysis of effectiveness in achieving objective: The rule is partially effective for the reasons stated in paragraphs 4 and 5. 4. Analysis of consistency with state and federal rules and statutes: The rule is inconsistent with A.R.S. § 32-1391.07(A) because the statute requires a funeral establishment to refund the trust funds within five business days, while the rule requires five days. 5. Status of enforcement of the rule: The Board enforces the rule according to statute.

R4-12-561: Annual report format	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1391.16. 2. The objective of the rule is to specify the information that must be submitted on the annual report required by A.R.S. 32-1391.15 for funeral establishments that do and do not offer to sell prearranged funerals on or after January 1, 1985. 3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: Although the rule incorrectly cites A.R.S. § 32-1391.15 as its implementing statute and uses the superfluous word “concerning”, it is mostly clear, concise, and understandable.
R4-12-565: Records retention requirement	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1391.01(A)(3). 2. The objectives of the rule are to specify the prearranged funeral agreement documents that must be kept by a funeral establishment for inspection purposes and the length of time the documents must be kept. 3. Analysis of effectiveness in achieving objective: Except as stated in paragraph 6, most of the rule is effective. 6. Analysis of clarity, conciseness, and understandability: Although subsection (3) of the rule is grammatically incorrect, the rule is mostly clear, concise, and understandable.
Appendix B.: Statement of Goods and Services Selected	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1373. 2. The objective of the rule is to provide a form that itemizes the goods and services purchased by an individual, which is to be used as a final bill by a funeral establishment. 3. Analysis of effectiveness in achieving objective: Except for the phrase “statement not used as a final bill”, the appendix is effective. The form may actually be used as a final bill. 5. Status of enforcement of the rule: Except for the phrase “statement not used as a final bill”, the appendix is enforced.
Appendix D.: Prearranged Funeral Endorsement Bond	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. §§ 32-1391.01(A)(4), 32-1391.12. 2. The objective of appendix is to establish a form for a surety bond that is to be submitted to the Board with a prearranged funeral sales endorsement application.
Appendix E.: Annual Report	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1391.16. 2. The objective of the appendix is to establish a form for the annual report required by A.R.S. § 32-1391.16.
R4-12-612: Crematory requirements	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1399. 2. The objective of the rule is to specify the standards to keep a crematory clean, and establish requirement for human remains that are not embalmed.
R4-12-613: Requirements for a funeral establishment that provides for cremation	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1399. 2. The objective of the rule is to require the designation of a responsible cremationist and state the requirements for a funeral establishment that provides for cremation.

<p>R4-12-631: Records requirements for crematories and funeral establishments that provide for cremation</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1399(11). 2. The objective of the rule is to specify what is required of a responsible cremationist or funeral establishment for records as required by A.R.S. § 32-1399(11). 3. Analysis of effectiveness in obtaining objective: The rule is not effective for the reasons stated in paragraphs 5 and 6 . 5. Status of enforcement of the rule: Subsection B is not being enforced on establishments that provide for cremation as the requested information is not readily available for establishments who contract cremations out to another crematory to complete. 6. Analysis of clarity, conciseness, and understandability: The rule is only partially effective as it requires information not readily available to establishments who do not perform their own cremations. The rule should be amended to require a type of “chain of custody” from establishments who provide for cremation verses a permanent chronological log.
<p>R4-12-633: Disposition of records</p>	<ol style="list-style-type: none"> 1. Authorization of the rule by existing statutes: A.R.S. § 32-1399(11). 2. The objective of the rule is to specify what is required of a responsible cremationist or funeral establishment when a crematory or funeral establishment that provides for cremations is sold or ceases operations.

3. **Are the rules effective in achieving their objectives?**

Yes No

The following rules effectively achieve their objective:

R4-12-101, R4-12-106, Table 1, R4-12-108, R4-12-109, R4-12-120, R4-12-121, R4-12-123, R4-12-125, R4-12-126, R4-12-201, R4-12-202, R4-12-203, R4-12-204, R4-12-205, R4-12-206, R4-12-207, R4-12-208, R4-12-209, R4-12-210, R4-12-211, R4-12-212, R4-12-414, R4-12-415, R4-416, R4-12-523, R4-12-612, R4-12-613, R4-12-633.

The following rules are mostly effective for the reasons stated in the individual rule:

R4-12-305, R4-12-541, R4-12-551, R4-12- 552, R4-12-561, R4-12-565, Appendix B, Appendix D, Appendix E.

The following rules are partially effective for the reasons stated in the individual rule:

R4-12-302, R4-12-303, R4-12-304, R4-12-306, R4-12-545, R4-12-546, R4-12-548, R4-12-554, R4-12-556, R4-12-55, R4-12-631.

The following rules are not effective for the reasons stated in the individual rule:

R4-12-301, R4-12-307, R4-12-311, R4-12-312, R4-12-413.

4. **Are the rules consistent with other rules and statutes?** Yes X No

All of the rules except the following are consistent with other state and federal rules and statutes as stated in the individual rule:

R4-12-301, R4-12-303, R4-12-311, R4-12-312, R4-12-413, R4-12-554, R4-12-559.

5. **Are the rules enforced as written?** Yes X No

All of the rules, except the following are being enforced as stated in the individual rule:

R4-12-301, R4-12-302, R4-12-303, R4-12-311, R4-12-312, R4-12-413, R4-12-556, R4-12-559, R4-12-631, Appendix B.

6. **Are the rules clear, concise, and understandable?** Yes X No

The following rules are clear, concise, and understandable:

Table 1, R4-12-109, R4-12-121, R4-12-123, R4-12-125, R4-12-126, R4-12-201, R4-12-202, R4-12-203, R4-12-204, R4-12-205, R4-12-206, R4-12-207, R4-12-209, R4-12-210, R4-12-212, R4-12-414, R4-12-415, R4-12-416, R4-12-559, R4-12-612, R4-12-613, R4-12-633, Appendix B, Appendix D, Appendix E.

The following rules are mostly clear, concise, and understandable:

R4-12-101, R4-12-106, R4-12-108, R4-12-120, R4-12-208, R4-12-211, R4-12-305, R4-12-523, R4-12-552, R4-12-561, R4-12-565.

The following rules are partially clear, concise, and understandable:

R4-12-306, R4-12-541, R4-12-551, R4-12-556, R4-12-631.

The following rules are not clear, concise, and understandable:

R4-12-301, R4-12-302, R4-12-303, R4-12-304, R4-12-306, R4-12-307, R4-12-311, R4-12-312, R4-12-413, R4-12-544, R4-12-545, R4-12-546, R4-12-548, R4-12-554.

7. **Has the agency received written criticisms of the rules within the last five years?** Yes No X

The Board has not received written criticism of the rules within the last five years, but licensees have either questioned during conducted inspections or at the Call to the Public held during monthly meetings R4-12-631(B). While the requirements of the rule are mostly clear, the practicality and enforcement is not. Establishments who do not perform cremations on site cannot easily access all of the required information listed in R4-12-631(B); such as the name of the responsible cremationist, signature of cremationist who performed the cremation and the date and time the cremation was completed on.

If the Board is continued past March 31, 2023, the clarity and practicality of this rule will be addressed and amended beginning in 2024.

8. **Economic, small business, and consumer impact comparison:**

Except as otherwise stated and as anticipated by the Board upon promulgation of the rules, the rules have had minimal economic impact on the Board, other state agencies, private entities, small businesses, and consumers. When economic impact is discussed, minimal means less than \$1,000, moderate means \$1,000 to \$10,000, and substantial means more than \$10,000.

R4-12-311 and R4-12-312 became effective on June 16, 1981. Since R4-12-311 contains requirements for embalming, the economic impact ranges from minimal to moderate on embalmers or funeral establishments, depending on the extent to which the embalmers or funeral establishments meet the requirements before licensure. Also, because R4-12-312 is discretionary, the equipment and sanitation cost will vary, depending on what equipment the funeral establishment chooses to maintain in the preparation room. The economic impact statement related to these rules is not available.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes No X

No one has submitted such an analysis to the Board.

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

The previous five-year-rule-review report was approved by GRRC on March 7, 2017 and stated that Articles 3 and 5 would be amended in FY17 and FY18. No amendments have been addressed at the time of completing the 2022 five-year-rule-review report. The Agency is not attempting to make excuses for why the rule amendments have not been addressed but the main reason would be due to a lack of stability with staffing. The Board has gone through a large amount of staff turnover, including two executive directors between 2018 and 2021 and a complete turnover in all support staff in 2021.

The current staff, executive director included, has been with the Agency since 2021. If the Agency is continued past March 31, 2023, the Board plans to begin addressing the rule amendments for Articles 3 and 5 in 2024.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

After reviewing the economic impact statements written at the time of rule promulgation, the Board has determined that the rules outweigh the probable costs of the rules. The rules impose the least burden and costs to applicants, licensees, or registrants and there are no less costly alternatives to the rules. The Board does intend to address Articles 3 and 5 however to ensure consistency with statute.

12. **Are the rules more stringent than corresponding federal laws?** Yes No X

A.R.S. § 32-1377 states that the Board's rules shall be as stringent as the federal trade commission regulations relating to funeral industry practices. When the Board wrote its rules it ensured that the rules were as stringent as but no more stringent than the federal trade commission regulations.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

The Board does not issue general permits. Only individual licenses are issued to individuals who have met all of the requirements pursuant to the Board's statutes. Therefore, this provision and A.R.S. § 41-1037 does not apply to the Agency's rules.

14. **Proposed course of action**

Under House Bill 2123 that was passed in the 55th Legislature Second Regular Session, the Board is scheduled to sunset as of March 31, 2023. The Board is currently in the process of setting up stakeholder meetings that will determine the future of the Agency and regulation of the death care/funeral industry.

Should the Agency go through Sunrise Legislation, Articles 3 and 5 will be addressed and amended as the articles have not been amended since the previous five-year-rule-review report was filed. In addition to Articles 3 and 5, the Board intends to amend Article 6 as well. It was determined by the Arizona Auditor General's Office that the Agency does not have correlating rules for A.R.S. § 32-1399(2-7) and A.R.S. § 32-1399(10). To correct this deficiency, the Board intends to request an exemption to the rulemaking moratorium and draft the required correlating rules.

House Bill 2024, which was also passed during the 55th Legislature Second Regular Session, approved the Board to oversee licensure for alkaline hydrolysis facilities and operators. The bill will take effect on September 24, 2022 and outlines that requirements for licensure for alkaline hydrolysis facilities and operators be prescribed in rule. The Agency intends to request an exemption to the rulemaking moratorium for this circumstance as well. The request will cite Executive Order 2021-02(1)(f).

While a majority of the rules in Articles 1, 2 and 4 are effective and achieve their objectives, minor language updating is required. A handful of rules in all three articles need to be amended to address grammar errors, updating terminology and adjusting application processing time-frames and required continuing education hours.

As the future of the Agency is still unknown, it is difficult to provide a timeframe for when the amendments will be carried out. If the Board is continued, the Agency plans to begin working on amending all articles in 2024 and have the updates completed by December of 2025. The Agency also intends to beginning working with the Arizona Funeral, Cemetery, and Cremation Association and a rule writer in the fourth quarter of 2023 to draft the required rules for alkaline hydrolysis if the Board's exemption is granted.

CEU Requirements, Endorsement & Reciprocity

CEU Requirements				Endorsement & Reciprocity Regulations			
	Hours Required		Monitoring?	Penalty for Non-Compliance	Reciprocity or Endorsement	Any other requirements for those licensed in another jurisdiction other than minimum?	Agreements w/ Other Jurisdiction?
	Hours	Year(s)					
Alabama	8	2 years	All licensees must report	License not renewed	Reciprocity	No	No
Alaska	CEU Not required				Reciprocity	No	No
Alberta	12	3 Years	Part of estab. inspection process; submitted to the board	License not renewed	Cross CA Agreement	Pass AB FD exam	Labour Mobility agreement
Arizona	12	year	Renewals	Licensee brought before board to determine action	Reciprocity	No	No
Arkansas	6	year	CE provider must submit proof of attendance	License not renewed	Endorsement	No	No
California	CEU Not required				Embalmers licensed in other state & practiced for 3 of last 7 yrs prior to application, not required to complete apprenticeship. Must meet other requirements & pass exam.		
Colorado	Licensure not required. Voluntary certification available through CO FDA.						
Connecticut	6	year	Review if complaint filed	Probation until CE complete	Reciprocity	No	No
Delaware	10	2 years	Audits	Board determines discipline based on hearing	Reciprocity	Actively practiced 3 out of last 5 years	No
D.C.	6	2 years	Audits	License not renewed, extension	Reciprocity	Pass DC Laws Exam	MD, VA & NC
Florida	12	2 years	Division confirms CEs	Depends on circumstances, admin. action may be taken (1 must be communicable disease course)	Both	Yes	No
Georgia	10	2 years	Audits	License not renewed	Both	Pass GA Laws Exam	No
Hawaii	CEU Not Required				Both	No	No
Idaho	8	year	Audits	Disciplinary action case by case basis	Endorsement	Licensed in another jurisdiction for 5 yrs	No
Illinois	24	2 years	Audits	Fine, disciplinary action, providers are reviewed by the Board and licensed by department	Endorsement	Active licensure, no discipline, affidavits of active practice	No
Indiana	5	year	Audits	Fine, suspension	NA	Pass IN Laws exam	No
Iowa	24	2 years	Audits	May be assessed a civil penalty	Endorsement	Must be comparable or exceed IA requirements	No
Kansas	12	2 years	Submitted w/ renewal	License not renewed	Both	Funeral directors must be licensed for minimum of one year	No
Kentucky	12	2 years	Random visits	License not renewed	Endorsement	Pass state exams	No
Louisiana	4	year	CE broker	NA	Endorsement	No	No
Maine	12	2 years	Audits	Consent agreement with warning, extension, possible fine	NA	No	No
Maryland	12	2 years	Audits & random visits	License not renewed	NA	Pass Jurisprudence exam + 5 years in good standing from previously licensed jurisdiction	No
Massachusetts	8	year	Audits	Fine and licensee must make up courses	Endorsement	No	No
Michigan	No CEU Requirements				Reciprocity	Pass State Board Exam	No
Minnesota	15	2 years	Post CEs on website & verify	Follow-up correspondence, case by case basis	Both	Requirements must be substantially similar or equivalent	No
Mississippi	No CEU Requirements				Endorsement	No	No
Missouri	No CEU Requirements				Reciprocity	Obtain verification of licensure from each state ever licensed in; must be licensed for at least one year	No

CEU Requirements				Endorsement & Reciprocity Regulations			
	Hours Required		Monitoring?	Penalty for Non-Compliance	Reciprocity or Endorsement	Are there any other requirements for those licensed in another jurisdiction other than minimum?	Agreements w/ Other Jurisdiction?
	Hours	Year(s)					
Montana	6	Year	Audits	Administrative suspension process	Reciprocity	Practicing 5 of last 7 years, if not - must retake NBE, no disciplinary issues, reciprocating state must have substantially equivalent requirements	No
Nebraska <i>See Footnote</i>	12	2 years	Audits	License not renewed	NA	Additional education requirements can be waived if licensed for 5 years	No
Nevada	12	2 years	Audits	Disciplinary action	Endorsement	Embalmers licensed at least 5 years & actively practicing 2 of the last 5 years preceding app, Pass NV LRR, NBE Science	No
New Hampshire	14	2 years	Tracked by Board	License not renewed	NA	No	No
New Jersey	10	2 years	Audits	Fine, suspension, or required make up credits	Reciprocity	Letter of verification and pass JP exam	No
New Mexico	10	year	Audits	License not renewed	NA	Verification of licensure from jurisdiction(s) where license is held	No
New York	12	2 years	Audits	Given 120 days to complete & \$125 late fee	Endorsement	Pass NYS Law Exam	No
North Carolina	5	year	Audits	License not renewed	Reciprocity	Practiced 3 years prior to application and board determines if other jurisdiction's requirements are equivalent or greater	No
North Dakota	No CEU Requirements				Reciprocity	Pass Laws Exam	No
Nova Scotia	6 credits, every 5 yrs per license		Annual review	License not renewed	Reciprocity	Pass Provincial Law exam, criminal records check, letter of good standing	Labour Mobility agreement
Ohio <i>See Footnote</i>	18	2 years	Random visits	Fine, disciplinary action, case by case basis	Reciprocity	Pass OH LR Exam, letter of good standing, 2 letters of recommendation	Courtesy card (border states)
Oklahoma <i>*1 in person & 1 ethics course</i>	6	year	Random visits	Fine - \$500	Endorsement	No	No
Ontario	6	year	License renewal	License not renewed	Reciprocity	Jurisprudence Exam and police check	No
Oregon	No CEU Requirements				Reciprocity	Actively practicing, license in good standing, pass Law Exam	No
Pennsylvania <i>*includes 2 hr child abuse course</i>	6	2 years	Audits	License not renewed	Reciprocity	No	MD & WV
Rhode Island	5	year	Audits	Licensee usually given a timeframe to complete	NA		
Saskatchewan	4 per license	year	Submitted by licensee	License not renewed	Reciprocity	Pass Jurisprudence Exam, criminal record check, letter of good standing from current jurisdiction	Labour Mobility agreement
South Carolina	6	2 years	CE broker	License will not be renewed; disciplinary action	Endorsement	Endorsement over 5 years - if under, review on case by case basis	No
South Dakota	No CEU Requirements				Endorsement	No	No
Tennessee	10	Year	Random visits; verify @ renewal	License not renewed	Reciprocity	Pass TN Laws Exam	No
Texas	16	2 years	Audits	License not renewed	Reciprocity	No	No
Utah	20	2 years	Audits	Extension by request for medical reason, disciplinary action could include fine/probation	Endorsement	If applicant has 5 years of practice in the last 10 and passed NBE	No
Vermont	Not provided		Audits	Disciplinary action	Reciprocity	NA	No
Virginia	5	year	Audits	Disciplinary action based on conditions	Both	Pass VA LRR Exam	MD, DC courtesy card
Washington	5	year	Random Audits	License not renewed	Reciprocity	Education requirements are waived if similar requirements, verify license is in good standing	No
West Virginia	3 credits 4 OSHA	2 years	Must submit certificates	License not renewed	Both	No	PA
Wisconsin	15	2 years	Audits	Investigation	Reciprocity	Pass WI Jurisprudence Exam	No
Wyoming	8	year	Audits	Determined on a case by case basis	Endorsement	No	No

TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 12. BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

(Authority: A.R.S. § 32-1302 et seq.)

Articles 1 through 4 consisting of Sections R4-12-101 through R4-12-405 adopted effective June 16, 1981. Section numbering not in sequence, refer to Historical Notes.

Article 1 through 9 consisting of Sections R4-12-01 through R4-12-03, R4-12-12 through R4-12-16, R4-12-31, R4-12-32, R4-12-42 through R4-12-44, R4-12-54, R4-12-64, R4-12-65, R4-12-75, R4-12-85, R4-12-95 repealed effective June 16, 1981.

ARTICLE 1. GENERAL PROVISIONS

Section	
R4-12-101.	Definitions
R4-12-102.	Reserved
R4-12-103.	Expired
R4-12-104.	Expired
R4-12-105.	Expired
R4-12-106.	Time-frames for Board Approval
Table 1.	Time-frames (in days)
R4-12-107.	Reserved
R4-12-108.	Fees
R4-12-109.	Enforcement Advisory Committee
R4-12-110.	Reserved
R4-12-111.	Reserved
R4-12-112.	Reserved
R4-12-113.	Reserved
R4-12-114.	Reserved
R4-12-115.	Reserved
R4-12-116.	Reserved
R4-12-117.	Reserved
R4-12-118.	Reserved
R4-12-119.	Reserved
R4-12-120.	Inspection Procedures
R4-12-121.	Investigation Procedures
R4-12-122.	Expired
R4-12-123.	Informal Interview
R4-12-124.	Expired
R4-12-125.	Hearing Procedures
R4-12-126.	Rehearing or Review of Board's Decision

ARTICLE 2. LICENSING PROVISIONS

Section	
R4-12-201.	Application for a State Equivalent Examination or Embalmer Assistant Practical Examination
R4-12-202.	Application for an Intern, an Embalmer, or a Funeral Director License
R4-12-203.	Application for an Embalmer's Assistant Registration
R4-12-204.	Application for a Funeral Establishment License or Interim Funeral Establishment Permit
R4-12-205.	Application for a Prearranged Funeral Sales Endorsement
R4-12-206.	Application for a Prearranged Funeral Salesperson Registration
R4-12-207.	Application for a Crematory License
R4-12-208.	Annual Intern, Apprentice Embalmer, or Embalmer's Assistant Report
R4-12-209.	State Equivalent Examination
R4-12-210.	Application for a Cremationist License
R4-12-211.	Renewal
R4-12-212.	Reinstatement

ARTICLE 3. REGULATORY PROVISIONS

Section	
R4-12-301.	General funeral services requirements
R4-12-302.	Deceptive practices prohibited
R4-12-303.	Misrepresentation of legal or cemetery requirements
R4-12-304.	Telephone price disclosures requirement
R4-12-305.	Price lists requirement
R4-12-306.	Merchandise price card requirement
R4-12-307.	Funeral goods and services memorandum
R4-12-308.	Expired
R4-12-309.	Expired
R4-12-310.	Expired
R4-12-311.	Minimum embalming requirements
R4-12-312.	Equipment and sanitation requirements

ARTICLE 4. CONTINUING EDUCATION

Section	
R4-12-401.	Reserved
R4-12-402.	Reserved
R4-12-403.	Reserved
R4-12-404.	Reserved
R4-12-405.	Expired
R4-12-406.	Reserved
R4-12-407.	Reserved
R4-12-408.	Reserved
R4-12-409.	Reserved
R4-12-410.	Reserved
R4-12-411.	Reserved
R4-12-412.	Reserved
R4-12-413.	Continuing Education Hours Required
R4-12-414.	Waiver of Continuing Education
R4-12-415.	Continuing Education Determinations
R4-12-416.	Documentation of Continuing Education

ARTICLE 5. PREARRANGED FUNERAL AGREEMENTS

Article 5 consisting of Sections R4-12-501, R4-12-502, R4-12-521, R4-12-523, R4-12-531, R4-12-541, R4-12-545, R4-12-546, R4-12-548, R4-12-551, R4-12-552, R4-12-554, R4-12-556, R4-12-559, R4-12-561, R4-12-565 adopted effective January 1, 1985.

Section	
R4-12-501.	Expired
R4-12-502.	Expired
R4-12-503.	Expired
R4-12-504.	Reserved
R4-12-505.	Reserved
R4-12-506.	Reserved
R4-12-507.	Reserved
R4-12-508.	Reserved
R4-12-509.	Reserved
R4-12-510.	Reserved
R4-12-511.	Reserved
R4-12-512.	Reserved
R4-12-513.	Reserved
R4-12-514.	Reserved
R4-12-515.	Reserved
R4-12-516.	Reserved
R4-12-517.	Reserved
R4-12-518.	Reserved
R4-12-519.	Reserved

R4-12-520.	Reserved
R4-12-521.	Expired
R4-12-522.	Reserved
R4-12-523.	Surety bond requirements
R4-12-524.	Reserved
R4-12-525.	Reserved
R4-12-526.	Reserved
R4-12-527.	Reserved
R4-12-528.	Reserved
R4-12-529.	Reserved
R4-12-530.	Reserved
R4-12-531.	Repealed
R4-12-532.	Reserved
R4-12-533.	Reserved
R4-12-534.	Reserved
R4-12-535.	Reserved
R4-12-536.	Reserved
R4-12-537.	Reserved
R4-12-538.	Reserved
R4-12-539.	Reserved
R4-12-540.	Reserved
R4-12-541.	Consumer disclosures
R4-12-542.	Reserved
R4-12-543.	Reserved
R4-12-544.	Reserved
R4-12-545.	Deceptive, misleading or professionally negligent practices
R4-12-546.	Description of casket
R4-12-547.	Reserved
R4-12-548.	Possession of trust account passbook
R4-12-549.	Reserved
R4-12-550.	Reserved
R4-12-551.	Certificate of entitlement
R4-12-552.	Certificate of performance
R4-12-553.	Reserved
R4-12-554.	Statement of accrued taxes
R4-12-555.	Reserved
R4-12-556.	Notice of trust account transfer
R4-12-557.	Reserved
R4-12-558.	Reserved
R4-12-559.	Purchaser cancellation requests
R4-12-560.	Reserved
R4-12-561.	Annual report format
R4-12-562.	Reserved
R4-12-563.	Reserved
R4-12-564.	Reserved
R4-12-565.	Records retention requirement
Appendix B.	Statement of Funeral Goods and Services Selected
Appendix C.	Expired
Appendix D.	Prearranged Funeral Endorsement Bond
Appendix E.	Annual Report

ARTICLE 6. CREMATORY AND CREMATION REGULATION

Section	
R4-12-601.	Repealed
R4-12-602.	Repealed
R4-12-603.	Reserved
R4-12-604.	Reserved
R4-12-605.	Reserved
R4-12-606.	Reserved
R4-12-607.	Reserved
R4-12-608.	Reserved
R4-12-609.	Reserved
R4-12-610.	Reserved
R4-12-611.	Repealed

R4-12-612.	Crematory requirements
R4-12-613.	Requirements for a funeral establishment that provides for cremation
R4-12-614.	Reserved
R4-12-615.	Reserved
R4-12-616.	Reserved
R4-12-617.	Reserved
R4-12-618.	Reserved
R4-12-619.	Reserved
R4-12-620.	Reserved
R4-12-621.	Repealed
R4-12-622.	Expired
R4-12-623.	Reserved
R4-12-624.	Reserved
R4-12-625.	Reserved
R4-12-626.	Reserved
R4-12-627.	Reserved
R4-12-628.	Reserved
R4-12-629.	Reserved
R4-12-630.	Reserved
R4-12-631.	Records requirements for crematories and funeral establishments that provide for cremation
R4-12-632.	Repealed
R4-12-633.	Disposition of records
R4-12-634.	Repealed
R4-12-635.	Reserved
R4-12-636.	Reserved
R4-12-637.	Reserved
R4-12-638.	Reserved
R4-12-639.	Reserved
R4-12-640.	Reserved
R4-12-641.	Expired

ARTICLE 1. GENERAL PROVISIONS

R4-12-101. Definitions

In this Chapter:

1. "Applicant" means:
 - a. An individual requesting to take a state equivalent examination;
 - b. An individual requesting a reinstatement or an initial or renewal license or registration issued by the Board; or
 - c. One of the following if requesting an interim permit or an initial or renewal funeral establishment license, crematory license, or prearranged funeral sales establishment endorsement:
 - i. The individual, if a sole proprietorship;
 - ii. Any two of the corporation's officers, if a corporation;
 - iii. The managing partner, if a partnership or limited liability partnership; or
 - iv. The designated manger, or if no manger is designated, any two members of the limited liability company, if a limited liability company.
2. "Application packet" means the documents, forms, and additional information required by the Board for an initial or renewal application for a license, registration, endorsement, or reinstatement.
3. "Board" means the same as in A.R.S. § 32-1301.
4. "Burial" means a disposition of human remains, other than direct cremation.
5. "Cash advance item" means any service or merchandise such as pallbearers, transportation, clergy, flowers, motorcycle escorts, hair dressers, barbers, nurses, obituary notices, or death certificates, which is paid for by a funeral establishment on behalf of a purchaser and

charged to the purchaser at the same amount as originally purchased.

6. "Continuing education" means a workshop, seminar, lecture, conference, class, or instruction related to funeral practices.
7. "Credit hour" means 60 minutes of participation in continuing education.
8. "Day" means calendar day.
9. "Direct cremation" means cremation of human remains without a formal viewing, ceremony, or visitation of the human remains except for identification purposes.
10. "Disposition-transit permit" means the document that meets the requirements in A.R.S. § 36-326 and A.A.C. R4-19-302.
11. "Endorsement" means a written authorization issued by the Board to a funeral establishment to offer or sell prearranged funeral agreements under 4 A.A.C. 12, Article 5.
12. "Fraud," "misleading," or "false" means the actions described in A.R.S. § 44-1522.
13. "Funeral establishment that provides for cremation" means a funeral establishment defined in A.R.S. § 32-1301(25) that owns a crematory on or off the funeral establishments premises or contracts with a crematory for cremation.
14. "Immediate burial" means a disposition of human remains, other than direct cremation, without a formal viewing, ceremony, or visitation except for identification purposes.
15. "Harmful" means to cause damage or impairment to an individual's body.
16. "Manager" means an individual who manages according to A.R.S. § 32-1301.
17. "Party" has the meaning in A.R.S. § 41-1001.
18. "Permanent" means everlasting and existing perpetually.
19. "Previous owner" means a person who owned 10 percent or more of a funeral establishment before the current owner.
20. "Refrigerated" means the act of maintaining human remains at or below a temperature of 38 degrees Fahrenheit.
21. "Registrant" means an individual authorized by the Board to act as an embalmer's assistant or a prearranged funeral salesperson.
22. "Unfinished wood box" means an unornamented receptacle or casket for human remains.
23. "Week" means seven consecutive days.

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3). Amended effective January 2, 1985 (Supp. 85-1). Amended by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1). Amended by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 20 A.A.R. 2648, effective November 9, 2014 (Supp. 14-3).

R4-12-102. Reserved

R4-12-103. Expired

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-104. Expired

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3). Amended effective January 2, 1985 (Supp. 85-1). Amended effective September 18, 1987 (Supp. 87-3). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-105. Expired

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3). Former Section R4-12-105 repealed, new Section R4-12-105 adopted effective January 2, 1985 (Supp. 85-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-106. Time-frames for Board Approval

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is listed in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive review 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 approval granted by the Board is listed in Table 1.
 1. The administrative completeness review time-frame begins:
 - a. For approval to take a state equivalent examination, when the Board receives an application packet required in R4-12-201;
 - b. For approval or denial of a license, when the Board receives an application packet; or
 - c. For approval or denial of an endorsement, a registration, or a permit, when the Board receives an application packet.
 2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
 3. If the application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
 4. If the Board grants a license, registration, endorsement, or approval during the time provided to assess administrative completeness, the Board 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 listed in Table 1 and begins on the postmark date of the notice of administrative completeness.
 1. As part of the substantive review for a funeral establishment license, the Board shall conduct an inspection of the funeral establishment that may require more than one visit.
 2. During the substantive review time-frame, the Board may make one comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.

- 3. The Board shall send a written notice of approval to an applicant who meets the qualifications in A.R.S. Title 32, Chapter 13 and this Chapter.
- 4. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. Title 32, Chapter 13 and this Chapter.
- D. The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:
 - 1. Supply the missing information under subsection (B)(2) or (C)(2); or
 - 2. Pass a national board, state equivalent, or state laws and rules examination, as applicable.
 - E. An applicant who does not wish an application withdrawn may request a denial in writing within 360 days from the application submission date.
 - F. If a time-frame's last day falls on a Saturday, Sunday, or official state holiday, the Board shall consider the next business day as the time-frame's last day.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

Table 1. Time-frames (in days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Approval to take a state equivalent examination R4-12-201	A.R.S. §§ 32-1309, 32-1327, 32-1329	50	20	30
Approval to take an Embalmer Assistant Practical Examination R4-12-201	A.R.S. §§ 32-1309, 32-1325.01	50	20	30
Intern, embalmer, or funeral director license R4-12-202	A.R.S. §§ 32-1309, 32-1322, 32-1323	110	20	90
Embalmer or funeral director license by an applicant who holds an out-of-state-license R4-12-202(E)	A.R.S. §§ 32-1309, 32-1335	110	20	90
Multiple funeral director license R4-12-202(F)	A.R.S. §§ 32-1309, 32-1335	110	20	90
Embalmer's assistant registration R4-12-203	A.R.S. §§ 32-1309, 32-1325.01	110	20	90
Funeral establishment license R4-12-204	A.R.S. §§ 32-1309, 32-1383	110	20	90
Prearranged funeral sales establishment endorsement R4-12-205	A.R.S. §§ 32-1309, 32-1391.12	60	20	40
Prearranged funeral salesperson registration R4-12-207	A.R.S. §§ 32-1309, 32-1391.14	110	20	90
Crematory license R4-12-207	A.R.S. §§ 32-1309, 32-1395	110	20	90
Cremationist license R4-12-210	A.R.S. § 32-1394.01	110	20	90
License, registration, or endorsement renewal R4-12-211	A.R.S. §§ 32-1331, 32-1338, 32-1386, 32-1391.12, 32-1391.14, 32-1394.02, 32-1396	60	30	30

Historical Note

New Table adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1). Amended by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

R4-12-107. Reserved

R4-12-108. Fees

- A. The Board shall charge the following nonrefundable fees for filing an annual trust report under A.R.S. § 32-1391.16:

- 1. For each funeral establishment that has a prearranged funeral trust account and files an annual trust report in the time and manner required in A.R.S. § 32-1391.16, \$150.00.

2. For each funeral establishment that has a prearranged funeral trust account and files an annual trust report late or incomplete, \$200.00.
- B.** The Board shall charge the following fees for the duplication or copying of public records under A.R.S. § 39-121.03:
1. Noncommercial and commercial copy, 25¢ per page;
 2. Copying requiring more than 15 minutes, \$5.00 for each 15-minutes in excess of 15 minutes;
 3. Directories for noncommercial use, 5¢ per name and address;
 4. Directories for noncommercial use printed on labels, 10¢ per name and address;
 5. Directories for commercial use, 25¢ per name and address;
 6. Directories for commercial use printed on labels, 30¢ per name and address;
 7. A directory in subsection (B)(3), (4), (5), or (6) issued on a diskette, \$5.00 and the applicable name and address fee;
- C.** For the consumer information pamphlet, entitled Arizona Funerals Information, the Board shall charge a funeral establishment the Board's actual cost of publishing, distributing, and mailing the pamphlet.
- D.** The Board may waive any of the fees in subsection (B) for charitable organizations or governmental entities.

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3). Amended effective January 2, 1985 (Supp. 85-1). Amended effective Dec. 27, 1985 (Supp. 85-6). Amended effective May 25, 1989 (Supp. 89-2). Amended by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-109. Enforcement Advisory Committee

- A.** The Board may appoint an enforcement advisory committee that consists of seven members as follows:
1. Four members representing the funeral industry, and
 2. Three lay members that have no affiliation with a funeral establishment or cemetery.
- B.** The enforcement advisory committee may:
1. Review and evaluate investigative matters referred to it by the Board, and
 2. Make recommendations to the Board about the disposition of investigative matters.
- C.** The Board may accept, reject, or modify the enforcement advisory committee's recommendations.

Historical Note

Adopted effective January 2, 1985 (Supp. 85-1). Amended by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

- R4-12-110. Reserved**
- R4-12-111. Reserved**
- R4-12-112. Reserved**
- R4-12-113. Reserved**
- R4-12-114. Reserved**
- R4-12-115. Reserved**
- R4-12-116. Reserved**
- R4-12-117. Reserved**
- R4-12-118. Reserved**
- R4-12-119. Reserved**

R4-12-120. Inspection Procedures

- A.** The Board shall inspect a funeral establishment or crematory:
1. Before issuing an initial license under A.R.S. § 32-1383; and
 2. Once every five years under A.R.S. § 32-1307(A)(5)(h).
- B.** The Inspection shall include:
1. Reviewing equipment and the physical plant;
 2. Interviewing personnel;
 3. For a funeral establishment, inspecting for compliance with A.R.S. Title 32, Chapter 12, Articles 2, 3, 3.1, 4, and 5, and A.A.C. Title 4, Chapter 12, Articles 3 and 5; and
 4. For a crematory, inspecting the crematory for compliance with A.R.S. Title 32, Chapter 12, Article 6 and A.A.C. Title 4, Chapter 12, Article 6.
- C.** At the inspection site, the Board shall make a verbal report of findings to an applicant or licensee upon completion of an inspection.
- D.** Within 15 days of the inspection, the Board shall send to the applicant or licensee a written report of its findings that includes:
1. A statement that no deficiencies were found, or
 2. If deficiencies are found:
 - a. A list of any deficiencies identified during the inspection,
 - b. A citation to each statute or rule that has not been complied with,
 - c. A request for a written plan of correction, and
 - d. The time-frame for correcting the deficiencies.
- E.** Within 15 days after receiving a request for a written plan of corrections, an applicant or licensee shall submit to the Board a written plan of correction that includes:
1. The identified deficiency,
 2. How the applicant or licensee will correct the deficiency, and
 3. When the applicant or licensee will correct the deficiency.
- F.** The Board shall accept a written plan of correction if it:
1. Describes how each deficiency will be corrected to bring the:
 - a. Funeral establishment into substantial compliance with A.R.S. Title 32, Chapter 12, Articles 2, 3, 3.1, 4, and 5, and A.A.C. Title 4, Chapter 12, Articles 3 and 5; or
 - b. Crematory into substantial compliance with A.R.S. Title 32, Chapter 12, Article 6 and A.A.C. Title 4, Chapter 12, Article 6.
 2. Includes a date for correcting each deficiency as soon as practicable based upon the actions necessary to correct the deficiency.
- G.** The Board shall provide an applicant or licensee with an opportunity to correct the deficiencies unless the Board determines the deficiencies are:
1. Committed intentionally;
 2. Evidence a pattern of noncompliance:
 - a. For a funeral establishment, with A.R.S. Title 32, Chapter 12, Articles 2, 3, 3.1, 4, and 5, and A.A.C. Title 4, Chapter 12, Articles 3 and 5; or
 - b. For a crematory, with A.R.S. Title 32, Chapter 12, Article 6 and A.A.C. Title 4, Chapter 12, Article 6; or
 3. A risk to the public health, safety, or welfare.
- H.** If an applicant or licensee does not correct the deficiencies within the time-frame approved by the Board, the Board may:
1. If requested by the applicant or licensee, extend the time-frame for situations beyond the control of the applicant or licensee, such as:

- a. When the applicant or licensee in good faith is unable to obtain the items necessary to correct the deficiencies within the time-frame approved by the Board, or
 - b. The time needed to correct the deficiencies is longer than the time-frame approved by the Board due to the complexity, nature, or amount of deficiencies.
2. If the applicant or licensee fails to correct the deficiencies within the time-frame approved by the Board, take the disciplinary actions stated in A.R.S. § 32-1390.01 or A.R.S. § 32-1398.
 - b. Question the licensee or registrant and all witnesses; and
 - c. Deliberate.
 3. After completing the informal interview the Board may dismiss the complaint or take any of the actions listed in A.R.S. § 32-1367(D):
 - B. The Board shall issue written findings of fact, conclusions of law, and Board order no later than 60 days from the date the informal interview is completed.
 - C. A licensee or registrant may seek a Board rehearing or review of a Board decision or the Board may grant rehearing or review on its own motion as stated in A.R.S. § 32-1367(I).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 3160, effective October 1, 2005 (Supp. 05-3).

R4-12-121. Investigation Procedures

- A. After receiving a complaint, the Board shall send a written notice of the complaint to the licensee or registrant within 15 days of its receipt and may include a request for information or documents related to the complaint. The licensee or registrant shall provide a written response and the requested information or documents no later than 15 days from the date the Board mails the notice of the complaint.
- B. In addition to the information or documents requested by the Board under subsection (A), the Board may request that a complainant, licensee, or registrant reply to or provide the Board with additional information relating to the complaint. The complainant, licensee, or registrant shall provide the Board with additional information within 15 days from the date the Board mails the request.

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3). Former Section R4-12-121 repealed, new Section R4-12-121 adopted effective January 2, 1985 (Supp. 85-1). Amended by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

R4-12-122. Expired**Historical Note**

Adopted effective June 16, 1981 (Supp. 81-3). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-123. Informal Interview

- A. The Board shall conduct an informal interview under A.R.S. § 32-1367 as follows:
 1. The Board shall send a written notice of the informal interview to each party by personal service or certified mail, return receipt requested, at least 20 days before the informal interview. The notice shall contain:
 - a. The time, place, and date of the informal interview;
 - b. An explanation of the procedures to be followed at the informal interview;
 - c. A statement of the subject matter or issues involved;
 - d. A statement of the licensee's or registrant's right to appear with or without counsel;
 - e. A notice that if a licensee, registrant, or complainant fails to appear at the informal interview, the informal interview may be held in the licensee's, registrant's, or complainant's absence; and
 - f. A statement of the licensee's or registrant's right to a formal hearing according to A.R.S. § 32-1367 instead of attending the informal interview.
 2. During the informal interview, the Board may:
 - a. Swear in the licensee or registrant and all witnesses;

Historical Note

New Section made by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

R4-12-124. Expired**Historical Note**

Adopted effective June 16, 1981 (Supp. 81-3). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-125. Hearing Procedures

- A. If a formal hearing under A.R.S. § 32-1367 is to be held before an administrative law judge, the requirements in A.R.S. §§ 41-1092 through 41-1092.11 apply.
- B. If a formal hearing under A.R.S. § 32-1367 is to be held before the Board, the requirements in A.R.S. §§ 41-1092 through 41-1092.11 and the following apply:
 1. The Board shall provide a written complaint and notice of formal hearing to a licensee or registrant at the licensee's or registrant's last known address of record, by personal service or certified mail, return receipt requested at least 30 days before the date set for the formal hearing.
 2. A licensee or registrant served with a complaint and notice of hearing shall file an answer by the date specified in the notice of hearing admitting or denying the allegations in the complaint.
 3. The Board may amend a complaint and notice of hearing at any time. The Board shall send written notice of any changes in the complaint and notice of hearing to the licensee or registrant at least 20 days before the formal hearing.
 4. A licensee or registrant may appear at a formal hearing with or without the assistance of counsel. If the licensee or registrant fails to appear, the Board may hold the formal hearing in the licensee's or registrant's absence.
 5. The Board may conduct a formal hearing without adherence to the rules of procedure or rules of evidence used in civil proceedings. At the formal hearing the Board shall rule on the procedure to be followed and admissibility of evidence.
 6. The Board shall send a written decision that includes written findings of fact, conclusions of law, and order of the Board to the licensee or registrant and all parties within 60 days after the formal hearing is concluded. A licensee, registrant, or the Board may seek rehearing or review of the order according to A.R.S. § 32-1367(I).

Historical Note

Adopted effective January 2, 1985 (Supp. 85-1). Amended by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

R4-12-126. Rehearing or Review of Board's Decision

- A. Except as provided in subsection (G), a party who is aggrieved by a decision issued by the Board may file with the Board, no

later than 30 days after service of the decision, a written motion for rehearing or review of the decision, specifying the grounds for rehearing or review. For purposes of this Section, a decision is considered to have been served when personally delivered to the party's last known home or business address or five days after the decision is mailed by certified mail to the party or the party's attorney.

- B.** A party filing a motion for rehearing or review may amend the motion at any time before it is ruled upon by the Board. Another party may file a response within 15 days after the date the motion or amended motion for rehearing is filed. The Board may require a party to file supplemental memoranda explaining the issues raised in the motion or response and may permit oral argument.
- C.** The Board may grant a rehearing or review of the decision for any of the following reasons materially affecting the moving party's rights:
1. Irregularity in the Board's or administrative law judge's administrative proceedings or any order or abuse of discretion that deprived the party of a fair hearing;
 2. Misconduct of the Board, administrative law judge, 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 or disciplinary action;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
 7. That the decision is not supported by the evidence or is contrary to law.
- D.** The Board may affirm or modify the decision or grant a rehearing or review on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify each ground for the rehearing or review.
- E.** No later than 30 days after a decision is issued by the Board, the Board may, on its own initiative, grant a rehearing or review of its decision for any reason in subsection (C). An order granting a rehearing or review shall specify the grounds for the rehearing or review.
- F.** If a motion for rehearing or review is based upon affidavits, a party shall serve the affidavits with the motion. An opposing party may, within 10 days after service, serve opposing affidavits. The Board may extend the time for serving opposing affidavits for no more than 20 days for good cause or by written stipulation of the parties. The Board may permit reply affidavits.
- G.** If the Board makes specific findings that the immediate effectiveness of a decision is necessary to preserve the public health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without an opportunity for rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an aggrieved party who wishes to seek judicial review shall make an application for judicial review of the decision within the time limits permitted for judicial review of the Board's final decision at A.R.S. § 12-904.

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3). Amended by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

ARTICLE 2. LICENSING PROVISIONS

R4-12-201. Application for a State Equivalent Examination or Embalmer Assistant Practical Examination

An applicant for a state equivalent examination or embalmer assistant practical examination shall submit an application packet to the Board that contains the following:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
 - a. The applicant's name, mailing address, telephone number, and social security number;
 - b. Any prior name or alias of the applicant;
 - c. The applicant's date and place of birth; and
 - d. The applicant's height, weight, hair color, and eye color;
2. A photocopy of the applicant's high school diploma or general educational diploma issued in any state;
3. If applying to take a state equivalent examination, a photocopy of the diploma issued to the applicant upon graduation from an accredited or provisionally accredited school of mortuary science;
4. Two passport photographs of the applicant, no larger than 1 1/2 x 2 inches, taken not more than 60 days before the date of the application; and
5. The fee required by the Board.

Historical Note

Former Rule, Section 1, Article III; Former Section R4-12-26 renumbered as Section R4-12-201 effective June 16, 1981 (Supp. 81-3). Former Section R4-12-201 repealed and a new Section R4-12-201 adopted effective September 18, 1987 (Supp. 87-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-202. Application for an Intern, an Embalmer, or a Funeral Director License

- A.** An applicant for an intern, an embalmer, or a funeral director license shall submit an application packet to the Board that contains the information required in A.R.S. § 32-1323, and the following:
1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
 - a. The applicant's name, mailing address, telephone number, and social security number;
 - b. The applicant's date and place of birth;
 - c. Any prior name or alias of the applicant;
 - d. The name and address of the high school from which the applicant graduated and the graduation date or date applicant received a general equivalency diploma;
 - e. The name and address of the mortuary school from which the applicant graduated and graduation date;
 - f. The name, address, and telephone number of the funeral establishment employing the applicant;
 - g. Whether the applicant has ever been convicted of or entered into a plea of no contest to a class 1 or 2 felony, including the information in subsection (A)(1)(h)(i) through (A)(1)(h)(vi);
 - h. Whether the applicant, within five years from the date of the application, has been convicted of or entered into a plea of no contest to a felony or to a misdemeanor that is reasonably related to the applicant's proposed area of licensure including the:
 - i. Charged felony or misdemeanor;
 - ii. Date of conviction;

- iii. Court having jurisdiction over the felony or misdemeanor;
 - iv. Probation officer's name, address, and telephone number, if applicable;
 - v. A copy of the notice of expungement, if applicable; and
 - vi. A copy of the notice of restoration of civil rights, if applicable;
- i. Whether the applicant, within five years from the date of the application, has committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence reasonably related to the applicant's proposed area of licensure;
 - j. Whether the applicant is currently incarcerated or on community supervision after a period of imprisonment in a local, state, or federal penal institution or on criminal probation;
 - k. Whether the applicant, within five years from the date of the application, has had an application for a license, registration, certificate, or endorsement denied or rejected by any state funeral licensing authority including the:
 - i. Reason for the denial or rejection,
 - ii. Date of the denial or rejection, and
 - iii. Name and address of the agency that denied or rejected the application;
 - l. Whether the applicant has, within five years from the date of the application, had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority including the:
 - i. Reason for the suspension or revocation,
 - ii. Date of the suspension or revocation, and
 - iii. Name and address of the state licensing authority that suspended or revoked the license;
 - m. Whether the applicant has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority;
 - n. The dates the applicant served as an apprentice embalmer or intern, location of apprenticeship or internship, and the number of human bodies embalmed, if applicable;
 - o. A statement of whether the applicant has passed a national board examination or state equivalent examination, if applicable; and
 - p. A notarized statement by the applicant verifying the information on the application is true and correct;
2. A copy of the applicant's high school or general equivalency diploma;
 3. A copy of the transcript from each mortuary college attended by the applicant and, if applicable, each diploma issued to the applicant; and
 4. The fee required by the Board.
- B.** In addition to the requirements in subsection (A), an applicant for an intern license shall submit on the application form the name and license number of the embalmer who will supervise the applicant.
- C.** In addition to the requirements in subsection (A), an applicant for an embalmer license shall submit to the Board:
1. On the application form:
 - a. Whether the applicant has embalmed 25 or more human bodies;
 - b. Apprenticeship or internship information including:
 - i. Beginning and ending dates,
 - ii. The state in which the apprenticeship or internship was served,
 - iii. The applicant's state registration number and date of issuance, and
 - iv. The number of human bodies embalmed by the applicant during the apprenticeship or internship;
 2. A report of apprenticeship or internship containing:
 - a. The applicant's name,
 - b. The name of the funeral establishment in which the apprenticeship or internship was served,
 - c. The name of the embalmer supervising the applicant,
 - d. The beginning and ending dates covered in the report,
 - e. The number of hours worked each month during the apprenticeship or internship,
 - f. The number of human bodies embalmed each month during the apprenticeship or internship, and
 - g. For each human body embalmed:
 - i. The name of the deceased,
 - ii. The date of death,
 - iii. A statement of whether an autopsy was performed, and
 - iv. The supervising embalmer's signature and license number,
- D.** In addition to the requirements in subsection (A), an applicant for a funeral director license shall submit to the Board a report containing:
1. The applicant's name;
 2. The name of the funeral establishment in which one year of funeral directing experience was obtained;
 3. The name of the responsible funeral director;
 4. The beginning and ending dates covered in the report; and
 5. For each burial, immediate burial, or direct cremation conducted by the applicant:
 - a. The name of the deceased;
 - b. The date of the burial, immediate burial, or direct cremation;

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- c. A statement of whether the applicant conducted a burial, immediate burial, or direct cremation; and
 - d. The supervising funeral director's signature and license number.
- E.** In addition to the requirements in subsection (A), an applicant for an embalmer or funeral director license who holds an out-of-state embalmer or funeral director license shall:
- 1. Submit on the application form, the name of each state in which the applicant is licensed or registered as an embalmer or funeral director; and
 - 2. Arrange for the out-of-state licensing authority to complete the following on the application form to be submitted with the application packet:
 - a. Certification of current licensure of the applicant;
 - b. Type of license, license number, and date license was issued;
 - c. A statement of whether the applicant qualified by examination or by being licensed by another state;
 - d. A statement of whether the licensing authority has ever suspended, revoked, or taken any other action against the applicant's license; and
 - e. Notarized signature and title of agency official;
- F.** An applicant for a multiple funeral director license shall submit an application form that is signed and dated by the applicant, and notarized that includes the information in subsections (A)(1)(a) through (A)(1)(c) and:
- 1. The name and address of the funeral establishment for which the applicant:
 - a. Currently acts as the responsible funeral director, and
 - b. Is applying to act as the responsible funeral director;
 - 2. The distance, stated in miles, between the current funeral establishment and the funeral establishment for which application is being made;
 - 3. For the funeral establishment for which application is being made and for 12 months immediately preceding the application, the number of:
 - a. Funerals and cremations conducted at the funeral establishment, and
 - b. Transportations of human remains arranged through the funeral establishment;
 - 4. The fee required by the Board; and
 - 5. Other information required by the Board.

Historical Note

Adopted effective September 18, 1987 (Supp. 87-3).

Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-203. Application for an Embalmer's Assistant Registration

An applicant for an embalmer's assistant registration shall submit to the Board an application packet that contains the following:

- 1. An application form that contains:
 - a. The applicant's name, mailing address, telephone number, and social security number;
 - b. The applicant's date and place of birth;
 - c. Any prior name or alias of the applicant;
 - d. The name and address of the high school from which the applicant graduated and the graduation date or date applicant received a general equivalency diploma;
 - e. The name and address of each mortuary college attended by the applicant;
 - f. The name and address of the mortuary college from which the applicant graduated and graduation date;
 - g. The name, address, and telephone number of the funeral establishment employing the applicant;
 - h. Whether the applicant, within five years from the date of the application, has had an application for a license, registration, certificate, or endorsement denied or rejected by any state funeral licensing authority including the:
 - i. Reason for the denial or rejection,
 - ii. Date of the denial or rejection, and
 - iii. Name and address of the agency that denied or rejected the application;
 - i. Whether the applicant, within five years from the date of the application, has had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority including the:
 - i. Reason for the suspension or revocation,
 - ii. Date of the suspension or revocation, and
 - iii. Name and address of the state licensing authority that suspended or revoked the license;
 - j. Whether the applicant, within five years from the date of the application, has surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority;
 - k. The name of the applicant's current supervising embalmer;
 - l. If applicable, the beginning and ending dates the applicant served as an apprentice embalmer, the applicant's registration number and date of issuance, and the number of human bodies embalmed and date of each embalming; and
 - m. A notarized statement by the applicant verifying the information on the application is true and correct;
- 2. A copy of the applicant's high school or general equivalency diploma;
 - 3. A copy of the transcript and diploma from the mortuary college from which the applicant graduated;
 - 4. A report of apprenticeship containing:
 - a. The applicant's name,
 - b. The name of the funeral establishment in which the apprenticeship was completed,
 - c. The name of the supervising embalmer,
 - d. The beginning and ending dates covered in the report,
 - e. The number of hours worked each month during the two most recent consecutive years of apprenticeship,
 - f. The number of human bodies embalmed by the applicant or in which the applicant assisted in the embalming for each month of the apprenticeship,
 - g. For each human body embalmed by the applicant or in which the applicant assisted in embalming for the two most recent consecutive years of the apprenticeship:
 - i. The name of the deceased,
 - ii. The date of death,
 - iii. A statement of whether an autopsy was performed,
 - iv. The supervising embalmer's signature and license number, and
 - v. The applicant's signature.
 - 5. A completed and legible fingerprint card; and
 - 6. The fee required by the Board.

Historical Note

Former Rule, Section 3, Article III; Former Section R4-12-27 amended and renumbered as Section R4-12-203 effective June 16, 1981 (Supp. 81-3). Former Section R4-

12-203 repealed and a new Section R4-12-203 adopted effective September 18, 1987 (Supp. 87-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-204. Application for a Funeral Establishment License or Interim Funeral Establishment Permit

- A.** An applicant for a funeral establishment license shall submit an application packet to the Board that contains the fee required by the Board, information required in A.R.S. § 32-1383, and an application form that contains:
1. The funeral establishment's current and previous name, if any;
 2. The address of the physical location and telephone number of the funeral establishment;
 3. The responsible funeral director's name and license number;
 4. The name of the funeral establishment's current and previous owner;
 5. Whether the funeral establishment is a proprietorship, a corporation, a partnership, a limited liability company, or a subsidiary of a corporation, a partnership, or a limited liability company;
 6. If the previous owner was a corporation, the name of the corporation;
 7. The name and address of each person owning 10 percent or more of the establishment or corporation common stock;
 8. If a corporation, partnership, or limited liability company:
 - a. The state and date of incorporation or formation;
 - b. The name and address of the Arizona statutory agent or agent appointed to receive process; and
 - c. The name, address, and title of each officer, director, general partner, or member;
 9. Whether the applicant has ever been convicted of or entered into a plea of no contest to a class 1 or 2 felony, including the information in subsections (A)(10)(a) through (A)(10)(f);
 10. Whether the applicant, within five years from the date of the application, has been convicted of or entered into a plea of no contest to a felony or to a misdemeanor that is reasonably related to the applicant's proposed area of licensure including the:
 - a. Charged felony or misdemeanor;
 - b. Date of conviction;
 - c. Court having jurisdiction over the felony or misdemeanor;
 - d. Probation officer's name, address, and telephone number, if applicable;
 - e. A copy of the notice of expungement, if applicable; and
 - f. A copy of the notice of restoration of civil rights, if applicable;
 11. Whether the applicant, within five years from the date of the application, has committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence reasonably related to the applicant's proposed area of licensure;
 12. Whether the applicant is currently incarcerated or on community supervision after a period of imprisonment in a local, state, or federal penal institution or on criminal probation;
 13. Whether the applicant, within five years from the date of the application, has had an application for a license, registration, certificate, or endorsement denied or rejected by any state funeral licensing authority including the:
 - a. Reason for the denial or rejection,

- b. Date of the denial or rejection, and
 - c. Name and address of the agency that denied or rejected the application;
14. Whether the applicant has, within five years from the date of the application, had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority including the:
 - a. Reason for the suspension or revocation,
 - b. Date of the suspension or revocation, and
 - c. Name and address of the state licensing authority that suspended or revoked the license;
 15. Whether the applicant has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority;
 16. A statement, signed by the responsible funeral director and notarized, affirming licensure in Arizona and confirming responsibility for the funeral establishment's compliance with Arizona state laws and rules; and
 17. The applicant's signature.
- B.** An applicant for an interim funeral establishment permit shall submit an application packet to the Board that contains the information required in A.R.S. § 32-1388 and an application form that contains:
1. The funeral establishment's current and previous name, if any;
 2. The address of the physical location and telephone number of the funeral establishment;
 3. The name of the funeral establishment's current and previous owner;
 4. The responsible funeral director's name and license number;
 5. Whether the funeral establishment is a proprietorship, a corporation, a partnership, a limited liability company, or a subsidiary of a corporation, a partnership, or a limited liability company;
 6. If the previous owner was a corporation, the name of the corporation;
 7. The name and address of each person owning 10 percent or more of the establishment or corporation common stock;
 8. If a corporation, partnership, or limited liability company:
 - a. The state and date of incorporation or formation;
 - b. The name and address of the Arizona statutory agent or agent appointed to receive process; and
 - c. The name, address, and title of each officer, director, general partner, or member;
 9. The name of the previous licensed owner;
 10. A statement, signed by the responsible funeral director and notarized, affirming licensure in Arizona and confirming responsibility for the funeral establishment's compliance with Arizona state laws and rules; and
 11. The applicant's signature.

Historical Note

Former Rule, Section 5, Article III; Former Section R4-12-28 amended and renumbered as Section R4-12-204 effective June 16, 1981 (Supp. 81-3). Former Section R4-12-204 repealed, new Section R4-12-204 adopted effective September 18, 1987 (Supp. 87-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-205. Application for a Prearranged Funeral Sales Endorsement

An owner and the owner's responsible funeral director applying for a prearranged funeral sales endorsement for a funeral establishment shall submit an application packet to the Board that contains the fee

required by the Board, information required in A.R.S. § 32-1391.12, and an application form that contains:

1. The funeral establishment's name, mailing address, and telephone number;
2. The funeral establishment's designated funeral director's, manager's, corporate officers', owner's, trustee's, or any controlling person's:
 - a. Current name and any prior name or alias;
 - b. Current address, telephone number, and social security number;
 - c. Date and place of birth; and
 - d. Former addresses, including dates of residence, for seven years immediately preceding the date of the application;
3. The total amount of trust funds, including accrued interest, for 12 months immediately preceding the application date;
4. The total number of currently existing prearranged funeral agreements entered into before January 1, 1985;
5. The total number of prearranged funeral agreements sold by the funeral establishment for the calendar year immediately preceding the date of the application;
6. Whether the designated funeral director, a manager, a corporate officer, a trustee, or an owner, within seven years preceding the date of application, in any state or federal jurisdiction, has:
 - a. Been convicted of or entered into a plea of no contest to a felony or to a misdemeanor involving dishonesty, fraud, deception, misrepresentation, embezzlement, or breach of fiduciary duty; or
 - b. Been issued a judgment or consent order for consumer fraud, securities violation, or civil racketeering;
7. The name, address, alias, and telephone number of each individual named in subsection (6) and the following:
 - a. The charged felony or misdemeanor;
 - b. Date of conviction or judgment;
 - c. Court having jurisdiction over the felony or misdemeanor;
 - d. Probation officer's name, address, and telephone number, if applicable; and
 - e. A copy of the notice of expungement, if applicable; and
 - f. A copy of the notice of restoration of civil rights, if applicable; and
8. A notarized statement signed by the owner and designated funeral director verifying the information on the application is true and correct;

Historical Note

Former Section R4-12-29 amended and renumbered as Section R4-12-205 effective June 16, 1981 (Supp. 81-3).

Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-206. Application for a Prearranged Funeral Salesperson Registration

An applicant for a prearranged funeral salesperson registration shall submit an application packet to the Board that contains the fee required by the Board, information required in A.R.S. § 32-1391.14, and an application form that contains:

1. The applicant's telephone number and social security number;
2. A statement of whether the applicant is a funeral director or embalmer licensed in Arizona;

3. Whether the applicant has ever been convicted of or entered into a plea of no contest to a felony or to a misdemeanor involving dishonesty, fraud, deception, misrepresentation, embezzlement, or breach of fiduciary duty in any state or federal court within seven years preceding the date of application including the:
 - a. Charged felony or misdemeanor;
 - b. Date of conviction;
 - c. Court having jurisdiction over the felony or misdemeanor;
 - d. Probation officer's name, address, and telephone number, if applicable;
 - e. A copy of the notice of expungement, if applicable; and
 - f. A copy of the notice of restoration of civil rights, if applicable.
4. Whether the applicant, within seven years preceding the date of the application, has had an application for a license, registration, endorsement, or certificate denied or rejected by any state funeral licensing authority including the:
 - a. Reason for the denial or rejection,
 - b. Date of the denial or rejection, and
 - c. Name and address of the agency that denied or rejected the application;
5. Whether the applicant, within seven years preceding the date of the application, has had a license, certificate, endorsement, or registration suspended or revoked by any state funeral licensing authority including the:
 - a. Reason for the suspension or revocation,
 - b. Date of the suspension or revocation, and
 - c. Name and address of the agency that suspended or revoked the license;
6. A notarized statement signed by the applicant verifying the information on the application is true and correct; and
7. A notarized statement signed by the responsible funeral director verifying the applicant will be employed by the responsible funeral director upon issuance of the registration by the Board.

Historical Note

Former Rule, Section 9, Article 111; Former Section R4-12-30 renumbered as Section R4-12-206 effective June 16, 1981 (Supp. 81-3). Former Section R4-12-206 repealed and a new Section R4-12-206 adopted effective September 18, 1987 (Supp. 87-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-207. Application for a Crematory License

An applicant for a crematory license shall submit an application packet to the Board that contains the fee required by the Board, information required in A.R.S. § 32-1395, and the following:

1. An application form that contains:
 - a. The name of the crematory;
 - b. The address of the physical location and telephone number of the crematory;
 - c. Whether the crematory is a proprietorship, a corporation, a partnership, a limited liability company, or a subsidiary of a corporation, a partnership, or a limited liability company;
 - d. The name and license number of the responsible funeral director or cremationist;
 - e. The name and address of each person owning 10 percent or more of the establishment or corporation common stock;

- f. A statement, signed by the responsible funeral director or cremationist and notarized, affirming licensure in Arizona and confirming responsibility for the crematory's compliance with Arizona state laws and rules;
- g. If a corporation, partnership, or limited liability company:
- i. The state and date of incorporation or formation;
 - ii. The name and address of the Arizona statutory agent or agent appointed to receive process; and
 - iii. The name, address, and title of each officer, director, general partner, or member;
- h. Whether the applicant has ever been convicted of or entered into a plea of no contest to a class 1 or 2 felony, including the information in subsection (1)(i)(i) through (1)(i)(vi);
- i. Whether the applicant, within five years from the date of the application, has been convicted of or entered into a plea of no contest to a felony or to a misdemeanor that is reasonably related to the applicant's proposed area of licensure including the:
- i. Charged felony or misdemeanor;
 - ii. Date of conviction;
 - iii. Court having jurisdiction over the felony or misdemeanor;
 - iv. Probation officer's name, address, and telephone number, if applicable;
 - v. A copy of the notice of expungement; if applicable; and
 - vi. A copy of the notice of restoration of civil rights, if applicable;
- j. Whether the applicant, within five years from the date of the application, has committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence reasonably related to the applicant's proposed area of licensure;
- k. Whether the applicant is currently incarcerated or on community supervision after a period of imprisonment in a local, state, or federal penal institution or on criminal probation;
- l. Whether the applicant, within five years from the date of the application, has had an application for a license, registration, certificate, or endorsement denied or rejected by any state funeral licensing authority including the:
- i. Reason for the denial or rejection,
 - ii. Date of the denial or rejection, and
 - iii. Name and address of the agency that denied or rejected the application;
- m. Whether the applicant has, within five years from the date of the application, had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority including the:
- i. Reason for the suspension or revocation,
 - ii. Date of the suspension or revocation, and
 - iii. Name and address of the state licensing authority that suspended or revoked the license;
- n. Whether the applicant has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority; and
- o. The applicant's signature;
2. A copy of a funeral establishment license or crematory authority certificate issued by the Arizona Department of Real Estate to a cemetery that operates a crematory.

Historical Note

Adopted effective January 2, 1985 (Supp. &5-1).
Amended by adding subsections (F) and (G) effective September 18, 1987 (Supp. 87-3). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-208. Annual Intern, Apprentice Embalmer, or Embalmer's Assistant Report

- A.** To meet the requirements in A.R.S. §§ 32-1322(A), 32-1324, or 32-1325.01(B)(2), an intern, apprentice embalmer, or embalmer's assistant shall work a minimum of 40 hours each week and a minimum of 160 hours each month during an internship or apprenticeship.
- B.** As required in A.R.S. § 32-1330, an intern, an apprentice embalmer, or an embalmer's assistant shall submit the following on a form provided by the Board:
1. The name of the intern, apprentice embalmer, or embalmer's assistant;
 2. The name of the funeral establishment employing the intern, apprentice embalmer, or embalmer's assistant;
 3. The supervising embalmer's name and license number;
 4. The beginning and ending dates being covered by the report;
 5. The number of hours worked each week at the employing funeral establishment;
 6. For each human body embalmed:
 - a. The name of the deceased;
 - b. The date of death;
 - c. A statement of whether an autopsy was performed; and
 - d. The supervising embalmer's signature and license number;
 7. A statement signed by the intern, apprentice embalmer, or embalmer's assistant verifying the information on the report is true and correct;
 8. A statement signed by the responsible funeral director verifying the intern; apprentice embalmer, or embalmer's assistant has been employed by the responsible funeral director; and
 9. A statement signed by the supervising embalmer verifying supervision of the intern, apprentice embalmer, or embalmer's assistant.

Historical Note

Adopted effective January 2, 1985 (Supp. 85-1). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-209. State Equivalent Examination

- A.** The funeral service science section of the state equivalent examination shall consist of no fewer than 70 written questions covering the following subjects:
1. Embalming practices and procedures;
 2. Methods of determining whether proper embalming practices and procedures are being or have been followed for the preservation of the human body and prevention of the spread of disease;
 3. Laws and regulations and approved practices governing the preparation, burial, and disposal of human bodies; and
 4. Methods of shipping human bodies when the cause of death is an infectious or contagious disease.

- B.** The funeral services arts section of the state equivalent examination shall consist of no fewer than 70 written questions covering the following subjects:
1. Funeral directing,
 2. Funeral service law,
 3. Funeral merchandising,
 4. Business law,
 5. Accounting,
 6. Sociology,
 7. Accounting, and
 8. Psychology.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-210. Application for a Cremationist License

An applicant for a cremationist license shall submit an application packet to the Board that contains all of the following:

1. An application form provided by the Board, signed and dated by the applicant that contains:
 - a. The applicant's name, mailing address, telephone number, and social security number;
 - b. The applicant's date and place of birth;
 - c. Any prior name or alias of the applicant;
 - d. The name, address, and telephone number of the crematory or funeral establishment employing the applicant, if applicable;
 - e. Whether the applicant has ever been convicted of or entered into a plea of no contest to a class 1 or 2 felony, including the information in subsections (1)(f)(i) through (1)(f)(vi) for each felony;
 - f. Whether the applicant, within the five years before the date of the application, has been convicted of or entered into a plea of no contest to a felony or to a misdemeanor that is reasonably related to the applicant's proposed area of licensure and the:
 - i. Charged felony or misdemeanor;
 - ii. Date of conviction;
 - iii. Court that has jurisdiction over the felony or misdemeanor;
 - iv. Probation officer's name, address, and telephone number, if applicable;
 - v. A copy of the notice of expungement, if applicable; and
 - vi. A copy of the notice of restoration of civil rights, if applicable;
 - g. Whether the applicant, within five years from the date of the application, has committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence reasonably related to the applicant's proposed area of licensure;
 - h. Whether the applicant is currently incarcerated, on community supervision after a period of incarceration in a local, state, or federal penal institution, or on criminal probation;
 - i. Whether the applicant, within five years from the date of the application, has had an application for a license, registration, certificate, or endorsement denied or rejected by any state funeral licensing authority and the:
 - i. Reason for the denial or rejection,
 - ii. Date of the denial or rejection, and
 - iii. Name and address of the agency that denied or rejected the application;

- j. Whether the applicant has, within five years from the date of the application, had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority and the:
 - i. Reason for the suspension or revocation,
 - ii. Date of the suspension or revocation, and
 - iii. Name and address of the state licensing authority that suspended or revoked the license;
- k. Whether the applicant has ever surrendered a license, registration, certificate, or endorsement to the Board or any other state funeral licensing authority; and
 1. A notarized statement by the applicant verifying that the information on the application is true and correct.
2. A copy of a certificate of completion of a crematory certification program issued by:
 - a. The manufacturer of a retort, or
 - b. An accredited organization that provides instruction for crematory operation;
3. A completed and legible fingerprint card; and
4. The fee required by the Board under A.R.S. § 32-1309.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

R4-12-211. Renewal

- A.** An applicant for a renewal of a license, registration, or endorsement shall file a renewal application so the Board receives it on or before the following dates:
1. July 1 for an intern, embalmer, funeral director, funeral establishment, cremationist, or crematory license;
 2. July 1 for an embalmer's assistant registration; or
 3. July 31 for a prearranged funeral sales establishment endorsement or prearranged funeral salesperson registration.
- B.** An applicant for a renewal license, registration, or endorsement shall submit to the Board:
1. A renewal form, provided by the Board, that is signed and dated by the applicant and contains the applicant's:
 - a. Name,
 - b. Social security number,
 - c. Residence and practice addresses, and
 - d. Telephone number; and
 2. The fee required by the Board under A.R.S. § 32-1309.
- C.** In addition to the requirements in subsection (B), an applicant renewing an intern, embalmer, or funeral director license or an embalmer's assistant registration shall submit to the Board a list of continuing education completed by the licensee or registrant or a continuing education waiver statement that meets the requirements in Article 4 of this Chapter.

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3). Former Section R4-12-211 repealed and a new Section R4-12-211 adopted effective September 18, 1987 (Supp. 87-3). Section repealed by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1). New Section made by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

R4-12-212. Reinstatement

- A.** An applicant requesting reinstatement under A.R.S. §§ 32-1331, 32-1391.12(C), or 32-1391.14(C) shall submit to the Board:
1. An application form that contains the applicant's:

- a. Name,
 - b. Social security number,
 - c. Residence and practice addresses,
 - d. Telephone number, and
 - e. Signature, and
2. The renewal and reinstatement fees required by the Board under A.R.S. § 32-1309.
- B.** In addition to the requirements in subsection (A), an applicant requesting reinstatement of a prearranged funeral sales endorsement shall submit to the Board the information required in A.R.S. § 32-1391.12 (C).
- C.** The Board shall send written notice of approval or denial of reinstatement within seven days of receiving the fees and application for reinstatement.

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3). Repealed effective September 18, 1987 (Supp. 87-3). New Section made by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

ARTICLE 3. REGULATORY PROVISIONS

R4-12-301. General funeral services requirements

- A.** Any funeral director, embalmer, funeral establishment or other person licensed by the Board shall comply with the following general funeral service requirements:
- 1. Licensees shall deal with funeral services consumers in an honest and truthful manner, and shall be responsive and sensitive to particular requirements or needs concerning funeral arrangements. Licensees shall not engage in any conduct which causes or results in disrespect for the deceased person, disruption of the funeral services or any injury to the decedent’s family, contrary to the prevailing standards and practices of the profession in this state.
 - 2. Licensees shall perform their respective responsibilities concerning the care, handling, transportation and disposition of human remains and concerning all transactions with funeral services consumers in a careful and competent manner in accordance with the prevailing standards and practices of the profession in this state.
 - 3. Licensees shall comply with all laws and regulations pertaining to their activities in the care, handling, transportation and disposition of human remains including, without limitation, the provisions of the Funeral Directors Act (A.R.S. § 32-1301 et seq.), the Prearranged Funeral Plan Act (A.R.S. § 44-1721 et seq.), and these rules. Licensees shall comply with all health laws and regulations which pertain to the embalming and preparation of human remains. The following health laws and rules should be reviewed and followed to the extent applicable:

Subject	Law or Rule
Vital statistics	A.R.S. § 36-301 et seq.
Health menaces	A.R.S. § 36-601 et seq.
Disposition of bodies	A.R.S. § 36-801 et seq.
Communicable diseases (Arizona Department of Health Services rules)	A.A.C. R9-6-110 et seq.
Vital statistics (Arizona Department of Health Services rules)	A.A.C. R9-19-301 et seq.

- 4. Licensees should also make reasonable efforts to cooperate with the customs of all religions and creeds according to the desires of the decedent or his family.

- 5. Licensees shall not make statements nor engage in activities which foreseeably could result in needless infliction of emotional distress on members of the decedent’s family or result in exposing the remains to unnecessary indignity, including without limitation:
 - a. Making statements to members of the family designed to offend their sensibilities during grief, including unsolicited comments concerning graphic details of the embalming, or of the condition, decomposition or decay of the remains, except that statements which are necessary under the circumstances to adequately inform the family concerning the advisability of viewing the remains or having an open-casket funeral ceremony are not prohibited by this subsection.
 - b. Permitting the remains to be exposed or displayed to members of the family or the public in a manner not consistent with public health.
 - c. Permitting the remains to be exposed or displayed to members of the family or the public in a manner designed to offend their sensibilities during grief, including exposing or displaying the remains:
 - i. During the embalming or preparation process;
 - ii. Without clothing or suitable covering of the trunk and limbs of the remains;
 - iii. For any promotional or commercial purpose;
 - iv. For photographs, videotape or other reproductive process without clothing or suitable covering or during the embalming or preparation process.

This subsection does not apply where public officials in the discharge of their duties view or examine the remains.

- 6. Licensees shall not disclose or divulge any privacy, secrecy, confidence or secret of the domestic or private life of any deceased or the family thereof or of any home or circle learned as a result of professional employment, unless such disclosure is required by law, or is necessary to conduct the legitimate business of the funeral establishment in accordance with law. Licensees shall not discuss facts concerning the cause of death, expenditures for the funeral, the source of funds, or other matters of a personal nature except with the members of the family or their authorized representatives. Such information may be released to the Board during an investigation or inspection if a release or other permission is obtained or received from a family member or if pursuant to a subpoena or other court or administrative directive.
- 7. Licensees shall not pay or cause to be paid to any person including without limitation a nurse, attendant, doctor, ambulance personnel, hospital personnel, health care facility personnel, clergy or law enforcement officers, money or other valuable consideration to secure business from or through such person.

- B.** Failure to substantially comply with the provisions of this Section shall be deemed to be evidence of gross negligence, repeated or continuing negligence or other professional incompetence.

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3).

R4-12-302. Deceptive practices prohibited

- A.** In selling or offering to sell funeral goods or funeral services to funeral services consumers, it is a deceptive act or practice for a funeral establishment, funeral director, embalmer, or agents or employees of a funeral establishment:

1. To advertise for or solicit business through the use of deceptive, misleading or inaccurate statements or other information.
 2. To display or represent funeral merchandise or services in a deceptive or misleading manner. Failure to display or show funeral services consumers inexpensive caskets and containers regularly offered for sale and stocked by the funeral establishment is deemed to be a misleading display practice. Display of inexpensive caskets or containers, or photos or facsimiles thereof, under less favorable conditions or circumstances, including poor lighting, merchandise damage or defacement or conditions inhibiting the consumer's free choice of merchandise is also deemed to be a misleading display practice.
 3. To embalm a deceased human body unless:
 - a. State or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which the family might make; or
 - b. Prior approval for embalming (expressly so described) has been obtained from a family member or other authorized person; or
 - c. The funeral establishment is unable to contact a family member or other authorized person after exercising due diligence, has no reason to believe the family does not want embalming performed, and obtains subsequent approval for embalming already performed (expressly so described). In seeking approval, the funeral establishment shall disclose that a fee will be charged if the family selects a funeral which requires embalming, such as a funeral with viewing, and that no fee will be charged if the family selects a service which does not require embalming, such as direct cremation or immediate burial.
 4. To fail to promptly release upon request, deceased human remains to a family member, representative of the family or other person authorized by the family to take possession of the remains.
 5. To make any false, misleading or unsubstantiated statements or claims, or in any manner imply that natural decomposition or decay of human remains can be prevented by embalming, or certain caskets, vaults or other burial containers, or to otherwise make any false, misleading or unsubstantiated statements or claims of watertightness or airtightness of caskets, vaults or other burial containers.
 6. To reuse a casket or container previously purchased by or delivered to another decedent's family and intended for or used in connection with the burial, cremation or other final disposition of the previous decedent. This provision does not apply to the rental of caskets, containers, casket shells or other devices used in connection with the funeral services if the funeral services consumer is informed of the rental arrangement.
 7. To bill or otherwise charge a purchaser for merchandise or services not actually provided by or arranged through the funeral establishment.
 8. To represent that the price charged for a cash advance item is the same as the cost to the funeral establishment for the item when such is not the case, or to fail to disclose to purchasers that the price being charged for a cash advance item is not the same as the cost to the funeral establishment for the item when such is the case.
 9. To make disparaging statements concerning the quality, utility, suitability or durability of inexpensive caskets or containers without basis in fact.
 10. To make false or misleading statements concerning or otherwise engage in deceptive, misleading or fraudulent practices in connection with the advertising, solicitation or sale of prearranged funeral plans.
 11. To make any misrepresentations or omissions of material fact concerning funeral services, prices or the merchandise and services included in a stated price.
 12. To represent or insinuate that a direct cremation, immediate burial, inexpensive funeral arrangements or inexpensive casket, container or unfinished wood box would be disrespectful or inconsiderate to the decedent or family members, or friends, neighbors or associates of the decedent or family.
 13. To disrupt the funeral arrangement process or funeral service, intimidate, harass or coerce a family member, with the intent to prevent such family member from exercising existing contractual or legal rights.
- B.** Failure to substantially comply with the provisions of this Section shall be deemed to be evidence of gross negligence, repeated or continuous negligence or other professional incompetence.
- Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3). Amended effective January 2, 1985 (Supp. 85-1).
- R4-12-303. Misrepresentation of legal or cemetery requirements**
- A.** In selling or offering to sell funeral goods or funeral services to funeral services consumers, it is a deceptive act or practice for a funeral establishment, funeral director, embalmer, or agents or employees of a funeral establishment to:
1. Represent that state or local law requires that a deceased person be embalmed when such is not the case, or fail to disclose that embalming is not required by law except where burial or cremation will not occur within 24 hours or where the body is not refrigerated immediately after death.
 2. Represent that state or local law requires a casket for direct cremation, or represent that a casket (other than an unfinished wood box) is required for direct cremations.
 3. Represent that state or local laws or regulations, or particular cemeteries require burial vaults, grave boxes or grave liners when such is not the case, or fail to disclose to persons arranging funerals that state law does not require the purchase of an outside receptacle.
 4. Represent that federal, state or local laws, or particular cemeteries or crematories require the purchase of any funeral goods or funeral services when such is not the case.
- B.** Failure to substantially comply with the provisions of this Section shall be deemed to be evidence of gross negligence, repeated or continuous negligence or other professional incompetence.
- Historical Note**
Adopted effective June 16, 1981 (Supp. 81-3). Former Section R4-12-303 repealed, new Section R4-12-303 adopted effective January 2, 1985 (Supp. 85-1).
- R4-12-304. Telephone price disclosures requirement**
- A.** Each funeral establishment shall tell persons who contact the establishment by telephone and ask about terms, conditions or prices of funeral goods or funeral services offered that price information is available over the telephone. The funeral establishment shall provide accurate information from the funeral price list required by R4-12-305 which reasonably answers the question and any other information which reasonably answers

the question about the retail prices of funeral goods or funeral services readily available for sale to the caller.

- B.** If the caller requests a funeral price list, the funeral establishment shall mail its funeral price list required by R4-12-305 to the caller. If a funeral establishment mails a funeral price list to a caller, it may charge a reasonable postage and handling fee not to exceed two dollars. The establishment shall mail the price list to the caller within five days after receipt of the handling charge, or if the establishment does not require a handling charge, within seven days after the caller's price list request.

Historical Note

Adopted effective January 2, 1985 (Supp. 85- 1).

R4-12-305. Price lists requirement

- A.** Each funeral establishment, funeral director or embalmer shall provide a casket price list, an outside receptacle price list and a general price list in the form and in the manner required by Federal Trade Commission rules 16 CFR 453.2(b)(2), (3) and (4) issued pursuant to the Federal Trade Commission Act as amended and in effect on June 1, 1984. The items required by the Federal rules shall be included before additional items.
- B.** A copy of Federal Trade Commission rule 16 CFR 453.2(b) is on file with the Secretary of State and is incorporated by reference.

Historical Note

Adopted effective January 2, 1985 (Supp. 85-1).

R4-12-306. Merchandise price card requirement

Each funeral establishment shall place a price card on each casket, container and outside receptacle the establishment makes available for sale to funeral services consumers. Each price card shall be placed on or attached to each item of merchandise in a conspicuous manner which permits a potential purchaser to see the information on the price card when standing near the casket or other item of merchandise. Each price card shall conspicuously disclose the separate retail price of the merchandise item available for sale. Price cards on caskets or outside receptacles shall also disclose the construction or type, manufacturer or assembler, and model number or popular name of the casket or outside receptacle. Price cards on containers shall also disclose the construction or type and manufacturer or assembler of the container. Photographs or accurate pictures of merchandise items may be used if conspicuously displayed with the price card information required by this Section.

Historical Note

Adopted effective January 2, 1985 (Supp. 85-1).

R4-12-307. Funeral goods and services memorandum

- A.** Each funeral establishment, funeral director or embalmer shall give an itemized written or printed memorandum of funeral goods and services ("statement") for retention to each potential purchaser of funeral goods or services at the conclusion of the discussion of any funeral arrangements and before the establishment enters into a contract with a purchaser of funeral goods or services. The itemized statement shall list at least the following information:
1. The name and address of the funeral establishment;
 2. A caption entitled "Statement of Funeral Goods and Services Selected";
 3. The funeral goods and services selected by that person and the prices to be paid for each item, specifically itemized cash advance items, the total cost of the goods and services selected and other information contained in or indicated by the "Statement of Funeral Goods and Ser-

vices Selected" format in Appendices B or C (following R4-12-565) to these rules.

- B.** The information required by this Section may be included on any contract, statement or other document which the funeral establishment would otherwise provide at the conclusion of discussion of arrangements. The itemized disclosures required by this Section shall be made in a clear and conspicuous manner. The establishment shall indicate immediately adjacent to the appropriate items under the "funeral arrangements" and "automotive equipment" categories the funeral services, facilities and automotive equipment items selected by the purchaser. A funeral establishment may include additional itemized disclosures on the statement concerning goods and services selected. If certain charges required to be itemized on the statement are not known or reasonably ascertainable at the time the contract is signed, a good faith estimate of the charges shall be given on the statement and the establishment shall provide a written description of the actual charges to the purchaser within fifteen (15) days after the information becomes available to the establishment.

- C.** If an establishment uses the "statement of funeral goods and services selected" as a final bill, the following disclosures must be added to the statement, as shown in Appendix C to these rules:

"If you elected a funeral which requires embalming, such as a funeral with a viewing, you may have to pay for the embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why in writing."

If an establishment does not use the "statement of funeral goods and services selected" as a final bill, the disclosures concerning embalming required by this subsection must be added to the final bill, contract or other written evidence of the agreement or obligation given to the purchaser, and the establishment may use the "statement of funeral goods and services selected" format as shown in Appendix B. The establishment shall disclose in writing to the purchaser on the statement any legal, cemetery or crematory requirement which mandates that the consumer purchase a specific funeral good or service. The establishment also shall disclose on the statement the "Notice to Purchaser" concerning casket and container legal requirements required by A.R.S. § 32-1373(B).

Historical Note

Adopted effective January 2, 1985 (Supp. 85-1).

R4-12-308. Expired

Historical Note

Adopted effective July 1, 1985 (Supp. 85-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-309. Expired

Historical Note

Adopted effective January 2, 1985 (Supp. 85-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-310. Expired

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1). Amended effective September 18, 1987 (Supp. 87-3). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-311. Minimum embalming requirements

- A.** Embalmers and apprentice embalmers shall comply with the following minimum embalming procedures when embalming human remains:
1. All persons participating in the embalming procedure shall be either a licensed embalmer or a registered apprentice embalmer. Apprentice embalmers shall be under the direct supervision of a licensed embalmer during the embalming. "Direct supervision," as used in this subsection, means that the licensed embalmer shall at all times be immediately available on the funeral establishment premises to supervise the apprentice embalmer, except that if the apprentice embalmer has embalmed at least ten adult human remains and has been registered with the Board for a minimum of six months, the supervision requirement is deemed to have been met if the apprentice has immediate access to and is performing according to the directions of a licensed embalmer.
 2. Regulations of the Arizona Department of Health Services and of county health departments pertaining to sewage, sanitation and public health requirements shall be observed.
 3. All persons engaged in the embalming process shall wear a clean smock or gown and wear impervious rubber gloves.
 4. All clothing shall be removed from the remains and a visual inspection of the condition of the remains shall be conducted.
 5. To the extent feasible under the circumstances, the entire remains, including all extremities (legs, arms, feet, hands and head) shall be washed with an antiseptic or detergent solution.
 6. To the extent feasible under the circumstances, the arterial injection technique shall be used in the embalming process. If the arterial circulation of any portion of the remains is materially incomplete or impaired due to advanced decomposition or autopsy, then the embalming may be done by hypodermically injecting those areas.
 7. Embalming solution shall be injected into the entire remains, including extremities (legs, arms, feet, hands and head), and shall be injected in such dilutions and pressures as warranted by the condition of the remains in accordance with prevailing professional practice.
 8. The abdominal and thoracic cavities of the remains shall be injected with a concentrated cavity chemical after liquids and materials have been substantially removed through a trocar. The cavity chemical shall be injected into and thoroughly distributed in such cavities in accordance with prevailing professional practice.
 9. If the body is to be viewed at a funeral service, cosmetic procedures should be employed in accordance with the wishes of the family and prevailing professional practice.
 10. Within 24 hours after the embalming procedure, an embalming case report shall be prepared describing the elapsed time since death, condition of the remains before and after embalming, and embalming procedures used.
 11. After embalming procedures have been completed, the remains shall be covered and diligent effort shall be made to maintain the privacy of the remains.
- B.** The care and preparation for burial or other disposition of human remains shall be strictly private and no one shall be allowed in the embalming room while a dead human body is being embalmed, except licensees or other authorized employees of the establishment, instructors of the science of embalming and their students, public officials in the discharge of their duties or other persons having the legal right to be present.

- C.** Each funeral establishment and responsible funeral director shall adopt and implement adequate procedures concerning the supervision of embalming personnel to assure compliance with this rule.
- D.** Failure to substantially comply with the minimum embalming standards contained in this rule shall be deemed to be evidence of gross negligence, repeated or continuing negligence or other professional incompetence.

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3).

R4-12-312. Equipment and sanitation requirements

- A.** The Board recommends that the following instruments, equipment and supplies be maintained in the preparation room of a funeral establishment:
1. 1 set metal or rubber drain tubes (large, medium, small)
 2. 1 set metal injection tubes (large, medium, small)
 3. 1 grooved director or equal
 4. 1 aneurysm needle
 5. 1 large trocar
 6. 1 small trocar
 7. 1 scalpel
 8. 1 pair scissors
 9. 6 hemostats
 10. 2 forceps
 11. 1 hypodermic syringe
 12. hypodermic needles (assorted)
 13. aspirator
 14. suture needles
 15. suture thread
 16. disinfectant
 17. 1 set of cream or liquid cosmetics
 18. 1 powder brush
 19. 1 application brush
 20. wax for restorative work
 21. soap
 22. cotton
 23. head rest
 24. hardening compound
 25. arterial embalming fluid
 26. cavity embalming fluid
 27. embalming machine or percolator gravity injector and bulb syringe if latter used
 28. sheets or covers for remains.
- B.** All funeral establishments shall be kept and maintained in a clean and sanitary condition and all embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming human remains shall be thoroughly cleansed and disinfected with a 1% solution of chlorinated soda, or other suitable and effective disinfectant immediately after the embalming of each remains.
- C.** Every preparation room shall be equipped with a sanitary embalming table, and such table should be provided with running water.
- D.** Every preparation room should be provided with proper and convenient receptacles for refuse, bandages, cotton and other waste materials and supplies, and all such waste materials shall be properly disposed of.
- E.** At no time shall the operation of the establishment constitute or create a health nuisance or hazard.

Historical Note

Adopted effective June 16, 1981 (Supp. 81-3).

ARTICLE 4. CONTINUING EDUCATION**R4-12-401. Reserved**

R4-12-402. Reserved**R4-12-403. Reserved****R4-12-404. Reserved****R4-12-405. Expired****Historical Note**

Adopted effective June 16, 1981 (Supp. 81-3). Former Section R4-12-405 repealed, a new Section R4-12405 adopted effective September 18, 1987 (Supp. 87-3). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-406. Reserved**R4-12-407. Reserved****R4-12-408. Reserved****R4-12-409. Reserved****R4-12-410. Reserved****R4-12-411. Reserved****R4-12-412. Reserved****R4-12-413. Continuing Education Hours Required**

- A.** Unless a funeral director or embalmer obtains a waiver under R4-12-414, the funeral director or embalmer shall complete 12 credit hours or more of continuing education every calendar year as follows:
1. At least three credit hours in mortuary sciences;
 2. At least three credit hours in ethical considerations in business practices and state and federal laws; and
 3. At least six other credit hours intended to enhance professional development or competence.
- B.** Unless an embalmer's assistant obtains a waiver under R4-12-414, the embalmer's assistant shall complete six credit hours or more of continuing education every calendar year as follows:
1. At least three credit hours in mortuary sciences, and
 2. At least three credit hours covering compliance with state and federal laws.
- C.** A licensee who has been licensed for less than 12 months during a calendar year shall complete one credit hour of continuing education for each month of licensure.
- D.** A registrant who has been registered for less than 12 months during a calendar year shall complete one credit hour of continuing education for every two months of registration.

Historical Note

Adopted effective February 8, 1991 (Supp. 91-1). Amended by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

R4-12-414. Waiver of Continuing Education

- A.** The Board shall waive the continuing education requirements in R4-12-413 for a funeral director or an embalmer whose license or registration has been placed on inactive status or who was serving in the United States Armed Forces in time of war.
- B.** The Board may waive the continuing education requirements in R4-12-413 upon request and for good cause, which includes:
1. For an embalmer's assistant, that the embalmer's assistant:

- a. Was serving in the United States Armed Forces in time of war, or
 - b. Has not practiced as an embalmer's assistant during the year in which continuing education is required;
2. That the funeral director, embalmer, or embalmer's assistant was prevented from completing continuing education due to extreme hardship, a disability, or a mental or physical illness; or
3. That the funeral director, embalmer, or embalmer's assistant was prevented from completing continuing education because of absence from the United States.
- C.** A funeral director, embalmer, or embalmer's assistant who is unable to complete the continuing education required in R4-12-413 may submit, before a renewal application is due or with a renewal application, a written request to the Board for a waiver from the continuing education required in R4-12-413 that contains:
1. The name, address, and telephone number of the licensee or registrant,
 2. An explanation of why the licensee was unable to meet the Board's continuing education requirements that includes one of the reasons in subsection (A) or (B);
 3. Any documents that support the explanation; and
 4. The signature of the licensee or registrant.
- D.** The Board shall send written notice of approval or denial of the request for waiver within seven days of receipt of the request.

Historical Note

Adopted effective February 8, 1991 (Supp. 91-1). Amended by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

R4-12-415. Continuing Education Determinations

- A.** To obtain a Board determination that continuing education satisfies the requirements of A.R.S. § 32-1338 and R4-12-413, a licensee or registrant shall submit a written request to the Board before submission of a renewal application.
- B.** A request under subsection (A) shall contain:
1. A brief summary of the continuing education;
 2. The date and place where the continuing education was provided;
 3. The number of credit hours of the continuing education;
 4. The name of the individual providing the continuing education, if available; and
 5. The name of the organization providing the continuing education, if applicable.
- C.** In making the continuing education determination, the Board shall consider whether the continuing education:
1. Is designed to provide current developments, skills, and procedures related to funeral practices;
 2. Is developed and provided by an individual with knowledge and experience in the subject area; and
 3. Contributes directly to the professional competence of the licensee or registrant.

Historical Note

Adopted effective February 8, 1991 (Supp. 91-1). Amended by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

R4-12-416. Documentation of Continuing Education

- A licensee or registrant shall submit a written document of completed continuing education with a renewal application that includes:
1. The name of the licensee or registrant;
 2. The title of each continuing education;

3. A brief summary of the content of each continuing education;
4. The date of completion of each continuing education;
5. The number of credit hours of each continuing education; and
6. A statement, signed and dated by the licensee or registrant, verifying that the information in the document is true and correct.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 681, effective April 3, 2004 (Supp. 04-1).

ARTICLE 5. PREARRANGED FUNERAL AGREEMENTS**R4-12-501. Expired****Historical Note**

Adopted effective January 1, 1985 (Supp. 85-1). Amended by adding a new paragraph (4) effective June 18, 1987 (Supp. 87-2). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-502. Expired**Historical Note**

Adopted effective January 1, 1985 (Supp. 85-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-503. Expired**Historical Note**

Adopted effective June 18, 1987 (Supp. 87-2). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-504. Reserved**R4-12-505. Reserved****R4-12-506. Reserved****R4-12-507. Reserved****R4-12-508. Reserved****R4-12-509. Reserved****R4-12-510. Reserved****R4-12-511. Reserved****R4-12-512. Reserved****R4-12-513. Reserved****R4-12-514. Reserved****R4-12-515. Reserved****R4-12-516. Reserved****R4-12-517. Reserved****R4-12-518. Reserved****R4-12-519. Reserved****R4-12-520. Reserved****R4-12-521. Expired****Historical Note**

Adopted effective January 1, 1985 (Supp. 85-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-522. Reserved**R4-12-523. Surety bond requirements**

A. A funeral establishment applying for a prearranged funeral sales endorsement shall provide the Board with the number of prearranged funeral agreements sold during the immediately preceding calendar year and provide the applicable surety bond as follows:

1. \$15,000 if the establishment sold fewer than 100 prearranged funeral agreements during the immediately preceding calendar year;
2. \$30,000 if the establishment sold 100 or more, but fewer than 250 prearranged funeral agreements during the immediately preceding calendar year; or
3. \$50,000 if the establishment sold 250 or more prearranged funeral agreements during the immediately preceding calendar year.

The amount of the surety bond shall be increased by \$5,000 for each salesperson currently registered by the Board for the establishment.

B. The corporate surety bond provided to the Board shall contain the language specified by Appendix D (following R4-12-565).

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

R4-12-524. Reserved**R4-12-525. Reserved****R4-12-526. Reserved****R4-12-527. Reserved****R4-12-528. Reserved****R4-12-529. Reserved****R4-12-530. Reserved****R4-12-531. Repealed****Historical Note**

Adopted effective January 1, 1985 (Supp. 85-1). Section repealed by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-532. Reserved**R4-12-533. Reserved****R4-12-534. Reserved****R4-12-535. Reserved****R4-12-536. Reserved****R4-12-537. Reserved****R4-12-538. Reserved****R4-12-539. Reserved****R4-12-540. Reserved**

R4-12-541. Consumer disclosures

- A. The consumer notice required by A.R.S. § 32-1391.08(A) and (C) shall be conspicuously printed on either the first or signature page of the prearranged funeral agreement.
- B. At the time the purchaser signs the agreement the funeral establishment shall provide a copy of the prearranged funeral agreement for retention by the purchaser.
- C. At the time of the inquiry or solicitation the funeral establishment shall provide a copy of its current price list for retention by the person who inquires about or is personally solicited regarding a prearranged funeral agreement.
- D. Pursuant to A.R.S. § 32-1373, each contract for prearranged funeral services also shall contain one of the following notices, as appropriate, conspicuously printed near the top of the first page:
1. THIS FUNERAL CONTRACT IS FUNDED BY INSURANCE.
 2. THIS FUNERAL CONTRACT IS FUNDED BY A PRE-ARRANGED FUNERAL TRUST ACCOUNT.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).
Amended by adding a new subsection (D) effective June 18, 1987 (Supp. 87-2).

R4-12-542. Reserved**R4-12-543. Reserved****R4-12-544. Reserved****R4-12-545. Deceptive, misleading or professionally negligent practices**

In selling or offering to sell prearranged funerals, or in handling the trust funds or accounts of a prearranged funeral consumer, it is a deceptive, misleading or professionally negligent practice for anyone licensed under Title 32, Chapter 12, A.R.S. or his agent:

1. To misstate or omit to state any material fact upon which a prearranged funeral consumer detrimentally relies concerning the transaction or the prearranged funeral.
2. To represent or imply that the prices of funeral goods and services to be provided pursuant to a fixed price prearranged funeral agreement are guaranteed, frozen or otherwise an absolute economic certainty.
3. To guarantee or promise that the funeral establishment will be in business at any indefinite time in the future.
4. To fail to disclose to the purchaser or beneficiary within ten business days after a request, the most currently available information concerning the purchaser's principal payments, all earned interest on the principal and total service fees charged concerning that purchase.
5. To intentionally mislead or deceive by entering into a contract with a prearranged funeral purchaser, while any blank in the contract other than for the account number has not been completed.
6. To enter into a prearranged funeral agreement to provide funeral goods and services not regularly sold by the funeral establishment at the time of execution of the agreement.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

R4-12-546. Description of casket

A prearranged funeral agreement shall be deemed misleading unless it describes the following information concerning any casket to be provided under the agreement:

1. Specific construction and type.
2. Interior fabric.

3. Manufacturer and model number or popular name.
4. Special features, if any.
5. Casket retail price.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

R4-12-547. Reserved**R4-12-548. Possession of trust account passbook**

With respect to individual trust accounts, the funeral establishment shall offer a prearranged funeral purchaser the option of either obtaining a copy of the financial institution passbook, certificate of deposit, or other similar documentation of the prearranged funeral trust account for his personal possession, or authorizing the funeral establishment to maintain such documentation on behalf of the purchaser. This Section does not apply to common trust accounts.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

R4-12-549. Reserved**R4-12-550. Reserved****R4-12-551. Certificate of entitlement**

The certificate of entitlement which a funeral establishment delivers to the financial institution servicing a prearranged funeral trust account or accounts shall contain the following information:

1. Name of the funeral establishment.
2. Name and location of financial institution.
3. Prearranged funeral trust account number(s).
4. The amount of trust funds to be withdrawn as the annual service fee.
5. Certification by the funeral establishment that it is contractually entitled to an annual service fee for the preceding calendar year pursuant to the terms of the prearranged funeral agreement(s).

The certificate shall be signed and dated by the owner or responsible funeral director of the establishment and sworn to before a notary public. On receipt of an appropriately completed certificate of entitlement, the financial institution shall release a portion of the trust funds equal to the annual service fee to the funeral establishment. The portion of trust funds released to the establishment shall not exceed 10 percent of the interest which has accrued on the trust funds during the preceding calendar year.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

R4-12-552. Certificate of performance

A. The certificate of performance which a funeral establishment delivers to the financial institution servicing a prearranged funeral trust account after the death of the beneficiary of a prearranged funeral agreement shall contain the following information:

1. Name of the funeral establishment.
2. Name and location of financial institution and trust account number
3. Name of deceased beneficiary.
4. Certification of the total charges for the funeral goods and services provided in the funeral arrangements.
5. Certification that it provided the funeral goods and services pursuant to the prearranged funeral agreement.

B. If the certificate of performance concerns a fixed price prearranged funeral agreement, it shall contain the following additional information:

1. Certification that the establishment agreed in the prearranged funeral agreement to fix the prices of the funeral

goods and services provided under the agreement at the price levels in effect at the time of the execution of the agreement by the purchaser.

- C. The certificate shall be signed and dated by the owner or responsible funeral director of the establishment and sworn to before a notary public. The certified death certificate of the deceased beneficiary shall accompany the certificate of performance when it is delivered to the financial institution. On receipt of the certified death certificate and appropriately completed certificate of performance, the financial institution shall release a portion of the trust funds equal to the establishment's charges for funeral goods and services for the beneficiary's funeral arrangements. If the certificate of performance concerns a fixed price prearranged funeral agreement, the financial institution may release an additional portion of the trust funds to the establishment equal to that portion of the total accrued interest on principal payments deposited in the trust account during the term of the prearranged funeral agreement which the purchaser agreed to convey to the establishment.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

R4-12-553. Reserved

R4-12-554. Statement of accrued taxes

The statement of accrued taxes which a funeral establishment delivers to the financial institution servicing a prearranged funeral trust account or accounts shall contain the following information:

1. Name of the funeral establishment.
2. Name and location of financial institution.
3. Prearranged funeral trust account number(s).
4. Statement identifying the person by whom taxes are due and payable concerning income earned from funds deposited in the trust account(s). The statement shall describe the taxing authority to which the taxes are due, the amount of taxes due and payable concerning each trust account and the fiscal period the taxes concern. The statement shall be signed and dated by the owner or responsible funeral director and one other employee of the establishment. On receipt of an appropriately completed statement of accrued taxes, the financial institution shall release a portion of the trust funds equal to the accrued taxes, payable to the taxing authority, to the funeral establishment.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

R4-12-555. Reserved

R4-12-556. Notice of trust account transfer

- A. If a funeral establishment directs a financial institution to transfer a common prearranged funeral trust account pursuant to A.R.S. § 32-1391.04(C), it shall provide written notice by first class mail to the last known address of each participant not less than ten business days before transfer of the account. The notice shall advise each participant that the account is being transferred and give the name and location of the new financial institution and trust account number. The notice also shall contain a conspicuous statement that the establishment will provide specific information concerning the trust account status upon request.
- B. If a funeral establishment is sold, or its name or location is changed or the prearranged funeral trust account is in any way transferred to another entity, the funeral establishment shall notify the Board of the disposition of the trust account within ten business days after the change in the status of the trust

account. The funeral establishment also shall provide written notice by certified mail to the last known address of each participant in the prearranged funeral trust account within thirty business days after the change in the status of the trust account. The notice shall advise each participant of the change of status of the trust account and shall contain a conspicuous statement that the establishment, or its successor in interest, will provide specific information concerning the trust account status upon request.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

Amended by adding a new subsection (B) effective June 18, 1987 (Supp. 87-2).

R4-12-557. Reserved

R4-12-558. Reserved

R4-12-559. Purchaser cancellation requests

The written request from a purchaser of a prearranged funeral agreement or designated person to terminate the agreement and refund the trust funds shall contain the following information:

1. Name of funeral establishment.
2. Full name of the prearranged funeral purchaser or designated person making the request.
3. Statement of purchaser or designated or legally responsible person requesting refund of the trust funds.

The cancellation request shall be signed by the purchaser, designated or legally responsible person. Within five days following receipt of a properly signed cancellation request, the financial institution shall release the trust funds, payable to the person making the cancellation request, to the establishment for refund to the requesting person.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

R4-12-560. Reserved

R4-12-561. Annual report format

- A. The annual report concerning prearranged funeral sales and trust account activities filed by funeral establishments pursuant to A.R.S. § 32-1391.15 shall contain the information indicated by the annual report format in Appendix E (following R4-12-565). If a funeral establishment does not offer or sell prearranged funerals on or after January 1, 1985, it shall annually provide to the Board the information required by Appendix E concerning:

1. Each prearranged funeral trust account established before the effective date of this Article and in existence during any portion of the preceding calendar year and;
2. Trust account deposits, withdrawals and service fees during the preceding calendar year.

- B. If a funeral establishment offers or sells prearranged funeral agreements on or after January 1, 1985, it shall annually provide to the Board the information required by Appendix E concerning:

1. Each prearranged funeral trust account established before the effective date of this Article and in existence during any portion of the preceding calendar year;
2. Each prearranged funeral agreement sold after January 1, 1985 and in existence during any portion of the preceding calendar year, and;
3. Trust account deposits, withdrawals and service fees during the preceding calendar year.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

R4-12-562. Reserved

R4-12-563. Reserved

R4-12-564. Reserved

R4-12-565. Records retention requirement

Each funeral establishment shall retain and make available for inspection by Board representatives true and accurate copies of the following records during the term of the prearranged funeral agreement and for three years following the death of the beneficiary or the termination of the agreement:

1. The prearranged funeral agreement.
2. Each notice of the transfer of the trust account to another financial institution, together with a record of the names and last known addresses of the purchasers and the dates on which the notice was mailed.

3. The certificate of performance from the funeral establishment stating that it provided the requested funeral goods and services which is delivered to a financial institution.
4. Each certificate from the funeral establishment concerning entitlement to service fees concerning the trust account.
5. Each statement of accrued taxes from the funeral establishment concerning the trust account.
6. Each cancellation or termination request from a purchaser.
7. Detailed financial institution statements and accounting records concerning the trust account.

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

Appendix B. Statement of Funeral Goods and Services Selected

STATEMENT OF FUNERAL GOODS AND SERVICES SELECTED

The charges are only for those items that are used. If we are required by law to use any items, we will explain the reasons in writing.

FUNERAL OF _____

<i>FORWARDING OF REMAINS TO ANOTHER FUNERAL HOME</i>		\$ _____
This charge includes removal of body, services of staff, necessary authorizations, embalming, and local transportation (but not shipping charges.)		
<i>RECEIVING OF REMAINS FROM ANOTHER FUNERAL HOME</i>		\$ _____
This charge includes services of staff, care of remains, and transportation to cemetery or crematory.		
<i>DIRECT CREMATION</i> (As selected)		\$ _____
This charge includes removal of body, necessary authorizations, services of staff, transportation to crematory, and cremation of body.		
<i>TRANSFER OF REMAINS TO FUNERAL HOME</i> (_____ miles transported)		\$ _____
<i>IMMEDIATE BURIAL</i> (As selected)		\$ _____
This charge includes removal of body, services of staff, necessary authorizations, and local transportation to cemetery.		
<i>FUNERAL ARRANGEMENTS</i> (Indicated services and facilities selected)		\$ _____
Funeral Director and Staff Services	_____	
Embalming	_____	
Other preparation of body	_____	
Use of facilities for viewing	_____	
Use of facilities for funeral	_____	
Other use of facilities	_____	
<i>AUTOMOTIVE EQUIPMENT</i> (Indicated items selected)		\$ _____
Hearse	_____	
Limousine	_____	
Other automobiles	_____	
<i>ACKNOWLEDGMENT CARDS</i>		\$ _____
<i>CASKET SELECTED</i>		\$ _____
<i>VAULT OR LINER</i>		\$ _____
<i>OTHER ITEMS</i> (describe) _____		\$ _____
		\$ _____

<i>CASH ADVANCE ITEMS</i>	
Organist and/or other music	\$ _____
Hairdresser or barber	\$ _____
Flowers	\$ _____
Pallbearers	\$ _____
Motorcycle escorts	\$ _____
Clergy Honoraria	\$ _____
Obituary Notice	\$ _____
Death Certificate(s)	\$ _____
Gratuities	\$ _____
Other (describe)	\$ _____

Total \$ _____

TOTAL COST FOR ARRANGEMENTS SELECTED \$ _____
 FOR FUNERAL HOME _____ Date _____
 Arranged by _____ Date _____

NOTICE TO PURCHASER

You may choose to purchase a casket or container for the funeral services and final disposition. However, except under certain public health circumstances pursuant to A.R.S. § 36-136, state law does not require the purchase or use of caskets or containers.

METHOD OF PAYMENT AND INTEREST CHARGES [describe the method of payment required by the funeral establishment for the funeral services and any interest charges.

[Statement not used as final bill]

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

Appendix C. Expired

Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).
 Appendix expired under A.R.S. § 41-1056(E) at 18
 A.A.R. 607, effective December 29, 2011 (Supp. 12-1).

Appendix D. Prearranged Funeral Endorsement Bond

The corporate surety bond delivered to the Board with a prearranged funeral sales endorsement application shall contain the following language:

“PREARRANGED FUNERAL ENDORSEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we

_____ of _____ as principal and _____, a surety company organized and existing under the laws of the State of _____ and authorized to do business under the laws of the State of Arizona as surety, are held and firmly bound unto the State of Arizona for the use and benefit of persons injured by violations of Title 32, Chapter 12, Article 5, Arizona Revised Statutes, in the penal sum of _____ (_____)

lawful money of the United States of America, to be paid to the State of Arizona for the use and benefit aforesaid, for which sum, well and truly to be paid, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

The Condition of the above obligation is such that:

WHEREAS the above named principal has applied for an endorsement to its funeral establishment license in the State of Arizona to sell prearranged funeral agreements in conformance with Title 32, Chapter 12, Article 5, Arizona Revised Statutes, and is required by the provisions of such statutes to furnish a

bond in the sum above-named, conditioned as herein set forth.

Now, therefore, if the principal shall during the term of this bond strictly, honestly and faithfully comply with the provisions of Title 32, Chapter 12, Article 5, Arizona Revised Statutes during the term of this bond and shall pay all damages, attorneys fees and other expenses suffered by any person by reason of the violation of any of the provisions of such statutes which concern (1) providing contract information and consumer disclosures, (2) receiving and placing purchaser funds in appropriate trust accounts, (3) maintaining the security and integrity of the trust funds until lawfully disbursed, (4) misrepresentation or deceptive conduct in the advertising, solicitation or sale of prearranged funeral agreements, and (5) criminal misconduct by employees or agents of the funeral establishment concerning the prearranged funeral agreements or trust funds, then this obligation shall be void.

The State of Arizona may proceed against the Bond for the benefit of any person injured by a violation of Title 32, Chapter 12, Article 5, or the person so injured may directly proceed against the Bond in case of default by the principal.

This bond shall become effective on the _____ day of _____, 19__, and shall remain in force until cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving thirty days written notice to the principal and to the Board of Funeral

Appendix D. (cont.)

Directors and Embalmers of the State of Arizona. The liability of the surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed the amount of the penal sum of this bond.

Loss is covered under this bond only if a claim is made hereunder not later than two years after the cancellation or termination of the bond. If the coverage of this bond is substituted for any prior bond provided by the principal, which prior bond is terminated or cancelled as of the time of such substitution, the surety agrees that this bond applies to loss which is discovered and which would have been recoverable under such prior bond except for the fact that the time within which to discover loss thereunder had expired, provided:

(1) Such loss would have been covered under this bond had this bond with its agreements, limitations and conditions as of the time of such substitution been in force when the acts or defaults causing such loss were committed; and

(2) Recovery under this bond on account of such loss shall in no event exceed that amount which would have been recoverable under this bond in the amount for which it is written as of the time of such substitution, had this bond been in force when such acts or defaults were committed, or the amount which would have been recoverable under such prior bond or policy had such prior bond or policy continued in force until the discovery of such loss, if the latter amount be smaller.

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IN WITNESS WHEREOF, the principal and surety have hereunto set their hands and seals this ____ day of _____, 1984.

PRINCIPAL
By: _____

SURETY COMPANY
Countersigned:
By: _____ By: _____

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Historical Note

Adopted effective January 1, 1985 (Supp. 85-1).

Appendix E. Annual Report

ANNUAL REPORT

For Calendar Year Ending _____

Name of Establishment _____

Address _____

_____ Zip _____

Owners (owning a 10 percent or greater interest in the Establishment):

Name: _____

Name: _____

Address: _____

Address: _____

Name: _____

Name: _____

Address: _____

Address: _____

Funeral Establishment License No. _____ Issued _____

AFFIDAVIT

State of _____

County _____

_____, being first duly sworn and upon [my] [our] oath, depose and state:

[I am] [We are] the owner(s) of (establishment) on behalf of which [I] [we] make this affidavit, being hereunto duly authorized. The funeral establishment herein named has complied with title 32, Chapter 12, Article 5 of the Arizona Revised Statutes and the rules adopted pursuant to said Article. This Annual Report includes all prearranged funeral agreements sold or administered by this establishment. [I] [We] have read this Annual Report and accompanying Schedules A, B, C, D and E and know the contents thereof, and the matters and things therein stated are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19__.

Notary Public

Board of Funeral Directors and Embalmers

Appendix E. (cont.)

SCHEDULE A

PREARRANGED FUNERAL SALES DURING
CALENDAR YEAR ENDING _____

Financial Institution Name _____

Page _____

Address _____

Trust Account No.(s)* _____

PURCHASER NAME AND ADDRESS	SALE DATE	SALES PERSON	BENEFI- CIARY	TOTAL CONTRACT AMOUNT	INITIAL SERVICE FEE	INITIAL SERVICE FEE PAID	TOTAL MON- IES PAID BY PURCHASER	TOTAL MON- IES TO TRUST ACCOUNT	TOTAL REFUNDS MADE	BANK SERVICE CHARGES	OTHER WITH- DRAWALS (EXPLAIN)**	12/31 TRUST ACCOUNT BALANCE
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Page Totals

TOTALS

* If this schedule concerns a number of trust accounts, provide names and addresses of financial institutions and list account numbers on separate sheet.

** If other withdrawals have occurred, explain in detail on separate sheet.

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page 2

Appendix E. (cont.)

SCHEDULE B
 Page _____

EXISTING PREARRANGED FUNERAL
 AGREEMENTS SOLD BEFORE CALENDAR
 YEAR ENDING _____

Financial Institution Name _____
 Address _____
 Trust Account No.(s)* _____

PURCHASER NAME AND SALE DATE	TOTAL CONTRACT AMOUNT	INITIAL SERVICE FEE PAID	INITIAL SERVICE FEE PAID	TOTAL MON- IES PAID BY PURCHASER THIS YEAR	TOTAL MON- IES PAID BY PURCHASER	TOTAL MON- IES TO TRUST ACCOUNT	TOTAL REFUNDS PAID	ANNUAL SERVICE FEE	TAXES PAID	BANK SERVICE CHARGES	OTHER WITH- DRAWALS (EXPLAIN)**	12/31 TRUST ACCOUNT BALANCE
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Page Totals

TOTALS

* If this schedule concerns a number of trust accounts, provide names and addresses of financial institutions and list account numbers on separate sheet.
 ** If other withdrawals have occurred, explain in detail on separate sheet.

Appendix E. (cont.)

SCHEDULE C
Page _____

Financial Institution Name _____
Address _____
Trust Account No.(s)* _____

SUMMARY OF TRUST ACCOUNT
TRANSACTIONS FOR CALENDAR
YEAR ENDING _____

Total trust funds in account(s) on December 31 of previous calendar year. \$ _____ \$ _____

Total funds received and deposited in trust account(s) during this calendar year. \$ _____

Total funds withdrawn from trust account(s) during this calendar year:

- 1) Funeral arrangements \$ _____
 - 2) Annual service fees \$ _____
 - 3) Tax payments \$ _____
 - 4) Financial institution service charges \$ _____
 - 5) Refunds to purchasers \$ _____
 - 6) Other withdrawals** \$ _____
- TOTAL WITHDRAWALS

\$ _____

Total interest paid to trust account(s) during this calendar year. \$ _____

Total trust funds in account(s) on December 31 of this calendar year. \$ _____

Total funds received for trust but not deposited in trust account(s) as of December 31 of this calendar year. \$ _____

* If this schedule concerns a number of trust accounts, provide names and addresses of financial institutions and list account numbers on separate sheet.

** If other withdrawals have occurred, explain in detail on separate sheet.

**ARTICLE 6. CREMATORY AND CREMATION
REGULATION**

R4-12-601. Repealed

Historical Note

Adopted effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-602. Repealed

Historical Note

Adopted effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 20 A.A.R. 2648, effective November 9, 2014 (Supp. 14-3).

R4-12-603. Reserved

R4-12-604. Reserved

R4-12-605. Reserved

R4-12-606. Reserved

R4-12-607. Reserved

R4-12-608. Reserved

R4-12-609. Reserved

R4-12-610. Reserved

R4-12-611. Repealed

Historical Note

Adopted effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 7 A.A.R. 1441, effective March 14, 2001 (Supp. 01-1).

R4-12-612. Crematory requirements

In addition to the requirements in A.R.S. § 32-1394, the responsible cremationist of a crematory shall ensure:

1. The crematory is maintained free from dirt and debris,
2. Equipment and supplies maintained in the crematory do not impede passage through the crematory, and
3. Human remains that are not embalmed are held in a refrigerated holding facility at the crematory or sent to a funeral establishment or another crematory for refrigeration.

Historical Note

Adopted effective July 3, 1991 (Supp. 91-3). Amended by final rulemaking at 20 A.A.R. 2648, effective November 9, 2014 (Supp. 14-3).

R4-12-613. Requirements for a funeral establishment that provides for cremation

- A. A funeral establishment that owns a crematory on or off the funeral establishment's premises shall designate a responsible cremationist.
- B. The responsible funeral director of a funeral establishment that provides for cremation shall ensure that:
 1. The cost of cremation is included on its general price list required by A.R.S. § 32-1371;
 2. A price card for cremation is placed as required by A.R.S. § 32-1372;
 3. If the funeral establishment contracts with a licensed crematory to perform the cremation; the information required in A.R.S. § 32-1373(A) and (B) is provided to the purchaser of the cremation;

4. A consumer who chooses cremation is informed that human remains may be cremated in a cremation container capable of being entirely consumed or reduced to fine residue during the cremation process, such as a casket, unfinished wood box, or fiberboard container; and
5. Caskets or containers constructed of metal or of a substance that may emit harmful fumes when subjected to the cremation process are not sold or used for cremation.

Historical Note

Adopted effective July 3, 1991 (Supp. 91-3). Amended by final rulemaking at 20 A.A.R. 2648, effective November 9, 2014 (Supp. 14-3).

R4-12-614. Reserved

R4-12-615. Reserved

R4-12-616. Reserved

R4-12-617. Reserved

R4-12-618. Reserved

R4-12-619. Reserved

R4-12-620. Reserved

R4-12-621. Repealed

Historical Note

Adopted effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 20 A.A.R. 2648, effective November 9, 2014 (Supp. 14-3).

R4-12-622. Expired

Historical Note

Adopted effective July 3, 1991 (Supp. 91-3). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 853, effective December 31, 2001 (Supp. 02-1).

R4-12-623. Reserved

R4-12-624. Reserved

R4-12-625. Reserved

R4-12-626. Reserved

R4-12-627. Reserved

R4-12-628. Reserved

R4-12-629. Reserved

R4-12-630. Reserved

R4-12-631. Records requirements for crematories and funeral establishments that provide for cremation

- A. The responsible cremationist of a crematory or funeral establishment that provides for cremation shall ensure for each cremation performed that the following records are established and maintained for five years from the date of the cremation:
 1. The name of the decedent and date of death;
 2. The authorization document required by A.R.S. § 32-1365.01, if applicable or a record of the oral or written consent of the authorizing agent that meets the requirements in A.R.S. § 32-1365.02; and
 3. A copy of the completed disposition-transit permit that meets the requirements in A.R.S. § 36-326 and A.A.C. R9-19-302.

- B.** The responsible cremationist of a crematory or funeral establishment that provides for cremation shall establish and maintain a written permanent chronological log of cremations that includes the identification number and identification information required in A.R.S. § 32-1399(1) and the following for each cremation performed:
1. The day, month, and year the human remains were received at the crematory or funeral establishment that provides for cremation;
 2. Name of the decedent;
 3. The name of the responsible cremationist;
 4. The type of receptacle in which the human remains were received at the crematory, such as a wooden casket or a cardboard, fiberboard, or wooden container;
 5. A check list showing receipt of the following:
 - a. The authorization document required in R4-12-631(A)(2); and
 - b. The disposition-transit permit;
 6. The time, day, month, and year of the cremation;
 7. The printed name and signature of the cremationist who performed the cremation;
 8. The following information regarding the cremated remains:
 - a. The time, day, month, and year the cremated remains were disposed of according to the authority set forth in A.R.S. § 32-1365.01 or 32-1365.02;
 - b. The name of the crematory, funeral establishment, or authorizing agent authorized according to A.R.S. § 32-1365.01 or 32-1365.02 to dispose of cremated remains; and
 - c. The place and manner of disposal according to A.R.S. § 32-1399(7).
- C.** If the uncremated human remains are returned to a funeral establishment, the responsible cremationist shall ensure that the time, day, month, and year the human remains were picked up and the name of the individual who picked up the human remains are recorded on the written chronological log required in subsection (B).
- D.** If a funeral establishment returns human remains that have been sent back according to subsection (C), the responsible cremationist shall ensure that a new entry that meets the requirements of subsection (B) is made.

Historical Note

Adopted effective July 3, 1991 (Supp. 91-3). Amended by final rulemaking at 20 A.A.R. 2648, effective November 9, 2014 (Supp. 14-3).

R4-12-632. Repealed**Historical Note**

Adopted effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 20 A.A.R. 2648, effective November 9, 2014 (Supp. 14-3).

R4-12-633. Disposition of records

- A.** If the crematory of a funeral establishment that provides for cremation or a crematory changes ownership, the responsible funeral director or responsible cremationist shall ensure the records described in R4-12-631 are provided to the new responsible funeral director of the funeral establishment or responsible cremationist of the crematory.
- B.** If a funeral establishment that provides for cremation or a crematory ceases operations, within 20 days from the date of cessation, the responsible funeral director of the funeral establishment that provides for cremation or responsible cremationist of a crematory shall ensure that the records required in R4-12-631 are:
1. Provided to the Board office in person or by certified delivery mail; or
 2. Provided to another funeral establishment or crematory and the location of the records is provided to the Board.

Historical Note

Adopted effective July 3, 1991 (Supp. 91-3). Amended by final rulemaking at 20 A.A.R. 2648, effective November 9, 2014 (Supp. 14-3).

R4-12-634. Repealed**Historical Note**

Adopted effective July 3, 1991 (Supp. 91-3). Section repealed by final rulemaking at 20 A.A.R. 2648, effective November 9, 2014 (Supp. 14-3).

R4-12-635. Reserved**R4-12-636. Reserved****R4-12-637. Reserved****R4-12-638. Reserved****R4-12-639. Reserved****R4-12-640. Reserved****R4-12-641. Expired****Historical Note**

Adopted effective July 3, 1991 (Supp. 91-3). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 4742, effective September 30, 2006 (Supp. 06-4).

32-1307. Powers and duties of board

A. The board shall:

1. Administer and enforce this chapter and the rules adopted pursuant to this chapter.
2. Adopt a seal.
3. Maintain a record of the name and the mailing or employer's business address of each licensee and registrant.
4. Investigate alleged violations of this chapter and the rules adopted pursuant to this chapter.
5. Adopt rules in accordance with title 41, chapter 6. Rules adopted by the board shall include provisions relating to the following:
 - (a) The keeping and disposition of records by licensees and registrants.
 - (b) Standards of practice, professional conduct, competence and consumer disclosure relating to owning or operating a funeral establishment or crematory, funeral directing, embalming and cremation.
 - (c) The prohibition of deceptive, misleading or professionally negligent practices in advertising, offering or selling funeral goods or services by funeral establishments, crematories, licensees and registrants and agents of funeral establishments, crematories, licensees and registrants. The rules shall specifically prohibit misrepresentation of the legal requirements concerning the preparation and interment of dead human bodies.
 - (d) Standard price disclosure formats and price list requirements and definitions to facilitate price comparisons by members of the public.
 - (e) Guidelines to enable members of the public to determine the substantial equivalency of funeral goods available for sale to the public.
 - (f) Administrative and investigative procedures.
 - (g) The efficient administration of the board's affairs and the enforcement of the provisions of this chapter.
 - (h) The inspection of all funeral establishments and crematories at least once every five years.
 - (i) Any other matters the board deems necessary to carry out the provisions of this chapter.

B. The board may:

1. Subject to title 41, chapter 4, article 4, employ investigative, professional and clerical employees as it deems necessary to carry out this chapter. Compensation of these employees shall be determined pursuant to section 38-611.
2. Appoint citizen advisory committees to make recommendations to the board concerning enforcement and the administration of this chapter.
3. In connection with investigations or administrative hearings, issue subpoenas to compel the attendance of witnesses and the production of books, papers, contracts, agreements and other documents or records in any form, administer oaths and take testimony and evidence concerning all matters within its jurisdiction. The board may pay the fees and expenses of witnesses who appear in any proceeding before the board. If a person refuses to obey a subpoena issued by the board, the board may invoke the aid of any court in this state to require the attendance and testimony of witnesses and the production of documentary evidence.
4. Contract with other state and federal agencies as it deems necessary to carry out this chapter.

5. Charge reasonable fees for the distribution of materials that the board prints or has printed at its expense and for the costs of mailing these materials.
6. Charge the reasonable costs of a fingerprint background check to an applicant for licensure or registration.

32-1309. Fees

A. The board shall establish and collect the following application fees:

1. For a funeral director license, eighty-five dollars.
2. For an embalmer license, eighty-five dollars.
3. For an embalmer's assistant registration, eighty-five dollars.
4. For an intern license, eighty-five dollars.
5. For a funeral director or embalmer license for a person who does not reside in this state, eighty-five dollars.
6. For a prearranged funeral salesperson registration, eighty-five dollars.
7. For a funeral establishment license:
 - (a) For a new establishment, new owner or new location, five hundred dollars.
 - (b) For a change of name, one hundred seventy-five dollars.
8. For a prearranged funeral sales establishment endorsement, one hundred eighty-five dollars.
9. For a crematory license:
 - (a) For a new crematory, new owner or new location, one hundred dollars per retort.
 - (b) For a change of name, one hundred seventy-five dollars.
10. For a cremationist license, eighty-five dollars.

B. The board shall establish and collect the following examination fees:

1. For the funeral director state laws and rules examination, eighty dollars.
2. For the embalmer state laws and rules examination, eighty dollars.
3. For the prearranged funeral salesperson state laws and rules examination, eighty dollars.
4. For the funeral service science section of the state equivalent examination, one hundred fifty dollars.
5. For the funeral service arts section of the state equivalent examination, one hundred fifty dollars.

C. The board shall establish and collect the following license and registration issuance fees:

1. For a funeral director license, eighty-five dollars.
2. For an embalmer license, eighty-five dollars.
3. For an embalmer's assistant registration, eighty-five dollars.
4. For an intern license, eighty-five dollars.
5. For a prearranged funeral salesperson registration, eighty-five dollars.
6. For a cremationist license, eighty-five dollars.

D. The board shall establish and collect the following renewal fees:

1. For a funeral director license, eighty-five dollars.
2. For an embalmer license, eighty-five dollars.
3. For an embalmer's assistant registration, eighty-five dollars.
4. For an intern license, eighty-five dollars.
5. For an assistant funeral director registration, eighty-five dollars.
6. For a prearranged funeral salesperson registration, eighty-five dollars.
7. For an establishment license, four dollars for each disposition performed by the establishment during the immediately preceding calendar year. For the purposes of this paragraph, a funeral establishment performs a disposition each time the establishment files a death certificate pursuant to section 36-325.
8. For a prearranged funeral sales establishment endorsement, one hundred eighty-five dollars.
9. For a crematory license, two hundred dollars per retort.
10. For a cremationist license, eighty-five dollars.

E. The board shall establish and collect the following fees:

1. For a duplicate license or registration, twenty-five dollars.
2. For a reexamination:
 - (a) For a state laws and rules examination, fifty dollars.
 - (b) For the funeral service science section or the funeral service arts section of the state equivalent examination, sixty-five dollars.
3. For late renewal of a licensee or registration, thirty-five dollars.
4. For late renewal of an establishment license or endorsement, sixty dollars.
5. For inactive licensure or registration, twenty-five dollars.
6. For reinstatement of an inactive license, fifty dollars.
7. For reinstatement of an inactive registration, one hundred thirty dollars.
8. For an interim funeral establishment permit, twenty-five dollars.
9. For filing an annual trust report, a fee of not more than two hundred dollars.
10. For filing a late or incomplete annual trust report, a penalty of not more than two hundred dollars.

F. The board may establish and collect a fee for intern trainees in an amount to be determined by the board.

32-1322. Interns, embalmers and funeral directors; qualifications for licensure

A. An applicant for licensure as an intern shall:

1. Hold a high school diploma or its equivalent.
2. Be a graduate of an accredited or provisionally accredited school of mortuary science.
3. Be of good moral character.

B. An applicant for licensure as an embalmer shall:

1. Pass the funeral service science section of the national board examination or the state equivalent examination.
2. Pass the embalmer state laws and rules examination.
3. Be of good moral character.
4. Have been licensed as an intern for at least one year.
5. Have successfully completed an internship program that included assisting in embalming at least twenty-five dead human bodies.

C. An applicant for licensure as a funeral director shall:

1. Pass the funeral service arts section of the national board examination or the state equivalent examination.
2. Pass the funeral director state laws and rules examination.
3. Be of good moral character.
4. Have held an active license as an intern for at least one year and have assisted in arranging and directing at least twenty-five funerals.

32-1323. Interns, embalmers and funeral directors; application for licensure

A. An applicant for licensure as an intern shall submit a completed application on a form prescribed by the board. The application shall be subscribed under oath and shall be accompanied by:

1. Any educational, professional and employment information required by the board in its rules.
2. Proof of the applicant's employment as an intern at an establishment licensed under article 4 of this chapter under the supervision of a funeral director or embalmer licensed under this article.
3. A completed fingerprint card and the prescribed fingerprint background check fee.
4. Any other information required by the board.
5. All applicable fees pursuant to section 32-1309.

B. An applicant for licensure as an embalmer or funeral director shall submit a completed application on a form prescribed by the board. The application shall be subscribed under oath and shall be accompanied by:

1. Any educational, professional and employment information required by the board in its rules.
2. A completed fingerprint card and the prescribed fingerprint background check fee.
3. Any other information required by the board.
4. All applicable fees pursuant to section 32-1309.

C. If the board finds that the applicant meets the criteria for licensure under this article and rules adopted by the board, the board shall issue the appropriate license.

[32-1325.01. Embalmer's assistants; qualifications; application for registration](#)

A. An applicant for registration as an embalmer's assistant shall:

1. Not have had any disciplinary action taken against the person's registration by the board within the last five years.
2. Pass a practical examination demonstrating the person's competence in embalming and safety procedures.

B. An applicant for registration as an embalmer's assistant shall submit a completed application on a form prescribed by the board. The application shall be subscribed under oath and shall be accompanied by:

1. Any educational, professional and employment information required by the board in its rules.
2. A completed fingerprint card and the prescribed fingerprint background check fee.
3. Any other information required by the board.
4. All applicable fees pursuant to section 32-1309.

C. If the board finds that the applicant meets the criteria for registration under this article and rules adopted by the board, the board shall issue an embalmer's assistant registration.

32-1327. State equivalent examination; national board examination

A. A person who desires to take either the funeral service science section or the funeral service arts section of the state equivalent examination shall submit to the board:

1. An examination application on a form prescribed by the board.
2. Documentation of a high school diploma or its equivalent.
3. Documentation of the person's graduation from an accredited or provisionally accredited school of mortuary science.
4. All applicable fees pursuant to section 32-1309.

B. The board shall schedule and administer the state equivalent examination at least once each year. The state equivalent examination shall consist of a two part written examination with at least seventy questions.

C. A person who takes both sections of the state equivalent examination or the national board examination must achieve a passing score.

D. The board shall accept a passing score that an applicant achieved on a state equivalent examination or a national board examination taken within the five years immediately preceding the date that the applicant filed a license application with the board.

32-1330. Annual intern or embalmer's assistant report

A person who is registered as an embalmer's assistant or licensed as an intern shall submit to the board, at the time that the person applies to renew the person's registration or license, an annual report on a form prescribed by the board. The report shall be subscribed under oath by the embalmer's assistant or intern and the supervising embalmer and shall contain information documenting each embalming that the embalmer's assistant or intern assisted in or performed.

32-1331. Renewal of licenses and registration; reinstatement of registration

A. Except as provided in section 32-4301, each license and each registration issued under this article expires on August 1 of each year.

B. A licensee or a registrant shall submit a renewal application and the applicable renewal fee pursuant to section 32-1309 on or before July 1 of each year. A license or registration renewal fee is nonrefundable.

C. A licensee or a registrant who submits a renewal application and the applicable renewal fee after July 1 but before August 1 shall pay a late fee pursuant to section 32-1309 in addition to the renewal fee.

D. A licensee who fails to submit a renewal application and the applicable fee on or before August 1 shall apply for licensure as an original applicant. A person who submits a license application within three years after the date that the person's license expires is not required to pass the national board examination or state equivalent examination.

E. A registered assistant funeral director who fails to submit a renewal application and the applicable renewal fee on or before August 1:

1. Is not eligible for renewal of the person's registration.
2. May apply for a funeral director license pursuant to this article.

F. An embalmer's assistant who fails to submit a renewal application and the applicable renewal fee on or before August 1 may apply for reinstatement of the person's registration by submitting a completed reinstatement application on a form prescribed by the board and the applicable reinstatement fee within one year after the date that the person's registration expires.

G. An intern license may not be renewed more than three times.

32-1335. Out-of-state licensees

A. A person who holds an embalmer or funeral director license in good standing that was issued by the funeral services licensing authority of another jurisdiction and who desires an embalmer or funeral director license in this state shall meet the requirements and qualifications for licensure prescribed in this article.

B. Notwithstanding subsection A of this section, the board may waive the testing requirements of section 32-1322, subsection B, paragraph 1 and subsection C, paragraph 1 if the person has actively practiced embalming or funeral directing in another jurisdiction within the three years immediately preceding the date that the person applies for a license in this state and the board determines that the requirements for licensure in the other jurisdiction are equal to or more stringent than the requirements prescribed in this article.

C. A person who holds an intern license or its equivalent in good standing that was issued by the funeral services licensing authority of another jurisdiction and who desires an intern, embalmer or funeral director license in this state shall meet the requirements and qualifications for licensure prescribed in this article.

32-1338. Continuing education

A. A person who is licensed or registered pursuant to this article shall complete continuing education designed to educate the person regarding current skills and procedures and developments in the funeral industry. The board may prescribe in its rules the number of hours of continuing education required each year, not to exceed sixteen hours, and the subject matter that shall be covered.

B. The board shall waive the continuing education requirements for persons whose licenses have been placed on inactive status and for persons who are serving in the United States armed forces in time of war. The board may waive the continuing education requirement for good cause shown as prescribed in its rules.

32-1367. Investigations; initial review; disciplinary proceedings; civil penalty; letters of concern; rehearings

A. The board shall conduct an investigation when it receives a written complaint that appears to show the existence of any grounds for disciplinary action under this chapter or rules adopted pursuant to this chapter.

B. The board on its own initiative may investigate any information that appears to show the existence of any grounds for disciplinary action under this chapter or rules adopted pursuant to this chapter.

C. If it appears after an initial investigation that grounds for disciplinary action may exist, the board may either request an informal interview with the licensee or registrant or may issue a notice of a formal hearing. If the initial investigation indicates that suspension other than a temporary suspension imposed pursuant to subsection D of this section or revocation of a license, registration or endorsement may be warranted, the board shall schedule a formal hearing pursuant to title 41, chapter 6, article 10.

D. After completing an informal interview, the board may take any or all of the following disciplinary actions:

1. Issue a letter of censure or reprimand.

2. Impose probationary terms as the board deems necessary to protect the public health, safety and welfare and to rehabilitate or educate the licensee or registrant. Probationary terms imposed pursuant to this paragraph may include temporary suspension of a license, registration or endorsement for a period of not more than thirty days, restriction of the licensee's or registrant's right to practice pursuant to this chapter and a requirement that restitution be made to any funeral service consumer or other person who was injured by a violation of this chapter or rules adopted pursuant to this chapter. A licensee's or registrant's failure to comply with any probationary terms imposed pursuant to this paragraph is cause for the board to consider the entire case against the licensee or registrant and any other alleged violations of this chapter at a formal hearing.

3. Impose a civil penalty of not more than one thousand dollars for each violation.

E. After completing a formal hearing, the board may take any or all of the following disciplinary actions:

1. Issue a letter of censure or reprimand.

2. Impose probationary terms as the board deems necessary to protect the public health, safety and welfare and to rehabilitate or educate the licensee or registrant. Probationary terms imposed pursuant to this paragraph may include a requirement that restitution be made to any funeral service customer or other person who was injured by a violation of this chapter or rules adopted pursuant to this chapter.

3. Impose a civil penalty not to exceed three thousand dollars per violation.

4. Suspend a license, registration or endorsement for not more than ninety days for a first offense and not more than one hundred eighty days for a second offense.

5. Revoke a license, registration or endorsement.

F. If, as a result of information ascertained during an investigation, informal interview or formal hearing, the board determines that an alleged violation of this chapter or rules adopted pursuant to this chapter is not sufficiently serious to warrant disciplinary action, the board may issue a letter of concern to the licensee or registrant. The letter of concern shall advise the licensee or registrant of the possible violation.

G. If a licensee or registrant refuses to participate in an informal interview or a formal hearing, the board may take any or all of the disciplinary actions listed in subsections D and E of this section.

H. Before the board may revoke or suspend a license, registration or endorsement, other than a temporary suspension imposed pursuant to subsection D of this section, the board shall serve notice and conduct a hearing

in the manner prescribed in title 41, chapter 6, article 10.

I. After service of notice of a decision of the board suspending or revoking a license, registration or endorsement or imposing a disciplinary action on a licensee or registrant pursuant to subsection D or E of this section, a licensee may apply for a rehearing or review by filing a motion pursuant to title 41, chapter 6, article 10. The filing of a motion for a rehearing or review suspends the operation of the board's decision to impose a disciplinary action and allows the licensee or registrant to continue to practice pending a denial or granting of the petition and pending the decision of the board on rehearing if a rehearing is granted. The board also may grant a rehearing on its own motion if it finds newly discovered evidence or for any other reason that justifies a reconsideration of a matter.

J. Except as provided in section 41-1092.08, subsection H, any party who is aggrieved by a final order or decision of the board may appeal to the superior court pursuant to title 12, chapter 7, article 6.

K. All notices that the board is required to provide to any person under this chapter are fully effective by personal service or by mailing a copy of the notice by certified mail addressed to the person's last known address of record in the board's files. Notice by mail is complete at the time of its deposit in the mail.

L. In addition to the requirements of subsection K of this section, a funeral establishment or crematory shall file a notice with the board identifying the person on whom the board's notices relating to the funeral establishment or crematory shall be served.

32-1371. List of prices of funeral goods and services offered

A. The board shall adopt rules that require every licensee or registrant to give a standardized written or printed price list for retention to each person who personally inquires about funeral arrangements or prices of funeral goods or services. A funeral establishment shall offer each person the price list on beginning a discussion either of funeral arrangements or of the selection of funeral goods or services.

B. A price list shall be presented in an accurate and readable manner in order to facilitate price comparisons by funeral service consumers.

32-1372. Display of merchandise prices

The board shall adopt rules that require each funeral establishment to place a price card in a conspicuous place with each casket, alternative container, outer burial container or other item of funeral goods available for purchase. A funeral establishment shall place each price card in a location that enables a person to view the card without physically handling the card. Merchandise photographs must have the price of the merchandise displayed in a conspicuous manner.

32-1373. Statement of funeral goods and services

A. A licensee or registrant shall not enter into a contract to furnish funeral goods or services in connection with the burial or other disposition of a dead human body until the licensee or registrant has first delivered to the potential purchaser a written or printed statement of funeral goods and services that contains the following information, if this information is available at the time the contract is executed:

1. The total charge for the services of the licensee or registrant and the use of the funeral establishment, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.
2. An itemization of charges for the casket or alternative container and any outer burial container.
3. An itemization of fees or charges and the total amount of cash advances made by the licensee or registrant for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long-distance telephone calls, music and any other advances authorized by the purchaser.
4. The method of payment and any interest charges.
5. An itemization of any fees or charges not included in paragraphs 1 through 4.
6. The total amount of charges itemized and included pursuant to this subsection.
7. The location where the deceased will be held, embalmed or cremated if the location is not the funeral establishment's premises.
8. A statement containing the name, address and phone number of any corporation, limited liability company, partnership or limited partnership that holds an ownership interest of ten per cent or more in the funeral establishment or crematory.

B. The statement of funeral goods and services delivered to the potential purchaser shall also contain a conspicuous statement informing the potential purchaser that a casket or outer burial container may be purchased and used, at the option of the purchaser, in connection with the funeral services and final disposition of human remains, but that, except as provided pursuant to section 36-136, the purchase or use of caskets or outer burial containers is not required by law.

C. A licensee or registrant shall not bill or cause to be billed any item that is referred to as a cash advanced item unless the net amount paid for the item or items by the funeral establishment is the same as the amount billed by the funeral establishment.

D. If the charge for any of the items prescribed in this section is not known at the time the contract is entered into, the licensee or registrant shall advise the purchaser of the charge for the item within a reasonable period after the information becomes available.

E. A funeral director shall certify a statement of funeral goods and services with the funeral director's license number and signature before conducting final services or within five days after the purchaser signs the statement, whichever is earlier.

32-1375. Price lists; telephone information

A. A licensee or registrant shall provide accurate information about the retail prices of funeral goods or services readily available for sale at the establishment at which the licensee or registrant is employed to any person inquiring about these prices by telephone.

B. If a person requests a price list by telephone, the establishment shall mail a price list to the caller and may charge a reasonable postage and handling fee of not more than two dollars.

32-1381. License requirement

A person shall not advertise or operate for compensation a funeral establishment without first obtaining a funeral establishment license or an interim permit issued by the board.

32-1382. Funeral establishment requirements; responsible funeral director

A. A funeral establishment licensed pursuant to this article shall:

1. Provide separate rooms for each of the following:

(a) An area inside the establishment that may be used as a chapel for conducting funeral services.

(b) A preparation room meeting minimum requirements adopted by the board that is maintained at all times in a sanitary and professional manner, with sanitary flooring, drainage and ventilation and that is equipped with instruments and supplies necessary for the protection of the health and safety of the public and employees of the establishment in connection with the preparation and embalming of dead human bodies. Nothing prohibits the embalming of a body at a central location.

(c) A display area for displaying funeral goods or the display of funeral goods by photograph or electronic means.

2. Provide access to hearses or funeral coaches that are properly equipped for the transportation of dead human bodies and that are kept in a sanitary and professional manner.

3. Employ and designate a responsible funeral director to manage and supervise the daily operation of the funeral establishment. The responsible funeral director is responsible for the funeral establishment complying with the laws of this state and the rules of the board. The establishment or the responsible funeral director shall designate a licensed funeral director to act as an interim responsible funeral director.

B. All employees of a funeral establishment who handle dead human bodies shall use universal precautions and shall exercise reasonable care to minimize the risk of transmitting any communicable disease from a dead human body.

32-1383. Application; qualifications for licensure

A. An applicant for a funeral establishment license shall submit a completed application on a form prescribed by the board. The application shall be subscribed under oath and shall be accompanied by the applicable fee pursuant to section 32-1309 and any additional information that the board deems necessary. A business entity that applies for a license pursuant to this article shall submit to the board with its application for licensure a copy of its partnership agreement, its articles of incorporation or any other organizational documents.

B. A person who applies for a license pursuant to this article, or if the applicant is a business entity, the proprietors, partners, officers and directors of the entity shall:

1. Be of good moral character.
2. Submit a completed fingerprint card, criminal history background information and a fingerprint background check fee to the board.

C. The board or the board's designee shall inspect the premises of a funeral establishment and investigate the character and other qualifications of all applicants for licensure.

D. If the board finds that the applicant meets the criteria for licensure under this article and rules adopted by the board, the board shall issue an establishment license.

32-1384. Multiple funeral director license

- A. An applicant for a license as a funeral director who is proposing to manage and supervise the operations of more than one funeral establishment shall apply on a form prescribed by the board and the application shall be accompanied by the prescribed fee for the additional establishment.
- B. The board shall review the application for a multiple funeral director license, and, if it is reasonable to believe that the funeral establishments can be adequately supervised and managed by the applicant, the board shall issue the license.
- C. A funeral director who holds a multiple funeral director license shall display the license at the establishment to which the license is issued. Unless otherwise stated in this article, a multiple funeral director license is renewable at the same time as the establishment license. A multiple funeral director license is not transferable without prior approval of the board.

32-1388. Nontransferability of funeral establishment licenses; change of ownership; interim permits; definition

A. A funeral establishment license issued by the board is not transferable or subject to sale or assignment, whether by voluntary or involuntary process.

B. When there is a change of ownership of a funeral establishment, the licensee shall notify the board in writing and shall surrender the license to the board within twenty days after the change of ownership. The new owner shall also notify the board in writing within twenty days after the change of ownership and shall submit an application for a funeral establishment license to the board pursuant to section 32-1383.

C. The board shall issue an interim permit to a new owner of a licensed funeral establishment to allow the new owner to continue the operation of the establishment during the period that the new owner's license application is pending if the following conditions are met:

1. The new owner notifies the board of the change of ownership and submits an application for an interim permit and the applicable fee pursuant to section 32-1309 at least three days, excluding Saturdays, Sundays and holidays, after the change takes place. Notice shall be given during regular business hours.

2. The funeral establishment continues to meet the requirements of section 32-1382.

D. An interim permit issued by the board pursuant to this section shall be for not more than forty-five days and shall not be extended except as provided in subsection E of this section. An interim permit is a conditional permit and authorizes the holder to operate a funeral establishment as would be permitted under a funeral establishment license issued pursuant to this article. The holder of an interim permit is subject to the licensing rules and disciplinary proceedings prescribed in this chapter and in rules adopted pursuant to this chapter.

E. Notwithstanding subsection D of this section, for good cause shown, the board may extend an interim permit for not more than forty-five days.

F. Until an interim permit is issued, the board shall keep confidential all notices filed with the board by the prospective new owner of a licensed funeral establishment pursuant to this section.

G. For the purposes of this section, "regular business hours" means between the hours of 8:00 a.m. and 5:00 p.m. on any day of the week other than Saturday, Sunday or any other legal holiday or a day on which the board is authorized or obligated by law or executive order to close.

32-1391.01. Powers and duties of board

A. The board shall adopt rules that:

1. Describe or define deceptive, misleading or professionally negligent practices concerning the offer or sale of prearranged funeral agreements funded by trust and the handling of these funds or accounts.
2. Implement and interpret consumer disclosure requirements of this article to provide adequate information to purchasers of prearranged funerals.
3. Prescribe funeral establishment recordkeeping requirements concerning prearranged funeral trust sales and trust accounts and the handling and disposition of trust funds.
4. Define terms and develop forms and procedures to implement this article.

B. The board shall enter into an intergovernmental agreement with the department of insurance and financial institutions to examine and report on prearranged funeral trust accounts of funeral establishments and to review prearranged funeral trust sales and trust account forms and procedures used by funeral establishments.

32-1391.02. Prearranged funeral agreements; restrictions on sales

A. A person shall not enter into a prearranged funeral agreement other than in accordance with the provisions of this article and the rules adopted pursuant to this article.

B. The board shall adopt rules that require every funeral establishment that sells prearranged funeral agreements to give a standardized written or printed price list for retention to each person who personally inquires about prearranged funeral agreements. On beginning a discussion regarding prearranged funeral agreements, a registered prearranged funeral salesperson or a licensed insurance producer who a funeral establishment employs or contracts with to sell prearranged funeral agreements funded by insurance shall present the price list to the consumer. The list shall be presented in an accurate and readable manner in order to facilitate price comparisons by consumers.

C. A prearranged funeral agreement shall be funded by insurance or trust. A funeral establishment or an agent or employee of a funeral establishment shall not accept payment for or agree to enter into any prearranged funeral agreement unless the name of a licensed funeral establishment appears on the statement of goods and services used in connection with the agreement and one of the following is true:

1. If the agreement is a prearranged funeral agreement funded by insurance, the funeral establishment employs or contracts with insurance producers who are licensed pursuant to title 20 to sell the funeral agreement.

2. If the agreement is a prearranged funeral agreement funded by trust, the establishment has been issued a prearranged funeral sales endorsement to its license and the salesperson has been issued a prearranged funeral salesperson registration by the board allowing the establishment and the person to sell prearranged funeral agreements funded by trust.

3. If the agreement is a payable on death account, the account is not under the control of the establishment. A funeral establishment or an agent or employee of a funeral establishment shall not accept a deposit for a payable on death account.

32-1391.05. Prearranged funeral agreements funded by trusts; definition

A. All monies paid under a prearranged funeral agreement funded by trust, except as provided in subsection B of this section, shall be deposited, within five business days after the receipt of the monies, in a prearranged funeral trust account with a financial institution doing business in this state. The monies shall be invested either in federally insured accounts, in which case the amounts so deposited shall not exceed the amount of the deposit insurance, or in direct obligations of the United States government. Federally insured accounts are defined as accounts insured by the federal deposit insurance corporation or the national credit union administration board. If invested in direct obligations of the United States government, the maturity dates of such obligations shall not exceed three years, unless rules adopted by the department of insurance and financial institutions permit a longer period and not less than five percent of the amounts so deposited shall at all times be deposited in federally insured accounts.

B. All monies paid under a fixed price prearranged funeral agreement funded by trust shall be deposited, within twenty-one calendar days or fifteen business days, whichever is shorter after the receipt of the monies, in a prearranged funeral trust account with a financial institution doing business in this state. In investing these monies the trustee shall exercise the judgment and care of a prudent investor under the prevailing circumstances.

C. Except as provided in this article:

1. All monies deposited in a prearranged funeral trust account and all accrued interest shall be held in the trust account for and remain the property of the beneficiary during the beneficiary's life and of the beneficiary's estate after the beneficiary's death.

2. A funeral establishment or another person shall not withdraw, transfer, remove, commingle, encumber or use as collateral any monies paid to the establishment under a prearranged funeral agreement funded by trust.

3. All monies deposited and accrued interest in a prearranged funeral trust account shall be exempt from attachment, garnishment, execution and claims of creditors, receivers and trustees of the funeral establishment other than the claims of the beneficiary or the beneficiary's estate.

4. All monies deposited and accrued interest in a prearranged funeral trust account up to a total of \$5,000 shall be exempt from attachment, garnishment, execution and claims of creditors, receivers and trustees of the beneficiary other than the claims of the funeral establishment.

D. A funeral establishment may direct the financial institution in which the trust monies are deposited to transfer the trust account to another financial institution after providing each participant in the trust with the name and location of the institution and the new trust account number.

E. For the purposes of this section, "prudent investor" means a person who exercises the same care and expertise as a person of ordinary prudence, diligence, discretion and judgment would exercise in the management of the property of others, not in regard to speculation, but in regard to the permanent disposition of the funds considering the probable income as well as the probable safety of the capital to be invested.

32-1391.06. Service fees; prearranged funeral agreements funded by trust

A. A funeral establishment may charge an initial service fee when a person enters into a prearranged funeral agreement funded by trust of not to exceed fifteen per cent of the total amount agreed to be paid by the purchaser pursuant to the prearranged funeral agreement. If the amount to be paid by the purchaser is to be paid in installments, no more than one-half of any payment made by the purchaser may be applied to the initial service fee. If the agreement is canceled prior to the completion of the agreement, any portion of the initial service fee that has not yet been paid under the agreement is no longer due and payable to the establishment. The portion of any payment by the purchaser that is to be applied to the initial service fee shall be paid to the funeral establishment and not to the trust account.

B. A funeral establishment may charge an annual service fee of not to exceed ten per cent of the interest that has accrued on the trust funds during the preceding calendar year. After each calendar year while a prearranged funeral agreement funded by trust is in effect a financial institution may release a portion of the trust funds equal to the annual service fee on receipt of a certificate of entitlement to an annual service fee from the funeral establishment.

C. The funeral establishment may direct the financial institution to pay, from time to time, from the monies in the trust account, any taxes that have accrued by reason of the income earned from funds deposited in the trust account. The payment may be made directly to the taxing authority or to the beneficiary of the trust account on the proper showing by the beneficiary that the beneficiary has paid the taxes. A financial institution may withdraw funds from the trust account, as previously agreed in writing, to pay reasonable and necessary charges for the administrative and investment management services provided by the financial institution.

32-1391.07. Cancellation; prearranged funeral agreements funded by trust

A. If a funeral establishment receives a written request from a purchaser of a prearranged funeral agreement funded by trust to terminate the agreement and refund the trust funds, the funeral establishment shall refund the remaining trust funds to the purchaser within five business days after it receives the request. A financial institution shall release the trust funds to the funeral establishment on receipt of a cancellation request signed by the purchaser and submitted by the funeral establishment. If the beneficiary is deceased, a written request to terminate the agreement may be submitted to the funeral establishment by the person designated on the prearranged funeral agreement, or if that person is not available, a request may be submitted by the person legally responsible for the beneficiary.

B. If a request to terminate the agreement is received from the purchaser within three business days after the execution of the agreement, the funeral establishment shall, within five business days after receiving the request, refund all monies paid under the agreement including the full amount of any initial service fee paid by the purchaser.

32-1391.08. Prearranged funeral agreements funded by trust; death of beneficiary.

A. After the death of a beneficiary of a prearranged funeral agreement funded by trust, the financial institution shall release a portion of the remaining trust funds equal to the funeral establishment's charges for funeral goods and services for the beneficiary's funeral arrangement to the funeral establishment on receipt of the beneficiary's certified death certificate and a certificate from the funeral establishment stating that it provided the requested funeral goods and services and stating the total charges for those goods and services.

B. After the death of a beneficiary of a fixed price prearranged funeral agreement funded by trust, the financial institution may release a portion of the trust funds equal to the funeral establishment's charges for the beneficiary's funeral arrangements and all then accrued interest on the trust funds to the funeral establishment on receipt of the beneficiary's certified death certificate and a certificate from the establishment stating that it provided the requested funeral goods and services, stating that the establishment agreed to fix the prices of those goods and services and the purchaser agreed to convey the accrued interest on performance of the funeral arrangements and stating the total charges for those goods and services.

C. If any trust funds remain after disbursement to the funeral establishment, the remaining funds shall be paid to the estate of the beneficiary.

D. If the funeral establishment does not provide funeral goods and services for the beneficiary's funeral arrangements within thirty days after the death of the beneficiary, all remaining trust funds shall be paid immediately to the estate of the beneficiary. This shall not be the exclusive remedy available to the purchaser or the estate of the beneficiary if there has been a breach of contract.

E. If the funeral establishment provides any funeral goods or services to the purchaser or beneficiary before the death of the beneficiary, the provision shall not constitute performance under the prearranged funeral agreement and shall not entitle the funeral establishment to any portion of the trust funds.

32-1391.09. Prearranged funeral agreements funded by trust; consumer disclosures

A. Each prearranged funeral agreement funded by trust shall contain the following conspicuous notice that shall be initialed by the purchaser:

Notice to Purchaser

This prearranged funeral agreement is for the future funeral arrangements of (name of beneficiary) . The payments you make under this prearranged funeral agreement will be deposited in trust account number _____ at the (office or branch) of the (name of financial institution) . Written notice will be mailed to you if this account is transferred to another financial institution. That notice will include the name and location of the financial institution and the new trust account number. The total monies intended to be deposited in this trust account over the term of the agreement is \$ _____. An initial service fee of \$ _____ has been charged which will be paid to this funeral establishment. If this agreement is canceled, any portion of the initial service fee which has not been paid under the agreement is no longer due and payable to the establishment. An annual service fee of _____% of the annual accrued interest on the funds in the trust account will also be charged for administrative and accounting expenses. If you wish to cancel this agreement, you must give the funeral establishment a written request to cancel before the trust funds will be refunded. If you cancel this agreement within three business days after signing this agreement, all monies paid, including all service fees, will be refunded to you. If remaining trust funds exist after performance of this agreement, those funds will be refunded to the estate of the beneficiary. The prices of the funeral goods and services you have requested will be the prices in effect at the time of the future funeral arrangements.

Purchaser initials: _____

B. A prearranged funeral agreement shall specifically itemize the funeral goods and services to be provided under the agreement and any funeral, burial, cemetery or crematory expenses that are not covered under the agreement.

C. Each fixed price prearranged funeral agreement funded by trust shall contain the following additional conspicuous notice that shall be initialed by the purchaser:

Fixed Price Contract Notice

This funeral establishment has agreed to charge you the prices listed in this agreement for the funeral goods and services you have selected for the future funeral arrangements of (name of beneficiary) . However, you should note that this agreement may be in effect for many years and that future events may affect our ability to honor this agreement at the time of the funeral arrangements. If a funeral item is no longer manufactured or available at the time of the funeral arrangements, a substantially equivalent item acceptable to the person designated on this agreement will be substituted. This agreement should not be considered as insurance. You have agreed that the funeral establishment shall receive _____% of all interest accruing on the trust fund if it performs the future funeral arrangements as required by this agreement. If the funeral establishment does not honor this agreement, you may have legal remedies available to enforce this contract at the price you agreed to pay.

Purchaser initials: _____

D. A fixed price prearranged funeral agreement funded by trust shall specifically itemize the funeral goods and services to be provided under the agreement, the current prices to be charged for the goods and services at the time of the future funeral arrangements and any burial, cemetery or crematory expenses that are not covered under the agreement. If certain funeral goods to be provided under the agreement are not manufactured or supplied at the time of the funeral arrangements, the funeral establishment shall provide substantially equivalent

funeral goods that are acceptable to the person designated on the agreement or the person legally responsible for final disposition of the beneficiary's remains. If any of these persons are unavailable, the substitution of funeral goods shall be determined by rules established by the board. A funeral establishment shall not represent or imply that the agreed to prices are guaranteed, frozen or otherwise an absolute economic certainty in the future. If a funeral establishment specifies the prices to be charged pursuant to this subsection, it shall delete the last sentence of the notice required by subsection A from the agreement.

E. A prearranged funeral agreement funded by trust shall contain all terms of the prearranged funeral trust account agreement with the financial institution.

F. Each funeral establishment shall provide a copy of:

1. The prearranged funeral agreement for retention to each person who enters into a prearranged funeral agreement.
2. Its current price list for retention to each person who inquires about or is solicited regarding a prearranged funeral agreement.

32-1391.12. Prearranged funeral sales endorsement; requirements; renewal

A. A funeral establishment that desires to offer or sell prearranged funeral agreements funded by trust shall apply to the board for an endorsement to its establishment license. The board shall issue the endorsement if the funeral establishment satisfies the following requirements:

1. Pays the prescribed application fee pursuant to section 32-1309.
2. Provides the name and address of each person owning ten per cent or more of the common shares or other ownership or beneficial interest in the funeral establishment.
3. Provides the name and address, any prior names or aliases, all prior addresses for the immediately preceding seven year period, and the date and location of birth of any responsible funeral director, manager, officer, owner, trustee or other person controlling the funeral establishment and who has been convicted of any of the crimes or has been the subject of any of the court actions described in section 10-202, subsection D, paragraph 1, subdivisions (a), (b) and (c).
4. Delivers a corporate surety bond in favor of this state, executed by a surety company authorized to do business in this state, in the amount that is prescribed by the board and that is recoverable by this state for the benefit of any person injured by a violation of this article. The board shall establish, in its rules, a separate bond requirement amount for each of the following:
 - (a) Funeral establishments that sold fewer than one hundred prearranged funeral agreements funded by trust during the immediately preceding calendar year.
 - (b) Funeral establishments that sold one hundred or more but fewer than two hundred fifty prearranged funeral agreements funded by trust during the immediately preceding calendar year.
 - (c) Funeral establishments that sold two hundred fifty or more prearranged funeral agreements funded by trust during the immediately preceding calendar year.

Bond amount requirements established by the board shall not be less than fifteen thousand dollars or more than fifty thousand dollars for each establishment, except that as each salesperson is registered by the board, the funeral establishment shall increase its bond by an additional five thousand dollars during the employment of that salesperson.

5. Provides the full name and address of the funeral director designated by the establishment to offer or sell prearranged funerals and all of the following:
 - (a) A recent photograph of the designated funeral director.
 - (b) Any prior names or aliases used by the designated funeral director.
 - (c) All prior addresses of the designated funeral director for the immediately preceding seven year period.
 - (d) The date and location of the designated funeral director's birth.
 - (e) A declaration from the designated funeral director that the funeral director has not been convicted of any felony or convicted of any other crime involving dishonesty, fraud, deception, misrepresentation, embezzlement or breach of fiduciary duty in any state or federal court within the seven year period immediately preceding the date of application.
 - (f) A declaration from the designated funeral director that the funeral director has not been the subject of a consumer fraud, securities fraud or civil racketeering judgment or consent order in any state or federal court within the seven year period immediately preceding the date of application.

6. Provides information about existing prearranged funeral agreements funded by trust of the funeral establishment required by the board.

B. A prearranged funeral sales endorsement shall be renewed annually by the funeral establishment by payment of the prescribed renewal fee pursuant to section 32-1309 and by compliance with the requirements described in subsection A, paragraphs 2, 3 and 4 of this section on or before July 31.

C. Failure to pay the renewal fee by July 31 voids the endorsement. An endorsement voided under this subsection may be reinstated on compliance with subsection B of this section and payment of the prescribed reinstatement fee.

32-1391.14. Prearranged funeral salespersons; registration requirements; renewal; exemption

A. Except for funeral directors designated to sell prearranged funerals pursuant to section 32-1391.12, a person employed or otherwise engaged by a funeral establishment to solicit, offer or sell prearranged funeral agreements funded by trust shall apply to the board for registration. The board shall issue the registration if the applicant satisfies the following requirements:

1. Pays the prescribed application fee pursuant to section 32-1309.
2. Provides the applicant's full name and current address, a recent photograph, any prior names or aliases, all prior addresses for the immediately preceding seven year period and the date and location of the applicant's birth.
3. Declares that the applicant has not been convicted of any felony or convicted of any other crime involving dishonesty, fraud, deception, misrepresentation, embezzlement or breach of fiduciary duty in any state or federal court within the seven year period immediately preceding the date of application.
4. Declares that the applicant has not been the subject of a consumer fraud, securities fraud or civil racketeering judgment or consent order in any state or federal court within the seven year period immediately preceding the date of application.
5. Provides satisfactory evidence of employment or engagement or of an offer of employment or engagement by a funeral establishment holding a prearranged funeral sales endorsement issued pursuant to this article.
6. Achieves a written score of at least seventy-five on a written examination conducted by the board on the provisions of this chapter and the rules adopted pursuant to this chapter.
7. As each applicant is registered by the board, the funeral establishment shall show evidence that the bond required under section 32-1391.12 has been increased by five thousand dollars for the applicant.
8. Submits a completed fingerprint card and the prescribed fingerprint background check fee to the board.
9. Provides any other relevant information reasonably required by the board.

B. Except as provided in section 32-4301, a prearranged funeral sales registration shall be renewed annually by the prearranged funeral salesperson by payment of the prescribed renewal fee pursuant to section 32-1309 and by compliance with the requirements described in subsection A, paragraphs 2, 3, 4, 5, 7 and 8 of this section on or before July 31.

C. Failure to pay the renewal fee by July 31 voids the registration. A registration voided under this subsection may be reinstated upon payment of the prescribed renewal and reinstatement fees.

D. No person licensed by the board as a funeral director or embalmer is required to take the examination required by subsection A, paragraph 6 of this section.

32-1391.16. Annual trust report

A. On or before May 1, each funeral establishment holding a prearranged funeral sales endorsement shall file an annual report with the board concerning its prearranged funeral sales and trust account activities during the preceding calendar year.

B. The funeral establishment shall pay the annual report fee prescribed in section 32-1309 when the annual report is filed.

C. The annual report shall contain the following information sworn to by the owner or owners of the funeral establishment:

1. The names and addresses of persons who were sold prearranged funerals funded by trust by the funeral establishment during the preceding calendar year, the names of the persons who are to be the beneficiaries of the prearranged funerals and the name of the registered salesperson selling each prearranged funeral.

2. The total contract amount for each purchaser listed in paragraph 1 of this subsection, the total monies previously paid on each contract and the monies paid by and refunded to the purchaser on each contract during the preceding calendar year.

3. The total trust funds contained in the funeral establishment's prearranged funeral trust accounts as of the end of the preceding calendar year and the total funds received in the trust accounts during that year.

4. The total monies, if any, received from purchasers but not deposited in the trust accounts as of the end of the preceding calendar year, excluding initial service fees received by the funeral establishment.

5. The names, registration numbers and addresses of all salespersons employed or otherwise engaged by the funeral establishment during the preceding calendar year and the names and registration numbers of all salespersons terminated during that year.

6. The names and addresses of the financial institutions where the trust funds are on deposit and the account number of each account.

7. A statement of the owner of the funeral establishment that the establishment has complied with this article and rules adopted pursuant to this article.

8. Other information required by the board.

D. Each funeral establishment that does not offer or sell prearranged funerals funded by trust or hold a prearranged funeral sales endorsement shall file with the board the annual report described in subsection C of this section concerning all prearranged funeral trust accounts established before January 1, 1985 and in existence during the preceding calendar year on or before May 1. For the purposes of this subsection, "prearranged funeral trust account" includes all prearranged funeral trust accounts or funds established pursuant to laws in existence before January 1, 1985.

E. The board shall provide the department of insurance and financial institutions with a copy of each annual report filed pursuant to this section.

32-1394. Crematory requirements; responsible cremationist

A crematory licensed pursuant to this article shall:

1. Maintain a retort that is operated at all times in a sanitary and professional manner, that conforms to local building and environmental codes and that provides protection for the health and safety of persons in attendance at a cremation and employees of the crematory.
2. Maintain a holding facility that is secure from access by anyone other than employees of the crematory and public officials in the performance of their official duties, that complies with applicable public health laws, that protects the health and safety of employees of the crematory and that preserves the dignity of human remains in the facility.
3. Possess all equipment and supplies that are necessary to conduct cremations in a manner that provides protection for the health and safety of persons in attendance at a cremation and employees of the crematory.
4. Employ and designate a responsible cremationist who is licensed pursuant to this article and who is trained in crematory operations to manage the daily operation of the crematory. The responsible cremationist is responsible for the crematory complying with the laws of this state and the rules of the board or the rules of the department of real estate, as applicable. The crematory or the responsible cremationist shall designate a licensed cremationist to act as an interim responsible cremationist.

32-1394.01. Application; qualifications for cremationist licensure; licensure requirement for responsible cremationists

- A. An applicant for a cremationist license shall submit a completed application on a form prescribed by the board. The application shall be subscribed under oath and shall be accompanied by the applicable fee pursuant to section 32-1309 and any additional information that the board deems necessary.
- B. An applicant for a cremationist license shall be of good moral character and shall submit a completed fingerprint card and the prescribed fingerprint records check fee to the board to enable the board or the department of public safety to conduct a criminal records check.
- C. An applicant for a cremationist license shall meet the educational requirements as prescribed by the board in rule.
- D. If the board finds that the applicant meets the criteria for cremationist licensure under this section and under rules adopted by the board, the board shall issue a cremationist license.
- E. Notwithstanding any other law, a responsible cremationist is required to be licensed pursuant to this article. Any other cremationist may be licensed pursuant to this article but, if not licensed, may engage only in cremation activity that is allowed without a license.

32-1395. Application; qualifications for licensure

A. An applicant for a crematory license shall submit a completed application on a form prescribed by the board. If the applicant is a business entity, the entity shall direct a natural person who is an owner of the entity to submit its application. The application shall be subscribed under oath, shall contain the name of the responsible cremationist and shall be accompanied by the applicable fee pursuant to section 32-1309 and any additional information that the board deems necessary. A business entity that applies for a license pursuant to this article shall submit to the board with its application for licensure a copy of its partnership agreement, its articles of incorporation or organization or any other organizational documents required to be filed with the corporation commission.

B. A person who applies for a license pursuant to this article, or if the applicant is a business entity, the owners, partners, officers, directors and trust beneficiaries of the entity, shall:

1. Be of good moral character.
2. Submit a completed fingerprint card, criminal history background information and a fingerprint background check fee to the board.

C. The board or the board's designee shall inspect the premises of a crematory and investigate the character and other qualifications of all applicants for licensure pursuant to this article to determine whether the crematory and the applicants are in compliance with the requirements of this article and rules adopted by the board.

D. If the board finds that the applicant meets the criteria for licensure under this article and rules adopted by the board, the board shall issue a crematory license.

32-1399. Crematories; standards of practice

The board shall adopt rules that establish standards equivalent to section 32-1307, subsection A, paragraph 5 for the regulation of crematories and cremation and that include the following:

1. A crematory shall develop, implement and maintain a written procedure for the identification of human remains that ensures that remains can be identified from the time that a crematory accepts the delivery of the remains until the cremated remains are released to the authorizing agent. The identification procedures shall require the crematory to comply with the requirements of this section. The crematory shall not open a container containing human remains, except under the personal supervision of a licensed funeral director, or embalmer, or a responsible cremationist licensed pursuant to this article and trained in crematory operations to manage the daily operation of the crematory. After taking custody of human remains, a crematory shall immediately verify the identification attached to the casket or cremation container and assign an identification number. The crematory shall not accept unidentified caskets or cremation containers. The identification shall include the name and address of the deceased, the name and relationship of the authorizing agent, the name of the person or entity engaging the crematory services, a valid cremation permit issued by a government agency and a metal cremation disk containing the identification number. The disk shall be placed with the deceased during cremation.
2. If a crematory is unable to cremate the human remains immediately after taking custody, the crematory shall store the remains in a holding facility that is secure from access by anyone other than employees of the crematory and public officials in the performance of their duty and that complies with applicable public health laws, preserves the dignity of the human remains and protects the health of employees of the crematory.
3. A crematory shall not accept a casket or cremation container from which there is evidence of leakage of body fluids from the human remains and shall not hold human remains for cremation unless they are contained in an individual, closed casket or rigid cremation container of combustible material that preserves the dignity of the human remains and that protects the health of employees of the crematory. Human remains that are not embalmed shall be held by the crematory in a refrigerated holding facility or in compliance with applicable public health laws.
4. All body prostheses, bridgework or similar items removed from the cremated remains shall be disposed of by the crematory unless an alternative disposition is agreed to in the authorization to cremate.
5. After cremation, the crematory as far as practicable shall remove visible parts of the residual of the cremation process from the retort, shall not combine the cremated or processed remains with other cremated or processed remains and shall attach the identification of the cremated or processed remains to the temporary container or urn into which the remains are placed.
6. The crematory shall place cremated or processed remains in a temporary container or urn. Extra space may be filled with clean packing material that will not combine with the cremated or processed remains. The lid or top shall be securely closed. Any cremated or processed remains that do not fit in the temporary container or urn shall be returned in a separate container or, with permission of the authorizing agent, disposed of by the crematory.
7. A crematory may dispose of cremated or processed remains in any legal manner directed by a document prepared pursuant to section 32-1365.01 or agreed to by the authorizing agent. If the authorizing agent agrees to take possession and does not take possession of the remains within thirty days after cremation or on an agreed date, the crematory shall send written notice to the last known address of the authorizing agent to take possession. Ninety days after the notification is sent or delivered, the crematory may dispose of the cremated or processed remains in any legal manner.
8. Unless the deceased has prepared a document pursuant to section 32-1365.01, the crematory shall obtain an authorization to cremate from the authorizing agent that shall contain a provision holding the crematory harmless for the disposition of unclaimed cremated or processed remains.

9. All employees of the crematory who handle dead human bodies shall use universal precautions and shall otherwise exercise reasonable care to minimize the risk of transmitting any communicable disease from a dead human body.

10. Unless the deceased has prepared a document pursuant to section 32-1365.01, employees of the crematory shall not remove a dead human body from the container in which it is delivered to the crematory without the express written consent of the authorizing agent. If, after accepting a dead human body for cremation, employees of a crematory discover that a mechanical or radioactive device is implanted in the body, an embalmer licensed pursuant to article 2 of this chapter shall remove the device from the body before cremation takes place.

11. A crematory shall keep an accurate record of all cremations performed, including dispositions of cremated and processed remains, for not fewer than five years after the cremation.

39-121.03. Request for copies, printouts or photographs; statement of purpose; commercial purpose as abuse of public record; determination by governor; civil penalty; definition

A. When a person requests copies, printouts or photographs of public records for a commercial purpose, the person shall provide a statement setting forth the commercial purpose for which the copies, printouts or photographs will be used. Upon being furnished the statement the custodian of such records may furnish reproductions, the charge for which shall include the following:

1. A portion of the cost to the public body for obtaining the original or copies of the documents, printouts or photographs.
2. A reasonable fee for the cost of time, materials, equipment and personnel in producing such reproduction.
3. The value of the reproduction on the commercial market as best determined by the public body.

B. If the custodian of a public record determines that the commercial purpose stated in the statement is a misuse of public records or is an abuse of the right to receive public records, the custodian may apply to the governor requesting that the governor by executive order prohibit the furnishing of copies, printouts or photographs for such commercial purpose. The governor, upon application from a custodian of public records, shall determine whether the commercial purpose is a misuse or an abuse of the public record. If the governor determines that the public record shall not be provided for such commercial purpose the governor shall issue an executive order prohibiting the providing of such public records for such commercial purpose. If no order is issued within thirty days of the date of application, the custodian of public records shall provide such copies, printouts or photographs upon being paid the fee determined pursuant to subsection A.

C. A person who obtains a public record for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or who obtains a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose or who obtains a public record from anyone other than the custodian of such records and uses it for a commercial purpose shall in addition to other penalties be liable to the state or the political subdivision from which the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorney fees or shall be liable to the state or the political subdivision for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records.

D. For the purposes of this section, "commercial purpose" means the use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from public records for the purpose of solicitation or the sale of names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of the public record. Commercial purpose does not mean the use of a public record as evidence or as research for evidence in an action in any judicial or quasi-judicial body.

41-1072. Definitions

In this article, unless the context otherwise requires:

1. "Administrative completeness review time frame" means the number of days from agency receipt of an application for a license until an agency determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application.
2. "Overall time frame" means the number of days after receipt of an application for a license during which an agency determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame.
3. "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which an agency determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time frame.

41-1079. Information required to be provided

A. An agency that issues licenses shall provide the following information to an applicant at the time the applicant obtains an application for a license:

1. A list of all of the steps the applicant is required to take in order to obtain the license.
2. The applicable licensing time frames.
3. The name and telephone number of an agency contact person who can answer questions or provide assistance throughout the application process.

B. This section does not apply to the Arizona peace officer standards and training board established by section 41-1821.

STATE LAND DEPARTMENT
Title 12, Chapter 5, Articles 7-9, 11



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

MEETING DATE: November 1, 2022

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

FROM: Council Staff

DATE: October 12, 2022

SUBJECT: STATE LAND DEPARTMENT
Title 12, Chapter 5, Articles 7-9, 11

Summary

This Five-Year Review Report from the State Land Department (Department) relates to eleven rules in Title 12, Chapter 5, Articles 7 through 9 and 11. These articles cover the following topics:

- **Article 7** governing Special Leasing Provisions contains three rules: agricultural leases (R12-5-702), grazing leases (R12-5-703), and commercial leases (R12-5-705)
- **Article 8** governing Right-of-way contains two rules: one pertaining to rights-of-way generally (R12-5-801) and one specifically for Reservoir, Dams, and Other Sites (R12-5-802).
- **Article 9** governing Exchanges contains five rules pertaining to scope of rules (R12-5-901), definitions (R12-5-902), application (R12-5-904), maps and photographs (R12-5-910), and controversy as to title or leasehold rights (R12-5-918).
- **Article 11** governing Special Use Permits (also known as Special Land Use Permits) contains one rule (R12-5-1101 Policy; Use of Lands).

The Department's previous review of the rules in Title 12, Chapter 5 Articles 7, 8, 9, & 11, which was approved by the Council in January 2018, stated, at that time, that many of the rules should be amended. Specifically, the Department stated that it recognized the flaws within

the rules and planned to amend them to strike language that is inconsistent with statute, agency operations, or the Arizona Constitution. Also, the Department stated in the previous report that language should also be added and modified to improve clarity and conciseness. The Department indicated in the previous report that it intended to begin the rulemaking process to amend the rules by March 2019. The Department indicates, when resources allowed, the Department pursued a rulemaking for a separate set of Articles, but did not attempt to amend the rules herein. The Department states fiduciary duties to Trust beneficiaries, current economic conditions, and continuous constraints on internal resources limit the Department's allocation of resources to rulemaking.

Proposed Action

Despite issues identified in the prior and current reports, as outlined in more detail below, the Department states fiduciary duties to Trust beneficiaries, current economic conditions, and continuous constraints on internal resources limit the Department's allocation of resources to rulemaking. As such, the Department indicates it does not intend to amend any of these rules at this time. The Department further states, as resources and stakeholder involvement allow, the Department may consider a rulemaking to any of its rules in Title 12, Chapter 5.

1. Has the agency analyzed whether the rules are authorized by statute?

The Department cites both general and specific statutory authority for these rules.

2. Summary of the agency's economic impact comparison and identification of stakeholders:

The Department states it is not a regulatory agency. The Department indicates it functions as the trustee of the State's 9.2 million acres of land and associated natural resources held in trust ("Trust Land") for enumerated beneficiaries, the largest of which is K-12 public schools. The Department states there is no current economic impact statement (EIS) to compare with a previous EIS.

3. 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 believes the rules impose the least burden and regulatory burden and costs to persons regulated by them because the costs and burdens mainly lie in Department administration. However, Council staff notes, as outlined in more detail below, those rules that are inconsistent regarding the amount of fees charged, provide inconsistent lease application requirements, or are inconsistent with statute, may impose unnecessary burdens on those who are regulated by the rules. For example, the Department states in the current report that R12-5-801(C)(5)(c)(iii) and (D)(8) articulate an overly burdensome payment method for municipalities and other government entities.

As such, Council staff encourages the Council to follow up with the Department regarding its cost-benefit and least burdensome analysis pursuant to A.R.S. § 41-1052(D)(3) in light of the identified inconsistencies and overly burdensome requirements.

4. Has the agency received any written criticisms of the rules over the last five years?

The Department indicates it has not received any written criticisms of the rules over the last five years.

5. Has the agency analyzed the rules' clarity, conciseness, and understandability?

The Department indicates that most of the rules reviewed are clear, concise, and understandable, except for the following rule:

- **R12-5-705** (Grazing Leases): The Department indicates the rule is not clear, concise, or understandable as it is inconsistent with statute or agency operations. Specifically, the Department notes R12-5-705(C) is inconsistent in that it specifies only one section may be applied for per application for an initial lease whereas the Department currently allows new and renewal applications to include an entire ranch unit covering multiple sections, while a fee is charged for each section covered in the application pursuant to R12-5-1201.

6. Has the agency analyzed the rules' consistency with other rules and statutes?

The Department indicates that the rules are consistent with other rules and statutes except for the following rules:

- **R12-5-702** (Agricultural Leases): R12-5-702H)(1)(b) is inconsistent with the filing fees delineated in A.A.C. R 12-5-1201, which was promulgated after this rule. The difference in the fee is \$50.
- **R12-5-705** (Grazing Leases): the Department notes R12-5-705(C) is inconsistent in that it specifies only one section may be applied for per application for an initial lease whereas the Department currently allows new and renewal applications to include an entire ranch unit covering multiple sections, while a fee is charged for each section covered in the application pursuant to R12-5-1201.
- **R12-5-801** (Right-of-way):
 - R12-8-801(C)(2) is inconsistent with agency operations as the agency does not require an application for each county crossed because it would be overly burdensome to implement;
 - R12-8-801(C)(8)(c) is inconsistent with agency operations because the commencement date is not the date that the instrument is mailed to the applicant, as stated, but rather it is the date of in-house review, or, if required, the day after the review by the Board of Land Appeals or of the auction;
 - R12-8-801(E)(1)(a) is inconsistent with agency operations because the Department does not require applications to place improvements for Right-of-Way grantees as it does for Commercial Lessees.

- **R12-5-802** (Reservoir Dams and Other Sites): R12-5-802(B) is partially inconsistent with A.R.S. § 37-461(C) in that site leases in excess of ten years are not, in fact, required to be advertised and sold at public auction – it is fifty years.
- **R12-5-1101** (Policy; Use of lands): R12-5-1101(12)(a) is inconsistent with R12-5-1201 governing fees which the Department adheres to.

7. Has the agency analyzed the rules' effectiveness in achieving its objectives?

The Department indicates the rules are mostly effective in achieving their objectives, except where inconsistent with statute or agency operations, as noted above. Furthermore, the Department indicates that rule R12-5-801 is ineffective in that subsections R12-5-801(C)(5)(c)(iii) and (D)(8) articulate an overly burdensome payment method for municipalities and other government entities.

8. Has the agency analyzed the current enforcement status of the rules?

The Department indicates the rules are generally enforced as written except for those rules indicating fees charged, which are superseded by fees outlined in rule R12-5-1201, and rule R12-5-802 where site leases in excess of fifty (50) years are required to be advertised and sold at public auction, rather than the current rule language which states ten (10) years.

9. 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 are no federal laws applicable to these rules.

10. For rules adopted after July 29, 2010, do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?

Not applicable. The Department indicates the rules reviewed pursuant to this report were adopted before July 29, 2010.

11. Conclusion

This Five-Year Review Report from the State Land Department (Department) relates to eleven rules in Title 12, Chapter 5, Articles 7 through 9 and 11. As indicated above, the Department has identified rules that are not clear, concise, understandable, consistent, effective, or enforced as written. However, the Department states fiduciary duties to Trust beneficiaries, current economic conditions, and continuous constraints on internal resources limit the Department's allocation of resources to rulemaking. As such, the Department indicates it does not intend to amend any of these rules at this time. The Department further states, as resources and stakeholder involvement allow, the Department may consider a rulemaking to any of its rules in Title 12, Chapter 5.

Council staff encourages the Council to follow-up with the agency regarding a proposed course of action to address the issues identified in this report, some of which were also identified in the Departments prior report, approved by the Council in January 2018.

Douglas A. Ducey
Governor



Lisa A. Atkins
Commissioner

Arizona State Land Department

1110 West Washington, Phoenix, AZ 85007
(602) 542-4631

July 29, 2022

Arizona Department of Administration
Governor's Regulatory Review Council
100 North 15th Avenue, Suite 402
Phoenix, AZ 85007

Attn: Nicole Sornsins, Chairperson

RE: Arizona State Land Department's 5 Year Rule Review; A.A.C. Title 12, Chapter 5, Articles 7, 8, 9, & 11

Dear Chairperson Sornsins:

The Arizona State Land Department ("Department") submits for Council approval the accompanying Five-Year Review Report for A.A.C. Title 12, Chapter 5, Articles 7, 8, 9, and 11. This document complies with the requirements under A.R.S. § 41-1056. The Department certifies that it is in compliance with the requirements of A.R.S. § 41-1091.

Should you have any questions, please do not hesitate to contact Angela Calabresi, Administrative Counsel, at (602) 542-2632 or acalabresi@azland.gov.

Sincerely,

Paul Peterson
Senior Administrative Counsel

Enclosures

c: Angela Calabresi, Administrative Counsel

FIVE-YEAR RULE REVIEW REPORT

Submitted to

THE GOVERNOR'S REGULATORY REVIEW COUNCIL



ARIZONA STATE LAND DEPARTMENT

"Serving Arizona's Schools and Public Institutions Since 1915"

**TITLE 12 – Natural Resources
CHAPTER 5 – State Land Department**

Article 7 – Special Leasing Provisions

Article 8 – Right-of-way

Article 9 – Exchanges

Article 11 – Special Use Permits

Submitted July 29, 2022

Abstract of Rules Analyses

The Administrative Procedures Act (“APA”) mandates a periodic review of agency rules. A.R.S. § 41-1056 provides criteria by which an agency must examine each rule, compile the examination into a report, and submit the report to the Governor’s Regulatory Review Council (the “Council”) for review. The Arizona State Land Department (the “Department”) is scheduled to file a review of its rules under Title 12, Chapter 5, Articles 7, 8, 9 and 11 with the Council by the end of July 2022. The Department’s rules are published in the Arizona Administrative Code (“A.A.C.”) Title 12, Chapter 5, Articles 1 through 25 and can be found on the Arizona Secretary of State’s website.

The Department is not a regulatory agency. It functions as the trustee of the State’s 9.2 million acres of land and associated natural resources held in trust (“Trust Land”) for enumerated beneficiaries, the largest of which is K-12 public schools. The trust status of the lands granted to the State imposes obligations and constraints, specifically fiduciary duties to the beneficiaries, that would not apply if the State held the land outright. The Department’s management of the Trust is governed by the New Mexico-Arizona Enabling Act (Sections 24-30), the Arizona Constitution (Article X), and state statutes (Arizona Revised Statutes Titles 27 and 37). In addition, case law governs the Department’s procedures and management in that it interprets the Department’s governing legislation.

Within this report, the Department evaluated 11 separate rules relating to Articles 7, 8, 9 and 11. Article 7 governing Special Leasing Provisions contains three rules: agricultural leases (R12-5-702), grazing leases (R12-5-703), and commercial leases (R12-5-705). Article 8 governing Right-of-way contains two rules: one pertaining to rights-of-way generally (R12-5-801) and one specifically for Reservoir, Dams, and Other Sites (R12-5-802). Article 9 governing Exchanges contains five rules pertaining to scope of rules (R12-5-901), definitions (R12-5-902), application (R12-5-904), maps and photographs (R12-5-910), and controversy as to title or leasehold rights (R12-5-918). Article 11 governing Special Use Permits (also known as Special Land Use Permits) contains one rule (R12-5-1101 Policy; Use of Lands).

Legend of Factors Used in Analysis pursuant to A.A.C. R1-6-301(A)

Each rule required to be reviewed in this report has been analyzed according to the following factors:

1. General and specific authority, including any statute that authorizes the agency to make rules;
2. Objective of the rule, including the purpose for the existence of the rule;
3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached;
4. Consistency of the rule with state and federal statutes and other rules made by the agency;
5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
6. Clarity, conciseness, and understandability of the rule;
7. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the five-year review report;
8. A comparison of the estimated economic, small business and consumer impact with prior economic impact statement or assessment;
9. Any analysis submitted to the agency by another person regarding the rule's impact on this State's business competitiveness;
10. If applicable, how the agency completed the course of action indicated in the agency's previous five- year review report;
11. A determination that the rule's probable benefits outweigh the probable costs and that rule 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;
12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law;
13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037; and
14. Course of action the agency proposes to take regarding each rule.

Identical Information for All the Rules

Pursuant to A.A.C. R1-6-301(B), rules reviewed within the same report that render identical answers for any factor or factors delineated above shall have those identical answers provided only once. The rules contained in this report are identical in the following ways:

7. Written Criticisms:

No written criticisms of this rule were received in the last five years and since the last 5YRRR was submitted to GRRC.

8. Economic impact comparison:

There is no current EIS to compare with a previous EIS. However, specific revenues and general economic impacts of activities that are governed by these rules are included in this EIS following the analyses of rules.

9. External Analysis of impact of State's business competitiveness:

The Department has not received any external analysis of the rules' impact on Arizona's business competitive position.

10. Previous 5yRR Report Course of Action:

The Department previously submitted a review of the rules in Articles 7, 8, 9, & 11 in 2017 and stated, at that time, that many of the rules should be amended. The Department intended to begin that process by March 2019. When resources allowed, the Department pursued a rulemaking for a separate set of Articles but did not attempt to amend the rules herein. Fiduciary duties to Trust beneficiaries, current economic conditions, and continuous constraints on internal resources limit the Department's allocation of resources to rulemaking.

11. Cost v. Benefit and Least Burden Analysis:

The rules impose the least regulatory burden and costs to persons regulated by them because the costs and burdens mainly lie in Department administration.

12. Comparison with Federal Law:

There are no federal laws that apply to these rules.

13. A.R.S. § 41-1037 Compliance:

The rules were adopted prior to July 29, 2010, so this factor was not analyzed for § 41-1037 Compliance.

14. Proposed Course of Action:

Fiduciary duties to Trust beneficiaries, current economic conditions, and continuous constraints on internal resources limit the Department's allocation of resources to rulemaking, so the Department does not intend to amend any of these rules at this time. As

resources and stakeholder involvement allow, the Department may consider a rulemaking to any of its rules in Chapter 5, Title 12.

ANALYSES OF RULES

Article 7. Special Leasing Provisions

A.A.C. Rule 12-5-702 Agricultural Leases

- 1. Statutory Authority:**
Enabling Act, § 28; A.R.S. §§ 37-101, 37-211, 37-281, & 37-285
- 2. Objective:**
The objectives of the rule are to clarify and direct the application process for agricultural leasing and agricultural leasing requirements, including development and improvement requirements.
- 3. Effectiveness:**
The rule is effective in helping to articulate agricultural lease requirements for new and renewal applicants.
- 4. Consistency:**
The rule's subsections are consistent except that subsection (H)(1)(b) is inconsistent with the filing fees delineated in A.A.C. R 12-5-1201, which was promulgated after this rule. The difference in the fee is \$50, and most renewal applicants are already aware of this, so the discrepancy does not cause any issue.
- 5. Enforcement policy:**
The rule is enforced.
- 6. Clear, concise, and understandable:**
The rule is generally clear, concise, and understandable.

A.A.C. Rule 12-5-703 Commercial Leases

- 1. Statutory Authority:**
A.R.S. § 37-132

- 2. Objective:**
The objectives of the rule are to direct the application process for commercial leases and to clarify commercial lease requirements and restrictions.

- 3. Effectiveness:**
The rule is effective in articulating commercial lease requirements.

- 4. Consistency:**
The rule is consistent with statute and agency operations.

- 5. Enforcement policy:**
The rule is enforced, and conditions and rights of lessees are articulated in lease contracts.

- 6. Clear, concise, and understandable:**
The rule is clear, concise, or understandable and informs commercial lessees information in one place of additional lease conditions and rights.

A.A.C. Rule 12-5-705 Grazing Leases

1. Statutory Authority:

A.R.S. §§ 37-132, 37-283, & 37-285

2. Objective:

The objectives of the rule are to clarify and direct the application process for grazing leases and to clarify grazing lease requirements and restrictions.

3. Effectiveness:

The rule is mostly effective in articulating grazing lease requirements. However, some subsections of the rule are ineffective where inconsistent with statute or agency operations, as noted below.

4. Consistency:

The rule is inconsistent in the following way: Subsection (C) is inconsistent in that: it specifies only one section may be applied for per application for an initial lease whereas the Department currently allows new and renewal applications to include an entire ranch unit covering multiple sections, while a fee is charged for each section covered in the application pursuant to R12-5-1201.

5. Enforcement policy:

The rule is enforced.

6. Clear, concise, and understandable:

The rule is not clear, concise, and understandable.

Article 8. Right-of-way

A.A.C. Rule 12-5-801 Right-of-way

1. Statutory Authority:

A.R.S. §§ 37-107, 37-132, 37-287 & 37-461

2. Objective:

The objective of this rule is to inform Right-of-way applicants of the application process and Right-of-way grantees of the uses and restrictions pertaining to Right-of-way instruments on State Land.

3. Effectiveness:

The rule is effective in articulating its objective, as noted below. Further, subsection (C)(5)(c)(iii) and (D)(8) articulates an overly burdensome payment method for municipalities and other government entities.

4. Consistency:

The rule is mostly consistent, yet inconsistent in the following minor ways:

Subsection (C)(2) is inconsistent with agency operations as the agency does not require an application for each county crossed because it would be overly burdensome to implement;

Subsection (C)(8)(c) is inconsistent with agency operations because the commencement date is not the date that the instrument is mailed to the applicant, as stated, but rather it is the date of in-house review, or, if required, the day after the review by the Board of Land Appeals or of the auction;

Subsection (E)(1)(a) is inconsistent with agency operations because the Department does not require applications to place improvements for Right-of-Way grantees as it does for Commercial Lessees.

5. Enforcement policy:

The rule is enforced.

6. Clear, concise, and understandable:

The rule is clear, concise, and understandable.

A.A.C. Rule 12-5-802 Reservoir Dams and Other Sites

1. Statutory Authority:

A.R.S. §§ 37-132 & 37-461

2. Objective:

The objective of this rule is to notify reservoir, dam, and other site lease applicants and lessees, as well as the public, of the Department's requirements for a reservoir, dam, and site lease application and lease, as well as the rights and obligations of such lessees.

3. Effectiveness:

The rule is effective.

4. Consistency:

The rule is consistent in part, yet inconsistent in the following way: Subsection (B) is partially inconsistent with A.R.S. § 37-461(C) in that site leases in excess of ten years are not, in fact, required to be advertised and sold at public auction – it is fifty years.

5. Enforcement policy:

The rule is enforced except as to auctions of site leases for terms over 10 years but not over 50 years.

6. Clear, concise, and understandable:

The rule is clear, concise, and understandable.

Article 9. Exchanges

A.A.C. Rule 12-5-901 Scope of Rules

- 1. Statutory Authority:**
A.R.S. § 37-604
- 2. Objective:**
The objective of the rule is to inform exchange applicants of the scope of this rule and succeeding rules, i.e. R12-5-902 et seq.
- 3. Effectiveness:**
The rule is effective in that it articulates the scope of subsequent rules.
- 4. Consistency:**
The rule is consistent.
- 5. Enforcement policy:**
The rule would be enforced as a statement of scope of purpose for subsequent rules if and when the Department executes an exchange.
- 6. Clear, concise, and understandable:**
The rule is clear, concise, and understandable.

A.A.C. Rule 12-5-902 Definitions

1. **Statutory Authority:**
A.R.S. § 37-604
2. **Objective:**
The purpose of this rule is to define terms used within Article 9, Chapter 5, Title 12 of the A.A.C.
3. **Effectiveness:**
The rule is effective.
4. **Consistency:**
The rule is consistent.
5. **Enforcement policy:**
The rule would be enforced if and when the Department executes an exchange.
6. **Clear, concise, and understandable:**
The rule is clear and understandable.

A.A.C. Rule 12-5-904 Application

- 1. Statutory Authority:**
A.R.S. § 37-604
- 2. Objective:**
The purpose of this rule is to inform exchange applicants of the exchange application requirements.
- 3. Effectiveness:**
The rule is effective.
- 4. Consistency:**
The rule is consistent.
- 5. Enforcement policy:**
The Department would enforce the rule if presented with an exchange applicant.
- 6. Clear, concise, and understandable:**
The rule is clear, concise, and understandable.

A.A.C. Rule 12-5-910 Maps and Photographs

- 1. Statutory Authority:**
A.R.S. § 37-604
- 2. Objective:**
The purpose of this rule is to inform exchange applicants of map and photograph requirements.
- 3. Effectiveness:**
The rule is effective.
- 4. Consistency:**
The rule is consistent with statute.
- 5. Enforcement policy:**
The Department would enforce the rule if presented with an exchange applicant.
- 6. Clear, concise, and understandable:**
The rule is clear, concise, and understandable.

A.A.C. Rule 12-5-918 Controversy as to Title or Leasehold Rights

1. Statutory Authority:

A.R.S. § 37-604

2. Objective:

The purpose of this rule is to give the Department the right to hold in suspension or reject an application for exchange of State Lands when there are title defects or conflicting interests.

3. Effectiveness:

The rule is effective.

4. Consistency:

The rule is consistent.

5. Enforcement policy:

The Department would enforce the rule if presented with an exchange applicant.

6. Clear, concise, and understandable:

The rule is clear, concise, and understandable.

Article 11. Special Use Provisions

A.A.C. Rule 12-5-1101 Policy; Use of Lands

- 1. Statutory Authority:**
A.R.S. § 37-132
- 2. Objective:**
The objective of this rule is to demarcate the role and use of Special Land Use Permits and to provide guidance to Special Land Use Permit applicants.
- 3. Effectiveness:**
Though the rule attempts to achieve its stated objective and has done so successfully in the past, it is inconsistent and lacks clarity.
- 4. Consistency:**
The rule itself is mostly consistent, except Subsection (12)(a) is inconsistent with A.A.C. R12-5-1201 governing fees which the Department adheres to.
- 5. Enforcement policy:**
The rule is enforced except as to the fees promulgated in R12-5-1201 that supersede this rule.
- 6. Clear, concise, and understandable:**
The rule is clear, concise, and understandable.

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

As of Fiscal Year 2021, the Department held: 348 Agricultural Leases covering 157,920 acres of Trust Land which generated \$4,265,005 in income; 1,196 Grazing Leases covering 8,344,576 acres which generated \$2,749,775 in income; 273 Commercial Leases covering 70,274 acres which generated \$31,888,877 in income; 7,818 Right-of-Way Grants covering 128,567 acres which generated \$9,614,946 in income; and 652 Use Permits covering 600,900 which generated \$4,419,661 in income.

The rental payments from all of the above leases are deposited into funds managed by the State Treasurer and distributed directly to the beneficiaries on a monthly basis. In addition to the direct impacts to the 13 beneficiaries of Trust Land, activities on Trust Lands provides opportunities for the labor force and businesses that supply services and goods directly, as well as support for local businesses that sell services, consumer goods, groceries, and other personal and family needs. Economic development is increased by rights-of-way that provide for the development of roads and utilities, and taxes are paid by the companies and individuals who engage in activities on Trust Land. The taxes are then utilized by the State, county, and local governments to support schools, create infrastructure, and provide government and community services.

APPENDIX A
Arizona Administrative Code Rules Reviewed

Title 12, Chapter 5, Article 7 Special Leasing Provisions

 R12-5-702 Agricultural Leases

 R12-5-703 Commercial Leases

 R12-5-705 Grazing Leases

Title 12, Chapter 5, Article 8 Rights-of-Way

 R12-5-801 Rights-of-Way

 R12-5-802 Reservoir Dam and Other Sites

Title 12, Chapter 5, Article 9 Exchanges

 R12-5-901 Scope of Rules

 R12-5-902 Definitions

 R12-5-904 Application

 R12-5-910 Maps and Photographs

 R12-5-918 Controversy as to Title or Leasehold Rights

Title 12, Chapter 5, Article 11 Special Leasing Provisions

 R12-5-1101 Policy Use of Lands

[Arizona Administrative Code](#)
[Title 12. Natural Resources](#)
[Chapter 5. State Land Department \(Refs & Annos\)](#)
[Article 7. Special Leasing Provisions \(Refs & Annos\)](#)

A.A.C. R12-5-702

R12-5-702. Agricultural Leases

[Currentness](#)

A. Land subject to agricultural lease; term of lease

1. All state lands classified as agricultural land are subject to agricultural leasing for such term as may be established by the Commissioner but in no event for a term of more than ten years.

a. The term of an agricultural lease of undeveloped agricultural land shall not exceed two years.

B. Application for lease of lands not classified as agricultural. An application for an agricultural lease of lands not classified as agricultural shall be accompanied by an application for reclassification as provided by the general rules and regulations governing leasing of state lands.

C. Application for agricultural lease

1. Application for an agricultural lease shall be made upon the appropriate form as provided by the Department and in accordance with the general rules and regulations governing the leasing of state lands.

a. Each application shall be limited to the lands in one section or part thereof.

D. Rental rates; appraisal

1. No agricultural lease shall provide for a rental less than the appraised rental value of the leased land, and in no event a rental less than \$1.00 per acre per annum.

2. Minimum rental for each agricultural lease shall be \$10.00 per annum; provided, however, that the minimum rental of \$10.00 per annum shall apply to each section or portion thereof covered by the lease.

E. Number of leases issued on farm unit

1. Ordinarily, leases issued by the Department will combine into one lease, all contiguous and adjoining state agricultural lands within the lessee's farm unit.

a. It is recognized that such consolidation may work hardship on the lessee because of the resultant common due date of rentals.

i. A lessee thus affected and desirous of dividing his lease may make application to the Department to do so. Such application shall be in writing, setting forth the reasons therefor in such detail as to enable the Department to act with full knowledge of the circumstances.

ii. If such application is approved by the Department, division of the lease will be made in as reasonable a manner as possible, compatible with the best interests of the state.

F. Agricultural lease form; provisions. Agricultural leases shall be made on the appropriate form provided by the Department, and shall contain such provisions and supplemental conditions as may be prescribed by the Commissioner in accordance with the provisions of the law and Department rules and regulations.

G. Sequence of development and improvement of lands under agricultural development lease

1. The first allowable acts of development on the leased premises under an agricultural development lease shall include only those necessary and incident to the acquisition of a water supply adequate for the development of the leased acreage.

2. The placing of any improvement not necessary to the accomplishment of subsection (A) above shall not be approved until after the acquisition of such water supply has been accomplished or assured and in all cases only after proper application made and approval had in accordance with the provisions of the Department's rules and regulations in regard to permits to place improvements.

3. When rules and regulations promulgated by state or federal regulatory agencies would affect state lands or crops grown thereon, and when, in his opinion, the best interests of the state would be so served, the State Land Commissioner may require the lessee to conform with these regulatory practices to prevent the deterioration of the soil or crops grown thereon. If the lessee fails to comply with the requirements of the Commissioner, the Commissioner may have the required remedial work accomplished and bill the lessee the amount due the Department. Failure by the lessee to pay for such remedial work will, after the proper notice, subject the lease to forfeiture for nonpayment and noncompliance.

H. Application for renewal; right of renewal; developmental lease

1. Application for renewal of an agricultural lease shall be made on the appropriate form provided by the Department and in accordance with the general rules and regulations governing leasing of state lands.

a. A separate application form shall be submitted for each section of land or portion thereof within the lease.

- b. The filing fee for each application shall be the same as for an initial application.
2. A preferred right of renewal of an agricultural development lease shall not extend to a lessee who has not acquired a water supply deemed by the Commissioner to be adequate.
3. Proper diligence on the part of the lessee toward complete agricultural subjugation and development of the land under lease shall be the measure for the Commissioner's determination as to whether renewal of an agricultural development lease is in the best interests of the State.

I. Application to assign lease

1. Application to assign and application for assumption of lease shall be made on the appropriate form provided by the Department and in accordance with the general rules and regulations governing leasing of state lands.

a. Upon approval of the application, the assignment will be noted on the lease and made of record in the Department.

Credits

Original rule, Art. III, Subchapter B, Ch. II (Supp. 76-4). Amended by emergency action effective June 20, 1990, pursuant to [A.R.S. § 41-1026](#), valid for only 90 days (Supp. 90-2). Emergency expired. Section R12-5-702 renumbered from Section R12-5-151 (Supp. 93-3).

Current through rules published in Arizona Administrative Register Volume 28, Issue 26, July 1, 2022. Some sections may be more current. See credits for details.

A.A.C. R12-5-702, AZ ADC R12-5-702

[Arizona Administrative Code](#)
[Title 12. Natural Resources](#)
[Chapter 5. State Land Department \(Refs & Annos\)](#)
[Article 7. Special Leasing Provisions \(Refs & Annos\)](#)

A.A.C. R12-5-703

R12-5-703. Commercial Leases

Currentness

A. Scope of commercial leasing rules. An applicant for a commercial lease shall be subject to the general leasing rules enumerated, *supra*. Such applicant shall also be subject to the commercial leasing rules set out, *infra*. In a commercial leasing situation where the general leasing rules and the commercial leasing rules conflict, the latter rules shall be controlling.

B. Lands subject to commercial lease. All state lands classified as suitable for commercial purposes are subject to a commercial lease. Unless it is deemed to be for the best interests of the state, it is not the policy of the State Land Department to allow and issue commercial leases which will seriously interfere with, damage, or break up operations of an established ranch or farm unit. There is no limit to the amount of commercial land that may be leased to any one individual, corporation, partnership or association.

C. Term of commercial lease. State lands suitable for commercial purposes may be leased for a period of not more than ten years without advertising, or subject to such lesser term as may be established by the Commissioner if he deems such lesser term to be in the best interests of the state.

D. Applications to lease state lands not classified as commercial. Applications to lease lands not classified as commercial shall be accompanied by a petition for reclassification as provided by the general leasing rules.

E. Application for commercial lease; application for commercial lease renewal. All applications for commercial leases and all applications for renewal of commercial leases shall be made on such form or forms as may from time to time be prescribed by the Commissioner and provided by the Commissioner. A commercial lease before the time of execution or renewal will be subject to the provisions and supplemental conditions and restrictions as may be added thereto and the provisions of law and these rules.

F. Additional conditions for commercial leases.

1. Unless otherwise directed by the Commissioner in writing, the lessee shall:

a. Notify the Commissioner in writing as to the number of any license issued by the state Tax Commission of Arizona to the lessee, any sublessee, any concessionaire or any assignee; such notice shall also include the exact name in which license is issued.

- b. Keep and maintain an accounting system satisfactory to the Commissioner.
- c. Allow access to accounting records during business hours where the same are kept for the purpose of inspecting and auditing the same.
- d. File with the Commissioner, if requested by the Commissioner, a statement of the total gross sales made for the period specified. Unless otherwise directed by the Commissioner, this report may be made by filing with the Commissioner the requested information on the form used by the state Tax Commission.
- e. Acquire consent in writing from the Commissioner for any improvements made on the site.
- f. Acquire consent in writing for moving buildings from other premises onto the leased premises. All buildings and structures shall be of acceptable construction.
- g. Keep any gas, electric, power, telephone, water, sewer, cable television and other utility or service lines under ground unless prohibited by law.
- h. File with the Commissioner, prior to the approval of any application to place improvements, plans and specifications showing the nature, location, cost, quality of proposed material, size, area, height, color, shape and design of the proposed improvements. The Commissioner may also require a perimeter survey of the leased premises upon which shall be shown the location of the completed improvements. The lessee shall also submit grading plans.

2. The above conditions shall apply to any assignee, sublessee or concessionaire of the original lessee.

G. Maps required as part of application for commercial lease. The applicant shall furnish such information map of the lands to be leased as the Commissioner may require and deem necessary to evaluate the application and assist in making an appraisal; and, in addition, the Commissioner may require an aerial photograph or photographs of such lands as he may specify in a request therefor.

H. Minimum rental rates for commercial leases. No commercial lease shall provide for an annual rental of less than the appraised rental value of the land and in no event shall the rent be less than 5¢ per acre per annum or less than \$10.00 per annum per lease.

I. Division of leases. The State Land Commissioner may at any time divide a commercial lease into two or more separate leases when such division would, in the opinion of the Commissioner, facilitate administration and management of the subject lands or would result in separating one commercial use from another. The rent for the lease year in which such division is made shall be allocated to the separate leases.

J. Sublease of commercial lease by lessee. No commercial lessee shall sublet his lease without the written permission of the Commissioner. Approval of a sublease may be granted at the discretion of the Commissioner and shall be obtained by the lessee submitting for approval of the Commissioner the sublease executed in triplicate. Upon the approval by the Commissioner, two

copies of the sublease, with the Commissioner's approval and any limitation to such approval endorsed by the Commissioner thereon will be returned to the lessee, one copy thereof being retained in the files of the Department.

K. Application to assign lease. Application to assign and application for assumption of lease and transfer shall be made upon such forms as may from time to time be prescribed by the Commissioner; upon the approval of the application, the action taken by the Commissioner will be noted upon the lease and made of record in the Department.

L. Use of state lands; failure to use. No lessee or permittee shall use lands under permit or lease except for the uses and purposes specifically set forth in the lease or other such uses or purposes as may be subsequently authorized by the Commissioner in writing.

M. Rights of commercial lessee or permittee. All leases or permits granted by the Commissioner are only a license or permit to use the land described in the lease or permit for commercial purposes in a manner compatible with the terms of said lease or permit. The state of Arizona reserves the right to grant other leases or permits for the use of said lands or the removal of natural products therefrom.

No lessee or permittee has the authority or right to issue any person any right to the use of said land or the removal of any products therefrom, but such right to use vests solely in the Commissioner and must be granted by the Commissioner in writing.

Credits

Original rule, Art. V, Subchapter B, Ch. II (Supp. 76-4). Amended by adding subsection (N) as an emergency effective January 9, 1989, pursuant to [A.R.S. § 41-1026](#), valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective June 16, 1989, pursuant to [A.R.S. § 41-1026](#), valid for only 90 days (Supp. 89-2). Emergency expired. Section R12-5-703 renumbered from Section R12-5-152 (Supp. 93-3).

Current through rules published in Arizona Administrative Register Volume 28, Issue 26, July 1, 2022. Some sections may be more current. See credits for details.

A.A.C. R12-5-703, AZ ADC R12-5-703

[Arizona Administrative Code](#)
[Title 12. Natural Resources](#)
[Chapter 5. State Land Department \(Refs & Annos\)](#)
[Article 7. Special Leasing Provisions \(Refs & Annos\)](#)

A.A.C. R12-5-705

R12-5-705. Grazing Leases

Currentness

A. Definitions. Unless the context otherwise requires, the words hereinafter defined shall have the following meaning when found in these rules, to wit:

1. “Grazing lands” means lands which can be used only for the ranging of animals.
2. “Carrying capacity” or “average annual carrying capacity” means the average number of animal units which can be supported by a section of grazing land with due consideration for sustained production of the forage consistent with conservative range management.
3. “A section of land” for appraisal of carrying capacity purposes means an area of land consisting of 640 acres.
4. “Animal unit” means one weaned beef animal over six months of age, or one horse, five goats, or five sheep, or the equivalent thereof.
5. “Average market price of cattle” means the average price by the hundredweight received during the calendar year under consideration by producers of cattle, exclusive of calves, in the states of Arizona, New Mexico, California, Utah, Nevada, Colorado, Wyoming, Montana, Idaho, Washington and Oregon, as determined by the Bureau of Agricultural Economics, United States Department of Agriculture, and, if that service is not available, from such sources as the Commissioner determines best to establish said price.

B. Qualifications to leasing grazing lands. Any person of the age of 21 years or over, a citizen of the United States, or who has declared an intention to become a citizen of the United States, or any firm, association or corporation which has complied with the laws of the state, shall be qualified to lease state land for grazing purposes.

C. Applications for grazing lease and renewals. Application for a grazing lease shall be made upon Land Division form and an application for renewal thereof shall be made upon Land Division form in accordance with the general rules and regulations relating to the leasing of state lands. Only one section or subdivision thereof may be applied for on one application for an initial lease. Application for renewal of an existing lease may include an entire ranch unit or any part thereof; provided, however, the filing fees must be paid in the same manner as in the original application.

An applicant for an initial lease shall fill out the form in complete detail. An applicant for a renewal of an existing lease, if he has an up-to-date and current statement of his holdings within the ranch unit used in connection with the lands sought to be leased, will not be required to fill out in detail answers to questions concerning his holdings appearing on the applicant form.

D. Land subject to grazing lease and term of lease. All state lands classified as grazing lands, not under lease, are subject to grazing lease for a period of not more than ten years without advertising, or for such lesser term as may be established by the Commissioner if he deems such lesser term to be to the best interests of the state. It is the policy of the Department not to offer open land for lease within an established ranch unit without first offering said lands to the owner or the person having control of the lands in such ranch unit. There is no limit to the amount of grazing land that may be leased to any one individual, corporation, partnership or association.

E. Application to lease lands not classified as grazing. Applications to lease lands not classified as grazing shall be accompanied by a petition for reclassification as provided by the general rules and regulations relating to the leasing of state lands.

F. Rental rates of grazing land; appraisal. No grazing lease shall provide for a rental of less than the appraised rate of the land, and in no event less than 2¢ per acre per annum, or a minimum of \$2.50 per annum per lease, said minimum of \$2.50 per annum per lease applying to one section or portion thereof.

The Commissioner shall appraise all grazing land on the basis of its annual carrying capacity. The annual rental rate for grazing land shall be the amount found by multiplying the carrying capacity of the lands by the annual rental rate per animal unit. The annual rental rate per animal unit shall be 22% of the average market price of beef for the preceding year. The annual carrying capacity is determined by a field appraisal by the Department, and the basis for said appraisal is the average carrying capacity of the land over a ten-year period. Notice of the appraised rental of the land will be contained in the annual billing statement which will be sent to the lessee by registered mail unless he has previously signified his acceptance of said carrying capacity together with the Commissioner's final decision regarding the appraised rental. Prevailing annual rental schedules will be published annually and furnished each lessee at the time of mailing the notice of appraised rental.

An appeal from any final decision of the Commissioner relating to the appraisal of lands may be taken to the Board of Appeals as provided in the general rules and regulations relating to state lands.

G. Number of leases issued on ranch unit. Leases issued by the Department will include all state grazing lands within the ranch unit in one lease unless a hardship results therefrom to the lessee, in which case the lessee may at his election divide the state lands in his ranch unit in not more than four separate leases in such a manner that lease rentals will not become due and payable at the same time but will be payable on an approximate quarterly or semi-annual basis. To divide a ranch unit it is necessary for the lessee to apply in writing or in person to the Department, supplying sufficient information in order that a division of the state lands in his ranch unit can be separated topographically or by an exact line. In such cases, instead of one lease covering all the state lands in a ranch unit being issued, additional leases may be issued with different dates of payment of rentals.

H. Form of grazing lease and provisions thereof. The form of grazing lease offered by the Department to an applicant will be on Land Division form No. A-11 and will be subject to the provisions and supplemental conditions therein contained and such other conditions as may be added thereto and the provisions of law and these rules and regulations.

I. Rights of grazing lessee. All grazing leases granted by the Commissioner are only a license to graze livestock and to use the land described in the lease in a manner compatible with the terms of the lease. The state of Arizona reserves the right to grant other forms of leases or permits for the use of said lands or the removal of natural products therefrom. No grazing lessee has

the authority or right to issue to any person any rights to the use of said lands or the removal of any products therefrom, but such right of use vests solely in the Commissioner and must be granted by the Commissioner in writing.

J. Sublease or pasturage agreement. No grazing lessee shall sublet his lease, sell or lease pasturage of lands embraced in his lease without the written permission of the Commissioner. Approval of a sublease or pasturage agreement may be granted at the discretion of the Commissioner and shall be obtained by the lessee submitting for approval of the Commissioner the sublease or pasturage agreement executed in triplicate. Upon the approval by the Commissioner, two copies of the sublease or pasturage agreement, with the Commissioner's approval and any limitations to such approval endorsed by the Commissioner thereon, will be returned to the lessee, one copy thereof being retained in the files of the Department.

K. Carrying capacity and application to exceed the same. No grazing lessee, sublessee or users under a pasturage agreement shall graze, without permission of the Commissioner, in excess of 110% of the carrying capacity as previously determined by the Commissioner upon state lands under lease within the exterior boundaries of any one ranch unit or units in the same general locality jointly operated. Approval to exceed the carrying capacity may be obtained by submitting a written request therefor. The request should contain the number of head of animals the lessee, sublessee or user desires to place upon the leased lands in excess of 110% of the carrying capacity, together with a statement as to how long the additional animals will remain upon the leased lands. If the Commissioner approves said request, the lessee, sublessee or user will be notified of such approval of increase in the carrying capacity and the period granted therefor. In the event of the approval of any such excess the Commissioner shall assess and collect the rental for such excess as provided by law and these rules and regulations.

L. Cultivation and growing of crops on grazing land. State land under grazing lease is limited to the ranging of animals only and may be cultivated and crops grown thereon only with the approval of the Commissioner. Upon approval of the Commissioner the land may be cultivated and crops grown thereon provided such crops are forage crops in nature that are pastured by animals or, if severed from the land, are fed to animals upon the ranch unit. Under no circumstances may the lessee grow crops commercially under the provisions of a grazing lease. In the event any crops are grown with the approval of the Commissioner which will be pastured or removed from the land for use at other times of the year upon the ranch unit, the carrying capacity will be adjusted in accordance with the forage crops grown.

M. Cutting of timber, standing trees or posts. The lessee shall not cut or waste, nor allow to be cut or wasted, any timber or standing trees growing on the leased land without the written consent of the Commissioner, except for fuel for domestic uses or for the necessary improvements upon the land; provided, however, that nothing herein contained shall be construed to permit the cutting of saw timber for any purpose except with the written consent of the Commissioner. Posts cut primarily from cedar, mesquite and juniper trees may be used for the erection and use of improvements by the lessee upon state lands without cost, provided the written consent of the Commissioner is first obtained. Such posts may not be used on other than state lands without payment therefor. The lessee is required to file an affidavit with the Department indicating the number of posts cut, the number used for improvement of state land and the number used on other than state lands or stockpiled for future use. At the time approval to cut posts is granted by the Commissioner, the price will be determined by him, which will be comparable to the price of posts from the United States Forest Service, and the price will be payable at the time the affidavit indicating the number of posts cut is filed with the Department. The Commissioner, or his representative, upon the granting of approval to cut posts, will from time to time visit the lessee to determine the number of posts cut. The Commissioner recognizes that the removal of cedars, mesquite and juniper trees from grazing lands is a conservation measure that will maintain or increase the range carrying capacity and that the removal of these trees in most cases would benefit state lands.

In the event the lessee does not desire to purchase the trees as above provided, the Commissioner, if he deems it for the best interest of the state, may sell the same under such terms and conditions that he may require.

A purchaser other than a lessee shall not injure the lessee's surface rights and improvements or interfere with the lessee's use of the land under lease to him and may be required to file a surety bond with the Commissioner in such amount and under such conditions as to indemnify the lessee for any damage which may result due to his removal of the trees.

N. Application to assign lease. Applications to assign and application for assumption of lease and transfer shall be made upon Land Division form No. A-13-1 and in accordance with the general rules and regulations relating to the leasing of state lands. Upon approval of the application, the assignment of the lease will be made by the Commissioner upon the lease where indicated and made of record in the Department.

O. Use of state lands; failure to use. No lessee or permittee shall use lands under lease or permit to him except for grazing purposes unless authorized by the Commissioner in writing. Applications for a special use of lands under permit or lease to a lessee or permittee for purposes other than grazing shall be made in writing in triplicate, and shall state in detail the reasons for such use. The application shall be signed and verified as provided for in applications to lease. Upon approval of the application by the Commissioner, two copies of the application with the Commissioner's approval and any limitations to such approval endorsed by the Commissioner thereon will be returned by the Commissioner to the lessee, one copy thereof being retained in the files of the Department. Failure of any lessee or permittee to use the land for the purposes for which he holds a lease or permit, without having been authorized so to do by the Commissioner in writing, may, in the discretion of the Commissioner, subject said lease or permit to forfeiture or to cancellation as provided by law and these rules and regulations.

P. Posting to prohibit hunting and fishing on state land. State land under lease or permit may not be posted to prohibit hunting and fishing without the consent of the Arizona Game and Fish Commission.

Credits

Original rule, Art. II, Subchapter B, Ch. II (Supp. 76-4). Amended effective September 26, 1978 (Supp. 78-5). Section R12-5-705 renumbered from Section R12-5-154 (Supp. 93-3).

Current through rules published in Arizona Administrative Register Volume 28, Issue 26, July 1, 2022. Some sections may be more current. See credits for details.

A.A.C. R12-5-705, AZ ADC R12-5-705

[Arizona Administrative Code](#)
[Title 12. Natural Resources](#)
[Chapter 5. State Land Department \(Refs & Annos\)](#)
[Article 8. Rights-of-Way \(Refs & Annos\)](#)

A.A.C. R12-5-801

R12-5-801. Rights-of-way

Currentness

A. Definitions

1. “Commissioner” means State Land Commissioner.
2. “Department” means State Land Department.
3. “Right-of-way” for the purpose of these rules means a right of use and passage over or through state land for such purpose as the Commissioner may deem necessary.
4. “Lease” means any lease on state land in existence at the time applicant applies for right-of-way, or granted thereafter for either surface or subsurface use.
5. “Patent” means a document used by the State Land Department to convey title to land.
6. “Site” means a reservoir for storage of water; a location for a dam, a power plant or an irrigation plant, and for other purposes for public uses. (Not to include workings for the removal of sand, gravel and other road materials.)

B. Miscellaneous rules

1. Scope. These rules and regulations are general rules implementing Article 10, Title 37-461, Arizona Revised Statutes, providing for grants of rights-of-way and sites for public purposes, and shall prevail over and supersede any existing policy or procedure of the Department to the extent that they are in conflict therewith.
2. State land subject to application. Any state-owned land shall be subject to application, provided that the proposed use does not unalterably conflict with other existing rights.

C. Application for right-of-way

1. Qualifications of applicant

a. Any citizen of the United States, partnership or association of citizens, or a corporation organized under the laws of the United States or any state or territory thereof, and who are authorized to transact business in the state, and any governmental agency of the state or political subdivision and municipal corporations thereof, may apply to the Department for a right-of-way on, over or through state land.

b. Application for right-of-way shall be made upon forms provided by the State Land Department.

2. Area covered by application and right-of-way. Separate application shall be made for each county crossed. Data for each section will be shown separately.

3. Information to be furnished by the applicant

a. The application for a right-of-way shall be in such form as the Commissioner may prescribe, shall be filed with the Department by the applicant or by an authorized agent for the applicant, and shall be required to furnish the Department the following information as the Commissioner may prescribe.

i. Name and address of applicant.

ii. Statement whether applicant is an individual, partnership or corporation, or governmental agency of the state or political subdivision and municipal corporation thereof.

iii. Statement of citizenship, when applicable.

iv. If a corporation:

(1) Name.

(2) State of incorporation.

(3) Arizona business address.

(4) Affirmation of authority to do business in Arizona.

v. Age and marital status, when applicable.

vi. Description, according to the public land survey of the land for which application is being made.

vii. Width of the right-of-way.

viii. The nature of the right-of-way (the right-of-way is temporary or permanent; the right-of-way requires exclusive use or to what extent; a right-of-way through a given area).

ix. A survey of the land for which application is being made showing distance and direction from a known cadastral survey point in each section.

x. Location of improvements or crops on land under application over which proposed routes of right-of-way will pass (information required in (ix) and (x) shall be conveyed by means of accurate plat or drawing accompanying the application form).

xi. The applicant shall furnish evidence from surface lessee and all other right holders in the land applied for giving consent to the new right-of-way or objection thereto.

b. This rule shall not be taken or construed to limit or restrict the authority of the Commissioner to require the applicant to furnish such additional information as the Commissioner may deem necessary.

4. Rights of surface and subsurface lessees or permittees

a. The Commissioner has the right to grant rights-of-way without the consent of the surface or subsurface lessee.

b. When the applicant for a right-of-way and any existing right holder do not agree on the appraised value of damages to the right holder, the applicant for right-of-way may apply to the Commissioner to appraise the value of any improvements that may be injured or damaged. The cost of any such appraisal shall be paid by the applicant for right-of-way.

c. In cases where to utilize the right-of-way applied for, it is necessary to cut a fence belonging to the surface lessee or otherwise enter through a fence, the installation of a standard cattle guard or other facilities in accordance with such specifications as the Commissioner may prescribe, may be required by the Commissioner as a condition to the granting of the right-of-way.

5. Filing application for right-of-way; fees; rejection; withdrawal

a. Each application filed with the Department shall be accompanied by a filing fee.

b. Each application filed shall first be checked for its completeness and when it meets the requirements shall be made of record in the Department.

c. Rental or other payment for each right-of-way shall be determined by the Commissioner after appraisal.

i. Rental for rights-of-way granted without public auction sale shall be determined by the Commissioner after appraisal.

ii. Rights-of-way for exclusive use or perpetual in nature (except rights-of-way granted to governmental agencies of the state or political subdivisions and municipal corporations thereof) shall be sold at public auction as provided under the laws for sale of state land after appraisal.

iii. Rights-of-way for governmental agencies of the state or political subdivisions and municipal corporations thereof may be granted by the Department for an indefinite period for so long as used for the purpose granted after full payment of the appraised value of the right-of-way has been made to the State Land Department.

(1) All appraisals of rights-of-way shall be established by the State Land Commissioner.

(2) The appraised value of the right-of-way shall be determined in accordance with the principles established in [A.R.S. §§ 12-1122](#) and [37-132](#).

6. Right of applicant to use of land

a. The filing of an application for a right-of-way shall not confer upon the applicant any right to use the area applied for.

b. A right of entry to map and survey or for any other purpose in the area to be applied for may be obtained from the Commissioner on forms provided by the Department.

7. Termination of use; abandonment

a. When a right-of-way holder has no further use of the area, he may surrender the contract to the Commissioner.

b. The Commissioner may determine that a right-of-way is abandoned when the proper showing is made that the area under right-of-way is no longer needed or used for the purpose applied for.

c. The Commissioner shall give right-of-way holder 30 days to show cause why a right-of-way should not be cancelled. If within 30 days the right-of-way holder fails to correct the defect, the Commissioner may issue an order of abandonment.

8. Issuance of a right-of-way

- a. Upon the compliance by the applicant with the requirements set forth by the Commissioner, the right-of-way contract shall be issued.
- b. The failure of the applicant to execute and return the right-of-way contract with all monies required within 60 days from the date of mailing by the Department, the Commissioner may issue a cancellation order for non-completion of the contract.
- c. The date of the right-of-way contract shall commence on the date the contract is mailed by the Department to the applicant.

D. Right-of-way

- 1. Term of right-of-way. The term of the right-of-way shall be determined by the Department and shall be set forth on the right-of-way contract.
- 2. Right-of-way rentals or other payments. The rental or any other payments required for rights-of-way shall be determined by the Commissioner after appraisal.
- 3. Possession and right of use of right-of-way area. The right is granted for the use of the area described in the right-of-way contract subject to any existing prior rights and subject to any rights the Department shall grant hereafter.
- 4. Provisions of the right-of-way
 - a. Every right-of-way contract shall provide for:
 - i. Payment to the Department of the amount established by the Commissioner after determination of the true appraised value.
 - ii. The installation and construction of necessary machinery, equipment and facilities with the right of removal within 90 days after expiration or termination of the right-of-way.
 - iii. Fencing and other protective requirements deemed necessary by the Commissioner.
 - iv. That the grantee shall restore the surface of the land within the right-of-way to a reasonable condition as required by the Commissioner.
 - v. That the grantee will indemnify, hold and save grantor harmless against all loss, damage, liability, expenses, costs and charges incident to or resulting in any way from the use, condition or occupation of the land.

vi. A statement of the purpose for which the right-of-way was granted.

vii. The right of the grantee to assign the right-of-way, provided that such an assignment shall not become effective until approved in writing by the Commissioner as being in the best interests of the state and until a copy thereof is filed with the Department.

viii. The right of termination of the right-of-way by the grantee at any time during its term by giving the Commissioner 30 days notice of termination in writing, provided that the grantee is not delinquent in any payments and has complied with all conditions on the date of termination.

5. Assignment of right-of-way; sublease prohibited

a. Grantee of each right-of-way contract, if not in default of rental or other payments, and who has kept and performed all the conditions of his lease, may, with written approval of the Commissioner, assign the right-of-way.

i. Application for assignment, the assignment and the assumption of the right-of-way will be on such forms as the Commissioner may prescribe.

ii. An assignment shall not become effective unless and until it is approved by the Commissioner.

iii. The assignee shall succeed to all the rights and shall be subject to the obligations of the assignor.

iv. A sub-grant of the right-of-way contract is prohibited.

6. Right-of-way renewal. Upon application to the Commissioner, not less than 30 days, nor more than 60 days prior to the expiration of the right-of-way contract, the grantee of a right-of-way contract, if he is not delinquent in the payment of rental or of monies due the State Land Department on the date of expiration of the contract, shall have a preferred right to renew the right-of-way contract bearing even date with the expiration of the old contract.

7. Bonds

a. The Commissioner may require the grantee to post a cash deposit or surety bond to guarantee the payment of all monies due under the contract.

b. The Commissioner may require the grantee to furnish bond, in a reasonable amount, to be fixed by the Commissioner, conditioned that the grantee will guarantee restoration of the surface of the land described in the contract to a reasonable condition, upon the termination of the right-of-way contract.

c. The Commissioner may require the lessee to file with the Department a surety bond in the form, amount, and with surety approved by the Commissioner, conditioned upon prompt payment to the lessee of the surface, subsurface or otherwise of the state land covered by the right-of-way, for any loss to such owner or lessee from damage or destruction caused by the construction or use of the right-of-way, his or its agents, or employees, to grasses, forage, crops and improvements upon such land.

d. Assignment of any or all of the right-of-way contract will not relieve the assignor of his obligation as principal under the bond. Release of the assignor's obligation under bond may be effected through the posting of a replacement bond by the assignee, but then only after approval by the Commissioner and subsequent notification of the release by the Commissioner in writing to the principal and surety.

e. The Commissioner, in his discretion, may reduce or increase the principal amount of the bond.

f. Immediately after determination by the Commissioner that full discharge of the conditions of the obligations under any bond has been effected, he will, in writing, notify the principal and surety held by the bond so that it may be formally terminated.

g. Surety on the bond shall have the right to cancel the bond and be relieved of further liability after the period of notice, by giving 30 days' notice to the Department of its desire to so cancel.

i. Upon receipt of such notification, the Department will immediately notify the grantee by certified mail of the impending action by surety.

ii. Failure by the grantee to post a replacement bond before the expiration of the 30 days mentioned next above, shall constitute a default by the grantee and cause for cancellation of the right-of-way.

8. Principal payments. Each right-of-way granted to governmental agencies of the state or political subdivisions and municipal corporations thereof for exclusive use or perpetual use shall provide for payment of principal in the full amount of the appraised value as provided by the Commissioner after appraisal.

E. Reports

1. Report of improvements

a. Applications for and reports of improvements placed shall be presented to the Commissioner on forms provided by the Department.

b. Grantee of every right-of-way shall submit to the Department an application to place any improvement to be placed on the right-of-way and shall secure written approval from the Commissioner to place the improvement before any work is commenced toward the improvement.

c. The grantee shall report any completed improvements to the Commissioner and secure approval from the Commissioner.

Credits

Original rule, Art. VIII, Subchapter B, Ch. II (Supp. 76-4). Section R12-5-801 renumbered from Section R12-5-165 (Supp. 93-3).

Current through rules published in Arizona Administrative Register Volume 28, Issue 26, July 1, 2022. Some sections may be more current. See credits for details.

A.A.C. R12-5-801, AZ ADC R12-5-801

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A.A.C. R12-5-802

R12-5-802. Reservoir, Dam, and Other Sites

Currentness

A. Definitions

1. “Site lease” shall mean a lease issued upon state lands by the Department for reservoir or dam sites primarily used for purposes other than stock watering on lands leased for grazing purposes, and power or irrigation plant sites requiring more width than general rights-of-way leases for transmission lines or canals, or for such other purposes not classified as commercial.
2. “Surface lessee” means the holder of a lease on the surface of any state land for grazing, agricultural, commercial, homesite or natural products.
3. “Subsurface lessee” means the holder of a lease on the subsurface of any state land for oil and gas, mineral or natural products.

B. Land subject to site lease and term of lease. All state lands are subject to site lease for a term of not more than ten years without advertising, or for such lesser term as may be established by the Commissioner if he deems such lesser term to be to the best interests of the state. Site leases in excess of ten years are required by law to be advertised and sold at public auction to the highest bidder.

No lease for a site will be granted where damage or injury to improvements owned by a surface or subsurface leaseholder would result from the granting of the site by the Department without giving rise to a cause of action by the owner of said improvements, unless compensation for the value or damage or injury to said improvements has first been determined and a settlement made.

C. Application for site lease. An application for a site lease shall be made upon Land Division form No. A-82, and in accordance with the general rules and regulations relating to the leasing of state lands.

The application shall be accompanied by a map showing in detail the survey of the site applied for, or, if not surveyed, a map of reasonable accuracy so that the site may be located upon the land itself by either a survey or protraction. The Commissioner reserves the right to require a survey to be made by a regularly licensed registered engineer or land surveyor at any time. The map need be of no particular scale but should be of sufficiently large enough scale that improvements upon the surface of the land applied for may be shown. The map is considered a part of the application to lease as a line of definite location which will bind the applicant in the same manner as the lease application itself to the statements made therein.

An application for a site lease over or across state lands, the surface or subsurface of which is leased and in use, should be accompanied by a statement from such surface or subsurface lessee that he has no objection to the granting of the site lease, or, if such consent cannot be obtained, a statement from the applicant stating the reasons why such consent has not been obtained.

D. Renewal application for site lease. Application for renewal of a site lease shall be made upon Land Division form No. A-13-3 and in accordance with the general rules and regulations relating to state lands.

If the applicant has not used the land for the purpose for which the initial lease was granted to him, he must state in detail reasons therefor unless he has obtained from the Commissioner authorization in writing for such non-use as required by law and the rules and regulations of the Department.

E. Rights of surface and subsurface lessees. Under the law the Commissioner has the right to grant sites without the consent of the surface or subsurface lessee. However, in many instances the surface or subsurface lessee owns improvements upon the lands desired for a site lease and these improvements are protected by law. In the event the site applicant and the surface or subsurface lessee are unable to arrive at the value of any improvements which may be injured or damaged by the grant of a site lease and the consent of the surface or subsurface lessee cannot be secured, the Commissioner may, if it is to the best interest of the state, appraise the improvements as provided by law and grant the lease upon evidence of tender to the owner of improvements of the appraised value of the same. The owner of the improvements may appeal from the appraisal of the improvements to the Appeal Board of the Department as authorized by law and these rules and regulations.

F. Rental. No site lease shall provide for an annual rental of less than the appraised rental value of the land and in no event for less than 5¢ per acre per annum or a minimum of \$10.00 per annum per lease.

G. Form of site lease and provisions thereof. The form of site lease offered by the Department to an applicant will be on Land Division form No. A-83 and will be subject to the provisions and supplemental conditions therein contained, and such other conditions as may be added thereto, and the provisions of law and these rules and regulations.

H. Effect of a site lease. No lessee shall use lands under lease to him except for site purposes unless authorized by the Commissioner in writing.

Applications for a special use of lands under lease to a lessee for purposes other than which the lease was issued shall be made in writing in triplicate and shall state in detail the reasons for such use. The application shall be signed and verified as provided for in applications to lease. Upon approval of the application by the Commissioner, two copies of the application with the Commissioner's approval and any limitations to such approval endorsed by the Commissioner thereon will be returned by the Commissioner to the lessee, one copy thereof being retained in the files of the Department.

Failure of any lessee to use the land for the purposes for which he holds a lease, without having been authorized so to do by the Commissioner in writing, may, in the discretion of the Commissioner, subject said lease to forfeiture or to cancellation as provided by law and these rules and regulations.

I. Rights of site lessee. All leases granted by the Commissioner are only a license to use the land described in the lease for site purposes in a manner compatible with the terms of said lease. The state reserves the right to grant other leases for the use of said lands or the renewal of natural products therefrom. No site lessee has the authority or right to issue to any person any right to the use of said land or the removal of any products therefrom, but such right of use vests solely in the Commissioner and must be granted by the Commissioner in writing.

Credits

Original rule, Art. X, Subchapter B, Ch. II (Supp. 76-4). Section R12-5-802 renumbered from Section R12-5-166 (Supp. 93-3).

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A.A.C. R12-5-901

R12-5-901. Scope of Rules

Currentness

These rules apply only to exchange of state land under the provisions of [A.R.S. §§ 37-604 to 37-608](#), inclusive, and shall prevail over and supersede any existing policy or procedure to the extent that they are in conflict therewith.

Credits

No original number assigned (Supp. 76-4). Section R12-5-901 renumbered from Section R12-5-179 (Supp. 93-3). R12-5-901 repealed by summary action with an interim effective date of July 19, 1996; filed in the Office of the Secretary of State June 27, 1996 (Supp. 96-2). The proposed summary action repealing R12-5-901 was remanded by the Governor's Regulatory Review Council (September 10, 1996) which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 98-3).

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A.A.C. R12-5-902

R12-5-902. Definitions

Currentness

Unless the context otherwise requires:

1. “Commissioner” means the State Land Commissioner.
2. “Selection board” means that board composed of the Governor, the State Land Commissioner and the Attorney General, as authorized by [A.R.S. § 37-202](#).
3. “Private owner” means any individual person, firm, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary representative, or any group acting as a unit, but does not include the government of the state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.
4. “Department” means the State Land Department.

Credits

No original number assigned (Supp. 76-4). Section R12-5-902 renumbered from Section R12-5-180 (Supp. 93-3). R12-5-902 repealed by summary action with an interim effective date of July 19, 1996; filed in the Office of the Secretary of State June 27, 1996 (Supp. 96-2). The proposed summary action repealing R12-5-902 was remanded by the Governor's Regulatory Review Council (September 10, 1996) which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 98-3).

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A.A.C. R12-5-904

R12-5-904. Application

Currentness

The application shall be prepared and filed on such forms as the Department may from time to time prescribe. The application shall set forth such information as is required by law and these rules, including but not limited to the following: the name, age, and residence of the applicant; a description of all lands sought to be exchanged, which description shall be technically competent, definite, susceptible of only one interpretation, and furnish sufficient information for the identification of the land on the ground; the number of acres contained in the lands of applicant offered in exchange, and applicant's estimated value thereof; the number of acres contained in the state lands applied for in exchange, and applicant's estimated value thereof; a list of permanent improvements on the lands to be exchanged, applicant's estimated value thereof and the description of the location thereof in such manner as to facilitate the location thereof on the ground; a description of any leasehold interest in the land to be exchanged or ownership of any improvements thereon, together with the name and address of any such claimant; accompanying agreements, if any, with the lease-holder or owner of improvements on the lands to be exchanged shall be attached to the application and filed therewith.

Credits

No original number assigned (Supp. 76-4). Section R12-5-904 renumbered from Section R12-5-182 (Supp. 93-3). R12-5-904 repealed by summary action with an interim effective date of July 19, 1996; filed in the Office of the Secretary of State June 27, 1996 (Supp. 96-2). The proposed summary action repealing R12-5-904 was remanded by the Governor's Regulatory Review Council (September 10, 1996) which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 98-3).

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A.A.C. R12-5-910

R12-5-910. Maps and Photographs

Currentness

The applicant shall furnish such map or maps of the lands to be exchanged, coded as to ownership in a suitable manner, as the Department may require and deem necessary to evaluate the application and assist in making an appraisal; and, in addition the Department may require an aerial photograph or photographs of such lands as it may specify in a request therefor.

Credits

No original number assigned (Supp. 76-4). Section R12-5-910 renumbered from Section R12-5-188 (Supp. 93-3). R12-5-910 repealed by summary action with an interim effective date of July 19, 1996; filed in the Office of the Secretary of State June 27, 1996 (Supp. 96-2). The proposed summary action repealing R12-5-910 was remanded by the Governor's Regulatory Review Council (September 10, 1996) which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 98-3).

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A.A.C. R12-5-918

R12-5-918. Controversy as to Title or Leasehold Rights

Currentness

The Commissioner may in his discretion hold in suspension or reject any application to exchange where it is found that title or leasehold rights in any of the land conveyed thereby are in controversy. The Department will not become a party to any controversy between different claimants to any of the land sought to be exchanged.

Credits

No original number assigned (Supp. 76-4). Section R12-5-918 renumbered from Section R12-5-196 (Supp. 93-3) R12-5-918 repealed by summary action with an interim effective date of July 19, 1996; filed in the Office of the Secretary of State June 27, 1996 (Supp. 96-2). The proposed summary action repealing R12-5-918 was remanded by the Governor's Regulatory Review Council (September 10, 1996) which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 98-3).

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A.A.C. R12-5-1101

R12-5-1101. Policy; Use of Lands

Currentness

It is the policy of the Commissioner in the administration of state lands to permit, where practical, the beneficial use thereof for special purposes not specifically provided for by existing law or the rules and regulations of the Land Division and the leasing of state lands. Permits for such special use will not be issued, however, in any case where the provisions of existing state land laws may be invoked.

The contemplated use must not be in conflict with any federal or state laws.

An applicant must state in his application the use to which he intends to put the lands and he will not be permitted to devote them to any other use unless he secures an additional permit.

1. Qualifications of applicants. Any person of the age of 21 years or over, a citizen of the United States or who has declared an intention to become a citizen of the United States or any firm, association or corporation which has complied with the laws of the state, shall be qualified to apply for a special use permit.

2. Application for special use permit; renewal thereof; application fee. An application for general special use permit shall be made on Land Division form. Such application shall describe with particularity the land applied for, and shall state in detail the use to which the applicant intends to put the lands and the period for such use.

A renewal of a general special use permit shall be made on Land Division form.

If an applicant for renewal of a special use permit has not used the land for the purpose for which the initial permit was granted him, he must state in detail reasons therefor unless he has obtained from the Commissioner authorization in writing for such non-use as required by law and these rules and regulations.

3. Form of special use permit. The form of a general special use permit will be prepared by the Department and will be subject to the provisions and supplemental conditions therein contained and the provisions of law and these rules and regulations.

4. Term of permit. A special use permit shall not be issued for a period to exceed ten years or such lesser term as may be established by the Commissioner if he deems such lesser term to be in the best interest of the state. An application for an initial special use permit shall not be approved for a period of longer than two years. Unless it is deemed to be for the best interest of the state, it is not the policy of the Department to allow and issue a special use permit which will seriously

interfere with the operations of an established lessee or permittee holding a lease or permit from the Department to the surface or subsurface rights to the land.

5. Minimum fee. No special use permit shall provide for an annual fee for less than appraised rental value of the land and in no event for less than 5¢ per acre per annum or a minimum of \$10.00 per annum per permit.

6. Failure to use land for purposes authorized. Any permittee who shall fail to use the land for the purpose for which he holds a permit during the term of his permit, unless for good cause such failure has been authorized or ratified by the Commissioner in writing, may subject his permit to forfeiture or cancellation as provided by law and these rules and regulations.

7. Rights of permittee. All permits granted by the Commissioner are only a license or permit for the use of the land described in the permit for the purpose for which the permit is issued and in a manner compatible with the terms of said permit. The Commissioner reserves the right to grant other permits for the use of said lands for the removal of natural products therefrom. No permittee has the authority or right to issue to any person any right to the use of said land or the removal of any products therefrom, but such right of use vests solely in the Commissioner and must be granted by the Commissioner in writing.

8. Use of state lands. No permittee shall use lands under permit to him except for the purpose for which the permit is issued, unless authorized by the Commissioner in writing.

Applications for a special use of lands under permit to a permittee for purposes other than which the permit was issued shall be made in writing in triplicate, and shall state in detail the reasons for such use. The application shall be signed and verified as provided for in applications for permit. Upon approval of the application by the Commissioner, two copies of the application with the Commissioner's approval and any limitations to such approval endorsed by the Commissioner thereon will be returned by the Commissioner to the permittee, one copy thereof being retained in the files of the Department. Failure of any permittee to use the land for the purposes for which he holds a permit, without having been authorized to do so by the Commissioner in writing, may, in the discretion of the Commissioner, subject said permit to forfeiture or to the cancellation as provided by law and these rules and regulations.

9. Advertising displays on state lands without permits unauthorized. The erection or maintenance on state lands of advertising displays, without permission, is unauthorized by law. Any person erecting or maintaining one or more advertising displays on state lands, except under authority of a permit issued by the Commissioner as hereinafter provided, shall be deemed a trespasser.

10. Advertising displays defined. The words "advertising displays" as used in this Article shall include structures of any kind with or without lighting effects erected or maintained for outdoor advertising purposes, upon which any poster, bill, printing, painting, or other advertisement of any kind whatsoever, including statuary, may be placed for advertising purposes but shall not include:

- a. Official notices or advertisements posted by or under the direction of any public or court officer in the performance of his official duties;

b. Danger, precautionary and information signs erected by officials of the Federal Government or officials of the state or any subdivision thereof, or any non-profit organization in the state, relating to the premises, or warning of the conditions of travel on a highway, or of forest fires, or road symbols, or speed limits, and including all civil defense directional signs;

c. Highway markers or signs relating to any city, town, village or historic place or shrine;

d. Notice of any railroad, bridge, ferry, or other transportation or transmission company necessary for the direction or safety of the public;

e. Official signs, notices or symbols for the information of aviators, as to location, direction or landings, and conditions affecting safety in aviation;

f. Signs containing 16 square feet or less bearing an announcement of any town, village or city, or non-profit association, or chamber of commerce, advertising itself, or local industries, buildings, meetings, or attractions, but not advertising any particular individual or corporation engaged in business for a profit; providing not more than one sign bearing the same or similar announcement shall be placed on any one approach to the city or village involved;

g. Signs erected by Red Cross authorities relating to Red Cross Emergency Station.

11. Applications for advertising display permits. Applications for permits must be executed upon Land Division form No. A-73-3. Each application must contain a sufficient recital of the facts relative to the advertising display, including its size and lighting effect, if any, to enable its substantial production from the description. A sketch showing the location on which the display is to be placed with respect to adjacent physical features should be furnished. The application should identify the highway or other medium of travel along which it is proposed to erect the display and should give the distance and direction of the site, measured by highway travel, to the nearest cities or towns. If the land on which it is desired to place the display has been surveyed, its description should be given in terms of the public land surveys.

12. Fees and rentals for advertising display permits

a. A fee of \$1.00 must accompany each application for an advertising display permit.

b. The initial and annual charges for advertising displays shall be as follows: not less than 10¢ per annum for each square foot of sign surface and not less than \$2.50 per annum for each display. The amount of the charge, subject to such minima, will be fixed by the Commissioner, which in no event will be less than the appraised rental value for such use.

c. Due consideration will be given in fixing the amounts to all pertinent facts and circumstances, including the charges made for corresponding privileges on privately owned lands similarly situated.

d. When conflicting applications are filed, due consideration will be given to the showing of each applicant and such action will be taken as is deemed to be warranted by the facts and circumstances.

13. Form of advertising display permit and terms. Special use permits to erect and maintain advertising displays on state lands may be issued by or under authority of the Commissioner on forms provided by the Department, or, in his discretion, will be issued on Land Division form and will be subject to the provisions and supplemental conditions therein contained and to such other conditions as may be added thereto, and the provisions of law and these rules and regulations. The term thereof shall be for periods of not exceeding ten years and the permits will be revocable in the discretion of the Commissioner at any time.

14. Renewal of advertising display permits. An advertising display permit issued pursuant to these rules and regulations may be renewed, in the discretion of the Commissioner, upon the filing of an application for renewal not more than 60 nor less than 30 days prior to its expiration.

15. Identification of authorized advertising displays. Each advertising display erected or maintained under a permit issued pursuant to these rules and regulations shall, for convenient identification, have the serial number of such permit marked or painted thereon.

16. Unauthorized advertising displays

a. Persons who heretofore have erected advertising displays on state lands must either obtain permits to continue such displays, if authorized by these rules and regulations, or must remove the displays as promptly as possible.

b. Where an unauthorized advertising display on state land is found, the Commissioner will take appropriate steps to secure its removal, unless the owner obtains a permit. The owner, if known, will be given notice in writing of the requirements. Displays erected without permission prior to January 1, 1953, must be removed within three months from and after the date of the approval of these rules and regulations, unless application for a permit is made within that period. Displays erected prior to January 1, 1953, for which applications for permits are made but for which permits are refused, and unauthorized displays thereafter erected must be removed within such reasonable time as may be fixed by the Commissioner. If the owner fails to remove the display within the time allowed, it may be removed by the Commissioner and the owner will be held liable to the Department for expenses incurred in removing it. If the owner is unknown, or cannot be found, the display may be removed by the Commissioner without notice. A registered letter addressed to the owner at his last known place of residence, if returned unclaimed, will be considered sufficient service of notice.

17. Restrictions on advertising displays

a. No advertising display shall be permitted which, in the opinion of the Commissioner, would mar the landscape, hide road intersections or crossing, or which, in his opinion, is otherwise objectionable.

b. No advertising display shall be affixed to, or painted on any tree or rock situate on state lands or on any other natural object on such lands.

c. All advertising displays shall conform to the applicable state laws and local ordinances or regulations.

Credits

Original rule, Art. XI, Subchapter B, Ch. II (Supp. 76-4). Emergency amendment filed September 26, 1990, adopted effective September 27, 1990, pursuant to [A.R.S. 41-1026](#), valid for only 90 days (Supp. 90-3). Emergency expired. Section R12-5-1101 renumbered from Section R12-5-241 (Supp. 93-3).

Current through rules published in Arizona Administrative Register Volume 28, Issue 26, July 1, 2022. Some sections may be more current. See credits for details.

A.A.C. R12-5-1101, AZ ADC R12-5-1101

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APPENDIX B
Authorities ad Related Statutes

Arizona-New Mexico Enabling Act §28

A.R.S § 37-101

A.R.S § 37-107

A.R.S § 37-132

A.R.S § 37-211

A.R.S § 37-281

A.R.S § 37-283

A.R.S § 37-285

A.R.S § 37-287

A.R.S § 37-461

A.R.S § 37-604

A.R.S., Enab. Act, Sec. 28

Sec. 28.

[Currentness](#)

Sec. 28. That it is hereby declared that all lands hereby granted, including those which, having been heretofore granted to said Territory, are hereby expressly transferred and confirmed to the said state, shall be by the said state held in trust, to be disposed of in whole or in part only in manner as herein provided and for the several objects specified in the respective granting and confirmatory provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same. The trust funds (including all interest, dividends, other income, and appreciation in the market value of assets of the funds) shall be prudently invested on a total rate of return basis. Distributions from the trust funds shall be made as provided in [article 10, Section 7 of the Constitution of the state of Arizona](#). As amended Dec. 7, 1999, H.R. 747, 113 Stat. 1682.

Disposition of any of said lands, or of any money or thing of value directly or indirectly derived therefrom, for any object other than for such particular lands, or the lands from which such money or thing of value shall have been derived, were granted or confirmed, or in any manner contrary to the provisions of this act, shall be deemed a breach of trust, except that amounts in the Miners' Hospital Endowment Fund may be used for the benefit of the Arizona Pioneers' Home. As amended Dec. 7, 1999, H.R. 747, 113 Stat. 1682.

No mortgage or other encumbrance of the said lands, or any part thereof, shall be valid in favor of any person or for any purpose or under any circumstances whatsoever. Said lands shall not be sold or leased, in whole or in part, except to the highest and best bidder at a public auction to be held at the county seat of the county wherein the lands to be affected, or the major portion thereof, shall lie, notice of which public auction shall first have been duly given by advertisement, which shall set forth the nature, time, and place of transaction to be had, with a full description of the lands to be offered, and be published once each week for not less than ten successive weeks in a newspaper of general circulation published regularly at the state capital, and in that newspaper of like circulation which shall then be regularly published nearest to the location of the lands so offered; nor shall any sale or contract for the sale of any timber or other natural product of such lands be made, save at the place, in the manner, and after the notice by publication provided for sales and leases of the lands themselves. Nothing herein contained shall prevent: (1) the leasing of any of the lands referred to in this section, in such manner as the legislature of the state of Arizona may prescribe, for grazing, agricultural, commercial, and domestic purposes, for a term of ten years or less; (2) the leasing of any of said lands, in such manner as the legislature of the state of Arizona may prescribe, whether or not also leased for grazing and agricultural purposes, for mineral purposes, other than for the exploration, development, and production of oil, gas, and other hydrocarbon substances, for a term of twenty years or less; (3) the leasing of any said lands, whether or not also leased for other purposes, for the exploration, development, and production of oil, gas and other hydrocarbon substances on, in, or under lands for an initial term of twenty years or less and as long thereafter as oil, gas, or other hydrocarbon substance may be produced therefrom in paying quantities, the leases to be made in any manner, with or without advertisement, bidding, or appraisalment, and under such terms and provisions as the legislature of the state of Arizona may prescribe, the terms and provisions to include a reservation of a royalty to said state of not less than 12 ½ per centum of production; or (4) the legislature of the state of Arizona from providing by proper laws of the protection of lessees of said lands, whereby such lessees shall be protected in their rights to their improvements (including water rights) in such manner that in case of lease or sale of said lands to other parties the former lessee shall be paid by the succeeding lessee or purchaser the value of such improvements and rights placed thereon by such lessee. As amended June 5, 1936, c. 517, 49 Stat. 1477; June 2, 1951, c. 120, 65 Stat. 51.

All lands, leaseholds, timber and other products of land, before being offered, shall be appraised at their true value, and no sale or other disposal thereof shall be made for a consideration less than the value so ascertained, nor upon credit unless accompanied by ample security, and the legal title shall not be deemed to have passed until the consideration shall have been paid. As amended June 5, 1936, c. 517, 49 Stat. 1477.

No lands shall be sold for less than their appraised value, and no lands which are or shall be susceptible of irrigation under any projects now or hereafter completed or adopted by the United States under legislation for the reclamation of lands, or under any other project for the reclamation of lands, shall be sold at less than twenty-five dollars per acre: *Provided*, that said state, at the request of the secretary of the Interior, shall from time to time relinquish such of its lands to the United States as at any time are needed for irrigation works in connection with any such government project. And other lands in lieu thereof are hereby granted to said state, to be selected from lands of the character named and in the manner prescribed in section twenty-four of this act. As amended June 5, 1936, c. 517, 49 Stat. 1477.

The state of Arizona is authorized to exchange any lands owned by it for other lands, public or private, under such regulations as the legislature thereof may prescribe: *Provided*, That such exchanges involving public lands may be made only as authorized by Acts of Congress and regulations thereunder. Added June 5, 1936, c. 517, 49 Stat. 1477.

There is hereby reserved to the United States and excepted from the operation of any and all grants made or confirmed by this act to said proposed state all land actually or prospectively valuable for the development of water power or power for hydro-electric use or transmission and which shall be ascertained and designated by the secretary of the Interior within five years after the proclamation of the President declaring the admission of the state; and no land so reserved and excepted shall be subject to any disposition whatsoever of said state, and any conveyance or transfer of such land by said state or any officer thereof shall be absolutely null and void within the period above named; and in lieu of the land so reserved to the United States and excepted from the operation of any of said grants there be, and is hereby, granted to the proposed state an equal quantity of land to be selected from land of the character named and in the manner prescribed in section twenty-four of this act.

Every sale, lease, conveyance, or contract of or concerning any of the lands hereby granted or confirmed, or the use thereof or the natural products thereof, not made in substantial conformity with the provisions of this act shall be null and void, any provisions of the constitution or laws of the said state to the contrary notwithstanding. It shall be the duty of the Attorney General of the United States to prosecute, in the name of the United States and in its courts, such proceedings at law or in equity as may from time to time be necessary and appropriate to enforce the provisions hereof relative to the application and disposition of the said lands and the products thereof and the funds derived therefrom.

Nothing herein contained shall be taken as in limitation of the power of the state or of any citizen thereof to enforce the provisions of this act.

[Notes of Decisions \(76\)](#)

A. R. S., Enab. Act, Sec. 28, AZ ST, ENABLING ACT, Sec. 28

Current through legislation effective July 6, 2022 of the Second Regular Session of the Fifty-Fifth Legislature (2022)

[Arizona Revised Statutes Annotated](#)
[Title 37. Public Lands \(Refs & Annos\)](#)
[Chapter 1. State Agencies and Officers \(Refs & Annos\)](#)
[Article 1. State Land Department \(Refs & Annos\)](#)

A.R.S. § 37-101

§ 37-101. Definitions

Effective: August 2, 2012

[Currentness](#)

In this title, unless the context otherwise requires:

1. “Agricultural lands” means lands which are used or can be used principally for:
 - (a) Raising crops, fruits, grains and similar farm products.
 - (b) Algaculture. For the purposes of this subdivision “algaculture” means the controlled propagation, growth and harvest of algae.
2. “Amortized value” means the value for improvements established pursuant to [§ 37-281.02, subsection G](#).
3. “Commercial lands” means lands which can be used principally for business, institutional, religious, charitable, governmental or recreational purposes, or any general purpose other than agricultural, grazing, mining, oil, homesite or rights-of-way.
4. “Commissioner” means the state land commissioner.
5. “Community identity package” means a design theme including such elements as architecture, landscape, lighting, street furniture, walls and signage.
6. “Department” means the state land department.
7. “Grazing lands” means lands which can be used only for the ranging of livestock.
8. “Holding lease” means a commercial lease issued solely to grant a limited use leasehold interest in state land in anticipation of future development.
9. “Homesite lands” means lands which are suitable for residential purposes.

10. “Improvements” means anything permanent in character which is the result of labor or capital expended by the lessee or his predecessors in interest on state land in its reclamation or development, and the appropriation of water thereon, and which has enhanced the value of the land.

11. “Infrastructure” means facilities or amenities, such as streets, utilities, landscaping and open space, which are constructed or located on state lands and which are intended to benefit more than the land on which they are immediately located by enhancing the development potential and value of the state lands impacted by the facility or amenities.

12. “Leapfrog development” means the development of lands in a manner requiring the extension of public facilities and services from their existing terminal point through intervening undeveloped areas that are scheduled for development at a later time, according to the plans of the local governing body having jurisdiction for the area and which is responsible for the provision of these facilities and services.

13. “Leased school or university land” means school or university land for which a lease has been issued by the state, or the territory of Arizona, under which the lessee retains rights.

14. “Master developer” means a person who assumes, as a condition of a land disposition, the responsibilities prescribed by the department for infrastructure or community identity package amenities, or both, or for implementing a development plan containing a master plan area.

15. “Participation contract” means a contract arising out of a sale together with other rights and obligations in trust lands whereby the department receives a share of the revenues generated by subsequent sales or leases.

16. “Section of land” means an area of land consisting of six hundred forty acres.

17. “State lands” means any land owned or held in trust, or otherwise, by the state, including leased school or university land.

18. “Sublease” means an agreement in which the lessee relinquishes control of the leased land to another party for the purposes authorized in the lease.

19. “Urban lands” means any state lands which are adjoining existing commercially or homesite developed lands and which are either:

(a) Within the corporate boundaries of a city or town.

(b) Adjacent to the corporate boundaries of a city or town.

(c) Lands for which the designation as urban lands is requested pursuant to [§ 37-331.01](#).

20. “Urban sprawl” means the development of lands in a manner requiring the extension of public facilities and services on the periphery of an existing urbanized area where such extension is not provided for in the existing plans of the local governing body having the responsibility for the provision of these facilities and services to the lands in question.

Credits

Amended by Laws 1979, Ch. 207, § 1; Laws 1981, 1st S.S., Ch. 1, § 2; Laws 1982, Ch. 189, § 1, eff. April 22, 1982; [Laws 1989, Ch. 229, § 1](#); [Laws 1990, Ch. 24, § 1](#); [Laws 1990, Ch. 25, § 2](#); [Laws 1990, Ch. 77, § 2](#); [Laws 1992, Ch. 73, § 1](#); [Laws 1994, Ch. 171, § 1](#); [Laws 1996, Ch. 121, § 1](#); [Laws 1996, Ch. 133, § 1](#); [Laws 1998, Ch. 184, § 1, eff. May 28, 1998](#); [Laws 2012, Ch. 202, § 1](#).

[Notes of Decisions \(21\)](#)

A. R. S. § 37-101, AZ ST § 37-101

Current through legislation effective July 6, 2022 of the Second Regular Session of the Fifty-Fifth Legislature (2022)

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[Title 37. Public Lands \(Refs & Annos\)](#)
[Chapter 1. State Agencies and Officers \(Refs & Annos\)](#)
[Article 1. State Land Department \(Refs & Annos\)](#)

A.R.S. § 37-107

§ 37-107. Fees; accounts

Effective: July 29, 2010

[Currentness](#)

A. The commissioner shall prescribe by rule application, permit, transaction, appraisal, service, filing and document fees for transactions related to the selling, leasing, annexation, conveyance, exchange, right-of-way and use of state lands or products of state lands managed by the department. Before adopting any rule setting or changing a fee under this section, the commissioner must submit the proposed fee amount to the joint legislative budget committee for review. The commissioner shall deposit the revenues derived from the fees in the trust land management fund pursuant to [§ 37-527](#).

B. The commissioner may establish selling and administrative fees, which may include:

1. Up to three per cent of the consideration paid for all lands and improvements sold or long-term leased.
2. Zoning application fees paid by the department to rezone land.
3. Legal advertising expenses required by law and paid by the department.

C. The revenues derived from the fees established pursuant to subsection B of this section shall be deposited as follows:

1. The revenues derived from the fees collected pursuant to subsection B, paragraph 1 of this section, less any amounts paid as brokerage fees pursuant to [§ 37-132, subsection B](#), paragraph 2, shall be deposited in the trust land management fund pursuant to [§ 37-527](#).
2. The monies collected pursuant to subsection B, paragraph 2 of this section as actual costs of zoning application fees paid by the department to rezone lands shall be deposited in a separate account of the state land department fund designated as the zoning application fee account. Monies in the account shall be used to pay zoning application fees if developing lands require rezoning by the jurisdiction in which the lands are located. The commissioner shall administer the account.
3. The monies collected under subsection B, paragraph 3 of this section, subsection D of this section and application evaluation and processing costs pursuant to [§ 37-205, subsection A](#) shall be deposited in separate accounts of the state land department fund to be used to pay costs of legal advertising, costs of appraisals required by the enabling act, by the Constitution of Arizona or by statute and the costs of evaluating and processing applications. The commissioner shall administer the accounts. On notice

from the commissioner, the state treasurer shall invest and divest monies in the state land department fund as provided by [§ 35-313](#), and monies earned from investment shall be credited to the fund.

D. The commissioner may require or allow prepayment for the estimated cost of an appraisal required pursuant to [§ 27-234](#) and this title. The commissioner shall deposit and administer prepayment monies as provided by subsection C, paragraph 3 of this section. The commissioner shall use monies accepted pursuant to this subsection to conduct contract appraisals. If an auction is held and an applicant who has prepaid the estimated cost of an appraisal or paid an appraisal fee is not the successful bidder, the successful bidder shall reimburse the applicant either for the actual cost of the appraisal or for the appraisal fee, whichever was paid. If the commissioner proceeds to auction on the commissioner's initiative, the successful bidder at auction shall reimburse the department for the actual cost of the appraisal, if there was a contract appraisal, or pay the appraisal fee if a contract appraisal was not obtained. Nothing in this subsection:

1. Requires the commissioner to offer any land at auction or for lease.
2. Requires the commissioner to reimburse an applicant if the land is not auctioned or leased.
3. Affects the status of any other application pending an appraisal.

E. Except as provided under [§ 37-205](#), fees paid under this section are not refundable to the applicant, regardless of the outcome of the application.

Credits

Added by [Laws 2010, Ch. 243, § 3](#).

A. R. S. § 37-107, AZ ST § 37-107

Current through legislation effective July 6, 2022 of the Second Regular Session of the Fifty-Fifth Legislature (2022)



KeyCite Red Flag - Severe Negative Treatment

Enacted Legislation Amended by [2022 Ariz. Legis. Serv. Ch. 14 \(S.B. 1238\) \(WEST\)](#).

[Arizona Revised Statutes Annotated](#)

[Title 37. Public Lands \(Refs & Annos\)](#)

[Chapter 1. State Agencies and Officers \(Refs & Annos\)](#)

[Article 2. State Land Commissioner](#)

A.R.S. § 37-132

§ 37-132. Powers and duties

Effective: September 29, 2012

[Currentness](#)

A. The commissioner shall:

1. Exercise and perform all powers and duties vested in or imposed upon the department, and prescribe such rules as are necessary to discharge those duties.
2. Exercise the powers of surveyor-general except for the powers of the surveyor-general exercised by the treasurer as a member of the selection board pursuant to [§ 37-202](#).
3. Make long-range plans for the future use of state lands in cooperation with other state agencies, local planning authorities and political subdivisions.
4. Promote the infill and orderly development of state lands in areas beneficial to the trust and prevent urban sprawl or leapfrog development on state lands.
5. Classify and appraise all state lands, together with the improvements on state lands, for the purpose of sale, lease or grant of rights-of-way. The commissioner may impose such conditions and covenants and make such reservations in the sale of state lands as the commissioner deems to be in the best interest of the state trust. The provisions of this paragraph are subject to hearing procedures pursuant to title 41, chapter 6, article 10¹ and, except as provided in [§ 41-1092.08, subsection H](#), are subject to judicial review pursuant to title 12, chapter 7, article 6.²
6. Have authority to lease for grazing, agricultural, homesite or other purposes, except commercial, all land owned or held in trust by the state.
7. Have authority to lease for commercial purposes and sell all land owned or held in trust by the state, but any such lease for commercial purposes or any such sale shall first be approved by the board of appeals.

8. Except as otherwise provided, determine all disputes, grievances or other questions pertaining to the administration of state lands.

9. Appoint deputies and other assistants and employees necessary to perform the duties of the department and assign their duties subject to title 41, chapter 4, article 4³ and require of them such surety bonds as the commissioner deems proper. The compensation of the deputy, assistants or employees shall be as determined pursuant to [§ 38-611](#).

10. Make a written report to the governor annually, not later than September 1, disclosing in detail the activities of the department for the preceding fiscal year, and publish it for distribution. The report shall include an evaluation of auctions of state land leases held during the preceding fiscal year considering the advantages and disadvantages to the state trust of the existence and exercise of preferred rights to lease reclassified state land.

11. Withdraw state land from surface or subsurface sales or lease applications if the commissioner deems it to be in the best interest of the trust. This closure of state lands to new applications for sale or lease does not affect the rights that existing lessees have under law for renewal of their leases and reimbursement for improvements.

B. The commissioner may:

1. Take evidence relating to, and may require of the various county officers information on, any matter that the commissioner has the power to investigate or determine.

2. Under such rules as the commissioner adopts, use private real estate brokers to assist in any sale or long-term lease of state land and pay, from fees collected under [§ 37-107, subsection B](#), paragraph 1, a commission to a broker that is licensed pursuant to title 32, chapter 20⁴ and that provides the purchaser or lessee at auction. The purchaser or lessee at auction is not eligible to receive a commission pursuant to this subsection. A commission shall not be paid on a sale or a long-term lease if the purchaser or lessee is a political subdivision of this state.

3. Require a permittee, lessee or grantee to post a surety bond or any form of collateral deemed sufficient by the commissioner for performance or restoration purposes. The commissioner shall use the proceeds of a bond or collateral only for the purposes determined at the time the bond or collateral is posted. For agricultural lessees, the commissioner may require collateral as follows:

(a) As security for payment of the annual assessments levied by the irrigation district in which the state land is located if the lessee has a history of late payments or defaults. The amount of the collateral required shall not exceed the annual assessment levied by the irrigation district.

(b) As security for payment of rent, if an extension of time for payment is requested or if the lessee has a history of late payments of rent. The collateral shall be submitted at the time any extension of time for payment is requested. The amount of the collateral required shall not exceed the annual amount of rent for the land.

(c) A surety bond shall be required only if the commissioner determines that other forms of collateral are insufficient.

4. Withhold market and economic analyses, preliminary engineering, site and area studies and appraisals that are collected during the urban planning process from public viewing before they are submitted to local planning and zoning authorities.

5. Withhold from public inspection proprietary information received during lease negotiations. The proprietary information shall be released to public inspection unless the release may harm the competitive position of the applicant and the information could not have been obtained by other legitimate means.

6. Issue permits for short-term use of state land for specific purposes as prescribed by rule.

7. Contract with a third party to sell recreational permits. A third party under contract pursuant to this paragraph may assess a surcharge for its services as provided in the contract, in addition to the fees prescribed pursuant to [§ 37-107](#).

8. Close urban lands to specific uses as prescribed by rule if necessary for dust abatement, to reduce a risk from hazardous environmental conditions that pose a risk to human health or safety or for remediation purposes.

9. Notwithstanding subsection A, paragraph 4 of this section, authorize, in the best interest of the trust, the extension of public services and facilities either:

(a) That are necessary to implement plans of the local governing body, including plans adopted or amended pursuant to [§ 9-461.06](#) or [11-805](#).

(b) Across state lands that are either:

(i) Classified as suitable for conservation pursuant to [§ 37-312](#).

(ii) Sold or leased at auction for conservation purposes.

C. The commissioner or any deputy or employee of the department shall not have, own or acquire, directly or indirectly, any state lands or the products on any state lands, any interest in or to such lands or products, or improvements on leased state lands, or be interested in any state irrigation project affecting state lands.

Credits

Amended by Laws 1970, Ch. 204, § 142; Laws 1971, Ch. 166, § 1; Laws 1972, Ch. 156, § 2; Laws 1981, 1st S.S., Ch. 1, § 5; Laws 1982, Ch. 121, § 1; Laws 1983, Ch. 288, § 1; [Laws 1989, Ch. 171, § 1](#); [Laws 1992, Ch. 190, § 1](#); [Laws 1992, Ch. 357, § 1](#); [Laws 1993, Ch. 169, § 3, eff. April 20, 1993](#); [Laws 1994, Ch. 177, § 3](#); [Laws 1997, Ch. 221, § 167](#); [Laws 1997, Ch. 249, § 1](#); [Laws 1999, Ch. 209, § 1](#); [Laws 2000, Ch. 10, § 1](#); [Laws 2000, Ch. 113, § 158](#); [Laws 2002, Ch. 336, § 2](#); [Laws 2003, Ch. 69, § 2](#); [Laws 2010, Ch. 243, § 6](#); [Laws 2010, Ch. 244, § 27, eff. Oct. 1, 2011](#); [Laws 2011, Ch. 238, § 34, eff. Oct. 1, 2011](#); [Laws 2012, Ch. 321, § 86, eff. Sept. 29, 2012](#).

[Notes of Decisions \(40\)](#)

Footnotes

[1](#) Section 41-1092 et seq.

[2](#) Section 12-901 et seq.

[3](#) Section 41-741 et seq.

[4](#) Section 32-2101 et seq.

A. R. S. § 37-132, AZ ST § 37-132

Current through legislation effective July 6, 2022 of the Second Regular Session of the Fifty-Fifth Legislature (2022)

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[Arizona Revised Statutes Annotated](#)

[Title 37. Public Lands \(Refs & Annos\)](#)

[Chapter 2. Administration of State and Other Public Lands \(Refs & Annos\)](#)

[Article 2. Investigation, Classification and Appraisal \(Refs & Annos\)](#)

A.R.S. § 37-211

§ 37-211. Investigations of and experiments on state lands to determine possible uses; reclassification

[Currentness](#)

A. The state land commissioner may conduct investigations and experiments on the lands of the state to:

1. Determine which are suitable for agricultural purposes, or which may be suitable therefor by the development of water and otherwise.
2. Determine which are useful for grazing purposes only.
3. Ascertain the requirements of lands susceptible of agricultural development and the method or means best adapted to insure the development.
4. Determine which trust lands are suitable for conservation purposes pursuant to article 4.2 of this chapter.¹
5. Obtain other information and data which will aid in the leasing, sale and administration of lands belonging to the state.

B. If in the investigation the commissioner determines that lands have been erroneously classified, the classification shall be changed.

Credits

Amended by [Laws 1996, Ch. 347, § 2.](#)

Footnotes

¹ Section 37-311 et seq.

A. R. S. § 37-211, AZ ST § 37-211

Current through legislation effective July 6, 2022 of the Second Regular Session of the Fifty-Fifth Legislature (2022)

[Arizona Revised Statutes Annotated](#)

[Title 37. Public Lands \(Refs & Annos\)](#)

[Chapter 2. Administration of State and Other Public Lands \(Refs & Annos\)](#)

[Article 4. Lease of State Lands \(Refs & Annos\)](#)

A.R.S. § 37-281

§ 37-281. Lease of state lands for certain purposes without advertising; terms and conditions

[Currentness](#)

A. All state lands are subject to lease as provided in this article for a term of not more than ten years for agricultural, commercial and homesite purposes, without advertising. The leases shall be granted according to the constitution, the law and the rules of the state land department.

B. No lease shall be granted as provided by this section without application. All applications for leases shall be made upon forms prepared and furnished by the department, shall be signed and sworn to by the applicant or his authorized agent or attorney and shall be filed with the department. In lieu of signing and swearing to the application before a notary public or other person authorized to take acknowledgments, the applicant may affix his signature to the application, accompanied by a certification, under penalty of perjury, that the information and statements made in the application are to the best of his knowledge and belief true, correct and complete, and the application shall be accepted as duly executed.

C. Any material false statement or concealment of facts made by an applicant, his authorized agent or his attorney in the application to lease, which, if known to the department, would have prevented issuance of the lease in the form or to the person issued, shall be grounds for cancellation of a lease issued upon such application.

D. No lessee shall use lands leased to him except for the purpose for which the lands are leased.

E. No lessee shall sublease lands leased to him without written permission of the state land department.

Credits

Amended by Laws 1960, Ch. 83, § 1; [Laws 1993, Ch. 168, § 6, eff. April 20, 1993](#); [Laws 1994, Ch. 177, § 5](#); [Laws 1997, Ch. 249, § 5](#); [Laws 1998, Ch. 184, § 2, eff. May 28, 1998](#).

[Notes of Decisions \(37\)](#)

A. R. S. § 37-281, AZ ST § 37-281

Current through legislation effective July 6, 2022 of the Second Regular Session of the Fifty-Fifth Legislature (2022)

[Arizona Revised Statutes Annotated](#)

[Title 37. Public Lands \(Refs & Annos\)](#)

[Chapter 2. Administration of State and Other Public Lands \(Refs & Annos\)](#)

[Article 4. Lease of State Lands \(Refs & Annos\)](#)

A.R.S. § 37-283

§ 37-283. Subleases by grazing lessee; limitation upon grazing use; sublease surcharge

[Currentness](#)

A. A grazing lessee shall not sublease his lease or sell or lease pasturage to lands included in his lease, without written permission from the state land department. A grazing lessee, his sublessee or users under pasturage agreement shall not graze, without written permission of the department, in excess of the carrying capacity as previously determined by the department, upon state lands under lease or being used by such persons, within the exterior boundaries of any one ranch unit or units in the same general locality jointly operated. If permission is granted for such excess, the department shall assess and collect the rental for the excess on the rental basis provided for in this article.

B. In addition to the annual rental on grazing lands established pursuant to [§ 37-285](#), grazing subleases are subject to a surcharge that is equal to twenty-five per cent of the annual rental on grazing land, multiplied by the number of animal unit months to be grazed on the subleased state trust land. The surcharge shall be assessed only for that period of time the state trust land is subleased. The surcharge shall be paid to the department when the annual rental is due, or upon receiving department permission to sublease if the sublease is approved after the annual rental is due.

Credits

Amended by Laws 1982, Ch. 189, § 2, eff. April 22, 1982; [Laws 1998, Ch. 184, § 4, eff. May 28, 1998](#).

[Notes of Decisions \(1\)](#)

A. R. S. § 37-283, AZ ST § 37-283

Current through legislation effective July 6, 2022 of the Second Regular Session of the Fifty-Fifth Legislature (2022)

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[Arizona Revised Statutes Annotated](#)

[Title 37. Public Lands \(Refs & Annos\)](#)

[Chapter 2. Administration of State and Other Public Lands \(Refs & Annos\)](#)

[Article 4. Lease of State Lands \(Refs & Annos\)](#)

A.R.S. § 37-285

§ 37-285. Rental rates for grazing and other lands; grazing land valuation commission; reclassification and reappraisal; definitions

Effective: July 29, 2010

[Currentness](#)

A. An agricultural, commercial or homesite lease shall provide for an annual rental of not less than the appraised rental value of the land, and never less than five cents per acre per year. The rental provided in such leases is subject to adjustment each year.

B. A grazing lease shall provide for an annual rental of the grazing land as computed under this section. All grazing land shall be classified and appraised on the basis of its forage and annual carrying capacity, measured in animal unit months. The annual rental rate for grazing land shall be the amount determined by multiplying the number of animal unit months to be grazed on the lands by the true value rental rate per animal unit month as established by the commissioner. The rental rate per animal unit month is the rental rate determined by the commissioner based on the recommendations of the grazing land valuation commission under subsection E of this section.

C. Before September 1, 1994, and at other times the commissioner may propose, but not more frequently than every five years, the governor shall appoint a grazing land valuation commission consisting of five members appointed by the governor pursuant to [§ 38-211](#). The commission shall serve for a period of one year from the date the members assume office during which period the commission shall complete the appraisal. The commission shall consist of the following members, each of whom shall have experience in analyzing and valuing the use of forage on grazing land:

1. One member who is a professional appraiser and who is certified in this state.
2. One member who is a professor and who serves on the faculty of the college of agriculture at the university of Arizona.
3. One member who is a retired employee of a financial institution that is actively engaged in agricultural lending.
4. One member who primarily derives income from livestock grazing and who does not hold a state lease.
5. One member who is a conservationist and who represents a natural resource conservation district in this state.

D. Each member of the grazing land valuation commission shall receive compensation at the rate of one hundred dollars for each meeting. Each member of the commission shall receive reimbursement for expenses pursuant to title 38, chapter 4, article 2.¹

E. The grazing land valuation commission may employ a person who is experienced in analyzing and valuing the use of forage on grazing land and who, together with the members of the commission, shall gather the information that is necessary to prepare an appraisal to determine the true value of the use of forage on state grazing land and shall prepare this appraisal using both the market and income approaches. The appraisal report shall recommend a grazing fee that will equal the true value as recommended by the commission. The information and work products gathered in preparing the appraisal shall be available to the public. In determining the rental rate using the market approach the commission shall determine the typical lease of two years or more of private grazing land located in this state during normal years. The commission shall compare all factors that make up the bundle of rights and obligations in the typical private lease with the factors that make up the bundle of rights and obligations in the typical state lease. The commission shall document all adjustments, calculations and assumptions made in reaching a conclusion of true rental value for the state land grazing fee and shall determine economic benefit, burden or value attributable to each of these factors. These factors shall include the following:

1. All services, equipment and water rights provided by the lessor or lessee.
2. All improvements typically constructed and maintained to facilitate or enhance the use of the land for livestock grazing, wildlife, hunting or recreation.
3. All management and protection services that are typically provided.
4. The tenure, right to renew, assignability, right to reimbursement for improvements, responsibility for property taxes, right of others to share in the use of the land and ability to control access by others.
5. The size, location, accessibility, condition and carrying capacity of the land being leased and all related costs.

F. The commissioner's decision under this section may be appealed by any affected lessee to the board of appeals pursuant to [§ 37-215](#), and, except as provided in [§ 41-1092.08, subsection H](#), the decision of the board of appeals may be appealed to the superior court pursuant to title 12, chapter 7, article 6.²

G. The commissioner may make a reclassification or reappraisal, or both, at any time. If a reclassification or reappraisal, or both, is made pursuant to a request of a lessee, before expiration of the lease, the lessee shall pay a reclassification fee prescribed pursuant to [§ 37-107](#) plus the actual expenses incurred in making a reappraisal.

H. The department may authorize nonuse for part or all of the grazing use upon request of the lessee at least sixty days prior to the beginning of the billing date. The rental fee shall be based on the animal unit months used, but the total rental fee for partial or full nonuse shall not be less than five cents per acre per year.

I. For the purposes of this section:

1. “Animal unit” means one weaned beef animal over six months of age, or one horse, or five goats, or five sheep, or the equivalent.

2. “Animal unit month” means one animal unit grazing for one month.

Credits

Amended by Laws 1982, Ch. 189, § 3, eff. April 22, 1982; [Laws 1990, Ch. 114, § 7](#); [Laws 1994, Ch. 171, § 2](#); [Laws 1997, Ch. 221, § 172](#); [Laws 2000, Ch. 113, § 160](#); [Laws 2010, Ch. 243, § 13](#).

[Notes of Decisions \(12\)](#)

Footnotes

[1](#) Section 38-621 et seq.

[2](#) Section 12-901 et seq.

A. R. S. § 37-285, AZ ST § 37-285

Current through legislation effective July 6, 2022 of the Second Regular Session of the Fifty-Fifth Legislature (2022)

[Arizona Revised Statutes Annotated](#)

[Title 37. Public Lands \(Refs & Annos\)](#)

[Chapter 2. Administration of State and Other Public Lands \(Refs & Annos\)](#)

[Article 4. Lease of State Lands \(Refs & Annos\)](#)

A.R.S. § 37-287

§ 37-287. Reservation of rights in state land leases

[Currentness](#)

A. Unless the rights and interests described in this section are specifically included in a particular lease, all leases of state lands shall expressly except and reserve to the state:

1. All oils, gases, geothermal resources, coal, ores, minerals, fertilizer and fossils of every kind, which may be in or upon the land leased.
2. Any legal claim existing or which may be established under the mineral land laws of the United States or the state.
3. The right to enter upon the land for the purpose of exploring for those commodities or extracting any or all of such commodities from the land.
4. The right to relinquish to the United States lands needed for irrigation works in connection with a government reclamation project, and to grant or dispose of rights-of-way and sites for canals, reservoirs, dams, power or irrigating plants or works, railroads, tramways, transmission lines or any other purpose or use on or over the land.

B. The reservations of rights required in subsection A do not apply to existing or future leases under article 5.1 of this chapter,¹ except as required by the state constitution, the enabling act or the commissioner acting in the best interests of the state lands.

C. If the state reserves the rights described in subsection A, the lease shall provide for reasonable compensation to the lessee for any damage resulting from the exercise of those rights.

Credits

Amended by Laws 1977, Ch. 87, § 5, eff. May 23, 1977; Laws 1987, Ch. 366, § 1, eff. May 22, 1987; [Laws 1998, Ch. 133, § 19](#); [Laws 2001, Ch. 276, § 8](#).

[Notes of Decisions \(2\)](#)

Footnotes

1 Section 37-331 et seq.

A. R. S. § 37-287, AZ ST § 37-287

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[Title 37. Public Lands \(Refs & Annos\)](#)

[Chapter 2. Administration of State and Other Public Lands \(Refs & Annos\)](#)

[Article 10. Rights of Way and Sites for Public Uses](#)

A.R.S. § 37-461

§ 37-461. Grants of rights-of-way and sites for public uses

[Currentness](#)

A. The department may grant rights-of-way for any purpose it deems necessary, and sites for reservoirs, dams and power or irrigation plants, or other purposes, on and over state lands, subject to terms and conditions the department imposes. The department may make rules respecting the granting and maintenance of such rights-of-way and sites.

B. The department may grant rights-of-way for transportation purposes to federal agencies, state agencies or political subdivisions of this state for nonexclusive uses for a term exceeding ten years without a public auction. If a grant of a right-of-way or site to any other entity amounts to the disposition of or conveys a perpetual right to use the surface of the land, the department shall grant the right-of-way or site at public auction to the highest and best bidder.

C. The department may grant rights-of-way to any person for nonexclusive uses for a term of not more than fifty years without a public auction.

Credits

Amended by Laws 1973, Ch. 41, § 1; [Laws 1988, Ch. 82, § 1](#); [Laws 1997, Ch. 249, § 17](#); [Laws 1999, Ch. 209, § 10](#); [Laws 2002, Ch. 336, § 19](#).

[Notes of Decisions \(10\)](#)

A. R. S. § 37-461, AZ ST § 37-461

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[Title 37. Public Lands \(Refs & Annos\)](#)

[Chapter 2. Administration of State and Other Public Lands \(Refs & Annos\)](#)

[Article 14. Exchange of Public Lands \(Refs & Annos\)](#)

A.R.S. § 37-604

§ 37-604. Exchange of state land; procedure; limitation and exceptions; definition

Effective: December 13, 2012

[Currentness](#)

A. State land may be exchanged for public land in this state to improve the management of state lands for the purpose of sale or lease or conversion to public use of state lands or to assist in preserving and protecting military facilities in this state. Exchanges may be made for land owned or administered by other state agencies, counties, municipalities or the United States or its agencies. Exchanges with the United States or its agencies shall be in conformance with [§ 37-722](#), but the department shall also follow the procedures and requirements prescribed by [article X, section 12, Constitution of Arizona](#), subsection C, paragraph 7 of this section and the classification procedures in [§ 37-212](#).

B. The department shall adopt rules governing the application and procedure for the exchange of state land. Such rules shall include the following requirements:

1. The application shall include:

(a) The name, mailing address, telephone number and relevant affiliation, if any, of the applicant.

(b) A legal description of all lands to be considered for exchange.

(c) A list of permanent improvements on the state lands to be considered for exchange.

(d) A list of the leasehold interest in the state land to be considered for exchange.

(e) Accompanying agreements, if any, with the leaseholder or owner of improvements on the state land to be considered for exchange.

2. Payment of fees prescribed for that purpose pursuant to [§ 37-107](#).

3. Such additional requirements as the department determines to be necessary. On determining that the application is complete and correct, including payment of the required fees, and on completion of processing and analyzing the application, and on determining that the proposed exchange would benefit the applicable trust, the department shall notify and deliver a report

containing details of the proposed exchange to the president of the senate, the speaker of the house of representatives and the state legislators from the legislative districts in which the lands proposed to be exchanged are located.

C. Exchanges of state lands are subject to the following requirements:

1. The commissioner shall determine by at least two independent appraisals that the state lands being considered for exchange are of substantially equal value or of lesser value than the land offered by the applicant.

2. At least two independent analyses of the proposed exchange must be conducted to determine:

(a) The income to the trust from the lands before the exchange and the projected income to the trust after the exchange.

(b) The fiscal impact of the exchange on each county, city or town and school district in which all the lands involved in the exchange are located.

(c) The physical, economic and natural resource impacts of the proposed exchange on the surrounding or directly adjacent communities and the impacts on military facilities, local land uses and land use plans.

3. The commissioner may require the applicant to pay the cost of the independent appraisals and analyses required by this subsection.

4. No county or municipality may be permitted to select lands in another county or municipality.

5. State lands known to contain oil, gases and other hydrocarbon substances, coal or stone, metals, minerals, fossils and fertilizer, in paying quantities, and state lands adjoining lands on which there are producing oil or gas wells, or adjoining lands known to contain any of such substances in paying quantities shall not be exchanged. These prohibitions against exchange shall not prevent the exchange of lands where the state does not own such substances, minerals or metals in the lands to be considered for exchange.

6. All state lands offered for trade pursuant to this section must be located in the same county as the lands offered to the state. However, lands in adjoining counties more than three miles outside the corporate boundaries of incorporated cities and towns having a population of ten thousand people or less and lands in adjoining counties but more than five miles outside the corporate boundaries of incorporated cities and towns having a population in excess of ten thousand people may be exchanged to facilitate consolidating land ownership if the boards of supervisors of the counties in which lands are to be exchanged give their prior approval.

7. Prior to public notice of a proposed exchange of state lands for other lands, the department shall give thirty days' notice in writing to other interested state agencies, counties, municipalities, the military affairs commission established by [§ 26-261](#), each military facility at the address on record at the department and to leaseholders on state lands that are to be exchanged and on state lands that are adjacent to the lands to be exchanged.

8. Before any state land may be considered for exchange under this article, the land shall be classified as suitable for such purposes in accordance with [§ 37-212](#). Any person adversely affected by such classification may appeal from the decision as provided in [§ 37-215](#).

9. After determining that the application is complete and correct and all required payments, appraisals and analyses have been completed, the department shall publish notice of the proposed exchange in the same manner and places as is required for the sale of state lands pursuant to [§ 37-237](#), except that the notice shall be published once each week for six consecutive weeks. The notice shall contain a legal description of the properties involved and other pertinent terms and conditions of the exchange. The department shall also schedule at least two public hearings on the exchange contemplated in the notice. One hearing must be held at the state capital and another hearing must be held in a location of general accessibility in the proximate vicinity of the state lands being exchanged. Any person may appear and comment on the proposed exchange at that time.

10. Within sixty days after the conclusion of the last hearing, the commissioner shall determine and issue a written finding recommending either that the exchange be denied or approved and shall transmit the finding to the governor, the president of the senate, the speaker of the house of representatives and the secretary of state.

D. Each exchange transaction must be approved by the qualified electors of this state in the form of a referendum submitted and conducted pursuant to [article IV, part 1, section 1, Constitution of Arizona](#), at the next regular general election. To be approved, the proposition must receive an affirmative vote of a majority of the qualified electors voting on the measure.

E. Lands conveyed to the state under this article shall, on acceptance of title and recording, be dedicated to the same purpose and administered under the same laws to which the lands conveyed were subject, but may be reclassified as provided in [§ 37-212](#).

F. This section applies with respect to the exchange of lands held in trust by this state pursuant to the enabling act and the Constitution of Arizona and does not apply with respect to any other state land under the jurisdiction of the department or the commissioner.

G. The provisions of this section do not diminish or otherwise affect the commissioner's fiduciary responsibilities with respect to lands held in trust by this state as provided by the enabling act and the Constitution of Arizona.

H. For the purposes of this section, “military facilities” includes:

1. Military airports, ancillary military facilities, military training routes, high noise or accident potential zones and territory in the vicinity as defined in [§ 28-8461](#).

2. Military reservations or other real property owned by, leased to, designated for, reserved to or under the jurisdiction of an active unit of the uniformed services of the United States or any reserve or national guard component of the uniformed services of the United States.

3. Military electronics ranges as defined in [§ 9-500.28](#).

4. Military restricted airspace identified pursuant to [§ 37-102](#).

5. The Barry M. Goldwater range as described in [§ 37-620, subsection D](#), paragraph 3.

Credits

Added by Laws 1971, Ch. 166, § 4. Amended by Laws 1973, Ch. 60, § 4; Laws 1975, Ch. 42, § 1; Laws 1976, Ch. 70, § 3; Laws 1986, Ch. 57, § 1; Laws 1986, Ch. 223, § 2, eff. April 29, 1986; Laws 1987, Ch. 368, § 1; [Laws 1988, Ch. 87, § 1](#); [Laws 1990, Ch. 114, § 8](#); [Laws 1992, Ch. 107, § 4](#); [Laws 2010, Ch. 243, § 16](#); [Laws 2012, Ch. 278, § 1, eff. Dec. 13, 2012](#).

A. R. S. § 37-604, AZ ST § 37-604

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