

**D-1**

**DEPARTMENT OF HEALTH SERVICES (R20-0404)**

Title 9, Chapter 16, Article 2, Licensing Audiologists and Speech-Language Pathologists

**Amend:** R9-16-201

**Repeal:** R9-16-202, R9-16-203, R9-16-204, R9-16-205, R9-16-206, R9-16-207, R9-16-208, R9-16-209, Table 2.1, R9-16-210, R9-16-211, R9-16-212, R9-16-213, R9-16-214, R9-16-215

**New Section:** R9-16-202, R9-16-203, R9-16-204, R9-16-205, R9-16-206, R9-16-207, R9-16-208, R9-16-209, R9-16-210, R9-16-211, R9-16-212, R9-16-213, R9-16-214, R9-16-215, R9-16-216

**New Table:** Table 2.1



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

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**MEETING DATE:** April 7, 2020

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

**FROM:** Council Staff

**DATE:** March 2, 2020

**SUBJECT: DEPARTMENT OF HEALTH SERVICES (R20-0404)**  
Title 9, Chapter 16, Article 2, Licensing Audiologists and Speech-Language Pathologists

**Amend:** R9-16-201

**Repeal:** R9-16-202, R9-16-203, R9-16-204, R9-16-205, R9-16-206,  
R9-16-207, R9-16-208, R9-16-209, Table 2.1, R9-16-210,  
R9-16-211, R9-16-212, R9-16-213, R9-16-214, R9-16-215

**New Section:** R9-16-202, R9-16-203, R9-16-204, R9-16-205, R9-16-206,  
R9-16-207, R9-16-208, R9-16-209, R9-16-210, R9-16-211,  
R9-16-212, R9-16-213, R9-16-214, R9-16-215, R9-16-216

**New Table:** Table 2.1

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### **Summary:**

This Notice of Final Expedited Rulemaking from the Department of Health Services (Department) seeks to amend and repeal and replace rules in Title 9, Chapter 16, Article 2, relating to Licensing Audiologists and Speech-Language Pathologists. This expedited rulemaking seeks to implement a course of action that was proposed in the Department's recent Five Year Review Report (5YRR) for these rules, which the Council approved on July 2, 2019.

The 5YRR stated that the rules could be improved to increase understandability by simplifying and clarifying some requirements, updating antiquated language and outdated citations and references, and making technical and grammatical changes. This expedited rulemaking also seeks to consolidate and clarify all fees and reciprocity requirements. The Department received an exemption from the rulemaking moratorium to conduct this expedited rulemaking on September 26, 2019.

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

Yes. The Department states that this expedited rulemaking implements a course of action proposed in a 5YRR pursuant to A.R.S. § 41-1027(A)(7). The Council approved the Department's 5YRR for these rules on July 2, 2019. In that 5YRR, the Department proposed to amend numerous rules and submit a Notice of Final Expedited Rulemaking to the Council by December 31, 2019. This Notice of Expedited Rulemaking, which was submitted on February 14, 2020, seeks to amend and repeal and replace the rules identified in the 5YRR. The rulemaking also seeks to add a new table. Therefore, this rulemaking meets the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)(7).

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

Yes. The Department cites both general and specific statutory authority for these rules.

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

No. This expedited rulemaking does not establish a new fee or fees, or contain a fee increase. However, this rulemaking does attempt to consolidate and clarify all existing fees, including: initial application, temporary initial application, initial licensing, temporary licensing, renewal licensing, temporary renewal licensing, renewal licensing late fee, and duplicate license fees into a new rule, R9-16-216 (Fees). The Director of the Department is authorized to prescribe and collect these fees pursuant to A.R.S. § 36-1908 (Fees).

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

Yes. The Department received two comments from the American Speech-Language-Hearing Association (ASHA) as summarized in the Department's Notice of Final Expedited Rulemaking. A copy of the comments is also provided for the Council's review. The Department adequately responded to the comments, and for the reasons specified in the Notice of Final Expedited Rulemaking, declined to adopt ASHA's recommendations.

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

No. The Department corrected a typographical error between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking, as identified in Item 10 of the Notice of Final Expedited Rulemaking. This change does not result in a rule that is “substantially different” pursuant to A.R.S. § 41-1025.

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

Not applicable. There is no corresponding federal law.

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

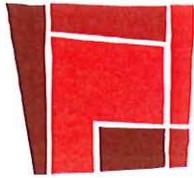
Yes. The Department indicates that it believes the license issued under these rules is a general permit because the license specifies the individual and the tasks/services the individual is licensed to provide, but a licensed individual is not limited to providing the tasks/services in any one location. Council staff finds that the license issued under these rules meets the definition of “general permit” in A.R.S. § 41-1001(11). The Department complies with A.R.S. § 41-1037.

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 in conducting this expedited rulemaking.

9. **Conclusion**

The Department is conducting this expedited rulemaking to implement a course of action proposed in its recent 5YRR for these rules, which the Council approved in July 2019. The rulemaking seeks to simplify and clarify requirements, as well as make technical and grammatical changes. Council staff finds that the amended rules would be more clear, concise, understandable, and effective. If the Council approves this expedited rulemaking, the rules would be immediately effective upon the Department filing its Certificate of Approval with the Secretary of State. Council staff recommends approval of this expedited rulemaking.



# ARIZONA DEPARTMENT OF HEALTH SERVICES

## POLICY & INTERGOVERNMENTAL AFFAIRS

February 14, 2020

**VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)**

Nicole Sorensen, 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 2 Expedited Rulemaking

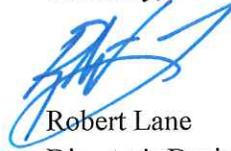
Dear Ms. Sorensen:

1. The close of record date: January 31, 2020
  2. Explanation of how the expedited rule meets the criteria in A.R.S. § 41-1027(A):  
The rulemaking is consistent with A.R.S. § 41-1027(A) in that the rulemaking does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated. In addition, the rulemaking implements, without material change, a course of action proposed in a five-year-review report approved by the Council pursuant to A.R.S. § 41-1056. Thus, the rulemaking complies with criteria for expedited rulemaking under A.R.S. § 41-1027(A)(7).
  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 2, relates to a five-year-review report and the 9 A.A.C. 16, Article 2 five-year review report was approved by the Council on July 2, 2019.
- The Department certifies 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.
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. ASHA Comments

The Department's point of contact for questions about the rulemaking documents is Teresa Koehler at [Teresa.Koehler@azdhs.gov](mailto:Teresa.Koehler@azdhs.gov).

Sincerely,



Robert Lane  
Director's Designee

RL:tk

Enclosures

**NOTICE OF FINAL EXPEDITED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING**

**ARTICLE 2. LICENSING AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS**

**PREAMBLE**

<b><u>1.</u></b>	<b><u>Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
	R9-16-201.	Amend
	R9-16-202.	Repeal
	R9-16-202.	New Section
	R9-16-203.	Repeal
	R9-16-203.	New Section
	R9-16-204.	Repeal
	R9-16-204.	New Section
	R9-16-205.	Repeal
	R9-16-205.	New Section
	R9-16-206.	Repeal
	R9-16-206.	New Section
	R9-16-207.	Repeal
	R9-16-207.	New Section
	R9-16-208.	Repeal
	R9-16-208.	New Section
	R9-16-209.	Repeal
	R9-16-209.	New Section
	Table 2.1.	Repeal
	R9-16-210.	Repeal
	R9-16-210.	New Section
	R9-16-211.	Repeal
	R9-16-211.	New Section

R9-16-212.	Repeal
R9-16-212.	New Section
R9-16-213.	Repeal
R9-16-213.	New Section
R9-16-214.	Repeal
R9-16-214.	New Section
Table 2.1.	New Table
R9-16-215.	Repeal
R9-16-215.	New Section
R9-16-216.	New Section

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

Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A)(18), and 36-136(G)

Implementing statutes: A.R.S. §§ 36-1901 through 36-1910, 36-1934, and 36-1936 through 36-1940.03

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

The rules are effective the day the Notice of Final Expedited Rulemaking is filed with the Office of the Secretary of State.

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

Notice of Rulemaking Docket Opening: 25 A.A.R. 3320, November 15, 2019

Notice of Proposed Expedited Rulemaking: 26 A.A.R. 129, January 24, 2020

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

Name: Thomas Salow, Branch Chief  
Address: Arizona Department of Health Services  
Division of Licensing Services  
150 N. 18th Ave., Suite 400  
Phoenix, AZ 85007  
Telephone: (602) 364-1935  
Fax: (602) 364-4808  
E-mail: [Thomas.Salow@azdhs.gov](mailto:Thomas.Salow@azdhs.gov)  
or

Name: Stephanie Elzenga, Administrative Counsel  
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](mailto: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 expedited rulemaking:**

The five-year-review report (Report) for 9 A.A.C. 16, Article 2 was approved by the Governor's Regulatory Review Council on July 2, 2019. The Report indicated that the rules' effectiveness could be improved to increase understandability by simplifying and clarifying some requirements, updating antiquated language and outdated citations and references, and making technical and grammatical changes. The Report also stated a plan to amend the rules as identified in the Report. Changes include consolidating and clarifying all fees including: initial application, temporary initial application, initial licensing, temporary licensing, renewal licensing, temporary renewal licensing, renewal licensing late fee, and duplicate license. The changes also include clarifying reciprocity requirements. The changes do not increase a fee or the cost of regulatory compliance and do not reduce procedural rights of a regulated person. This rulemaking meets the criteria for expedited rulemaking and implements a course of action proposed in a five-year-review report specified in A.R.S. § 41-1027(A)(7). The Department believes amending these rules will eliminate confusion and reduce regulatory burden to affected persons. The Department received an exception from the rulemaking moratorium, established by Executive Order 2019-1, to amend the rules through expedited rulemaking on September 26, 2019.

**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 expedited rulemaking.

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

This final expedited rulemaking does not diminish a previous grant of authority of a political subdivision of this state.

**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, one change was made to correct cite in R9-16-202(A)(5). The Department changed “A.R.S. § 41-108” to “A.R.S. § 41-1080.”

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

The Department received two recommendations from the American Speech-Language-Hearing Association (ASHA). ASHA, in its first proposed change, asks the Department to clarify the term “clinical fellowship supervisor” defined in R9-16-201(10) by adding a missing provision that a clinical fellowship supervisor “Has a CCC while supervising a clinical fellow in state.” A Certificate of Clinical Competence or “CCC” is issued by ASHA and is defined in R9-16-201(5). The Department believes that adding “Has a CCC while supervising a clinic fellow in state.” is not consistent with state statutes and will increase a regulatory burden for licensed speech-language pathologists who do not have a CCC in state and who wish to supervise a clinical fellow. A.R.S. § 36-1940.01 provides speech-language pathologist licensure requirements, and the requirements in R9-16-204, Initial Application for a Speech-language Pathologist, are consistent with A.R.S. § 36-1940.01. Additionally, A.R.S. § 36-1901(25) defines a “sponsor” as “a person who is licensed pursuant to this chapter and who agrees to train or directly supervise a temporary licensee in the same field of practice. The Department has determined that state statutes do not require a licensed speech-language pathologist have a CCC issued by ASHA. The Department believes that the definition of “clinical fellowship supervisor” does not require “further clarification” and is not “missing a provision,” and if changed as recommended, will increase a regulated person’s regulatory burden.

ASHA, in its second proposed change, asks the Department to add a definition for “continuing education hour” to read “60 minutes” so to specify the exact minutes for purpose of clarity. The Department in R9-16-201(12) defines “continuing education” and in R9-16-208(A)(1) through (3) specifies “continuing education hours” for audiologists, audiologist who fit and dispense hearing aids, and speech-language pathologists. The Secretary of State in its Arizona Rulemaking

Manual (manual) addresses when to use a definition, and in Section 2 of the manual, Definitions and Publishing Style, provides standards for definitions. One of the standards found in the term “definitions” requires an agency to “define all terms to which you [an agency] are giving meaning outside of the normal, common meaning of the term.” In consideration of ASHA’s recommendation, the Department has determined that adding a definition for “continuing education hour” is not necessary since the normal and common meaning, or length, of an “hour” is “60 minutes” and adding a definition for “continuing education hour” in addition to “continuing education” does not make the rules more effective or clearer.

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

There are no other matters prescribed by statute applicable specifically to the Department or this specific expedited 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 license issued to an individual is a general permit in that the license specifies the individual and the tasks/services the individual is authorized by licensure to provide, but a licensed individual is not limited to providing 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:**

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

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

No such analysis was submitted.

**13. Incorporations by reference and their location in the rules:**

None

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

The rule was not previously made as an emergency rule.

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING**

**ARTICLE 2. LICENSING AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS**

- R9-16-201. Definitions
- R9-16-202. ~~Application for an Initial License for an Audiologist~~ Application
- R9-16-203. ~~Application for an Initial License for a Speech-language Pathologist~~ Initial Application for an Audiologist
- R9-16-204. ~~Application for a Temporary License for a Speech-language Pathologist~~ Initial Application for a Speech-language Pathologist
- R9-16-205. ~~License Renewal for an Audiologist~~ Initial Application for a Temporary Speech-language Pathologist
- R9-16-206. ~~License Renewal for a Speech-language Pathologist~~ Requirements for a Speech-language Pathologist - Limited
- R9-16-207. ~~License Renewal for a Temporary Speech-language Pathologist~~ License Renewal
- R9-16-208. Continuing Education
- R9-16-209. ~~Time frames~~ Clinical Fellowship Supervisors
  - Table 2.1. ~~Time frames (in calendar days)~~
- R9-16-210. ~~Clinical Fellowship Supervisors~~ Requirements for Supervising a Speech-language Pathologist Assistant
- R9-16-211. ~~Requirements for Supervising a Speech-language Pathologist Assistant~~ Equipment; Records
- R9-16-212. ~~Equipment; Records~~ Bill of Sale Requirements
- R9-16-213. ~~Bill of Sale Requirements~~ Enforcement
- R9-16-214. ~~Disciplinary Actions~~ Time-frames
  - Table 2.1. Time-frames (in calendar days)
- R9-16-215. Changes Affecting a License or a Licensee; Request for a Duplicate License
- R9-16-216. Fees

**R9-16-201. Definitions**

1. "Accredited" means approved by the:
  - a. New England ~~Association of Schools and Colleges~~ Commission of Higher Education,
  - b. Middle States Commission on Higher Education,
  - c. ~~North Central Association of Colleges and Schools~~ Higher Learning Commission,
  - d. Northwest Commission on Colleges and Universities,
  - e. Southern Association of Colleges and Schools Commission on Colleges, or
  - f. ~~Western Association of Schools and Colleges~~ WASC Senior College and University Commission.
- ~~2.~~ "Applicant" means:
  - a. ~~An individual who submits an application packet; or~~
  - b. ~~A person who submits a request for approval for a continuing education course.~~
2. "Applicant" means an individual who submits an application and required documentation for approval to practice as an audiologist or a speech-language pathologist.
- ~~3.~~ ~~"Application packet" means the information, documents, and fees required by the Department for a license.~~
- ~~4.3.~~ "ASHA" means the American Speech-Language-Hearing Association, a national ~~scientific and professional organization for audiologists and speech-language pathologists~~ professional, scientific, and credentialing association for audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.
- ~~5.4.~~ "Calendar day" means each day, not including the day of the act, event, or default, from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
- ~~6.5.~~ "CCC" means Certificate of Clinical Competence, an award issued by ASHA to an individual who:
  - a. Completes a degree in audiology or speech-language pathology from an accredited college or university that includes a clinical practicum,
  - b. Passes the ETSNEA or ETSNESLP, and
  - c. Completes a clinical fellowship.
- ~~7.6.~~ "Clinical fellow" means an individual engaged in a clinical fellowship.

- ~~8.7.~~ "Clinical fellowship" means an individual's postgraduate professional experience assessing, diagnosing, screening, treating, writing reports, and counseling individuals exhibiting speech, language, hearing, or communication disorders, obtained:
- a. After completion of graduate level academic course work and a clinical practicum;
  - b. Under the supervision of a clinical fellowship supervisor; and
  - c. While employed on a full-time or part-time equivalent basis.
- ~~9.8.~~ "Clinical fellowship agreement" means the document submitted to the Department by a clinical fellow to register the initiation of a clinical fellowship.
- ~~10.9.~~ "Clinical fellowship report" means a document completed by a clinical fellowship supervisor containing:
- a. A summary of the diagnostic and therapeutic procedures performed by the clinical fellow,
  - b. A verification by the clinical fellowship supervisor of the clinical fellow's performance of diagnostic and therapeutic procedures, and
  - c. An evaluation of the clinical fellow's ability to perform the diagnostic and therapeutic procedures.
- ~~11.10.~~ "Clinical fellowship supervisor" means a licensed speech-language pathologist who:
- a. Is or has been a sponsor of a temporary licensee,
  - b. Had a CCC while supervising a clinical fellow before October 28, 1999, or
  - c. Has a CCC while supervising a clinical fellow in another state.
- ~~12.11.~~ "Clinical practicum" means the experience acquired by an individual who is completing course work in audiology or speech-language pathology, while supervised by a licensed audiologist, a licensed speech-language pathologist, or an individual holding a CCC, by assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.
- ~~13.12.~~ "Continuing education" means a course that provides instruction and training that is designed to develop or improve ~~the~~ a licensee's professional competence in disciplines directly related to the licensee's scope of practice.
- ~~14.13.~~ "Course" means a workshop, seminar, lecture, conference, or class.
- ~~15.~~ "~~Current CCC" means documentation issued by ASHA verifying that an individual is presently certified by ASHA.~~"

- ~~16.~~ "~~Department designated written hearing aid dispenser examination~~" means ~~one of the following that has been identified by the Department as complying with the requirements in A.R.S. § 36-1924:~~
- ~~a. The International Licensing Examination for Hearing Healthcare Professionals, administered by the International Hearing Society; or~~
  - ~~b. A test provided by the Department or other organization.~~
14. "Diagnostic and therapeutic procedures" means the principles and methods used by an audiologist in the practice of audiology or a speech-language pathologist in the practice of speech-language pathology.
15. "Disciplinary action" means a proceeding that is brought against a licensee by the Department under A.R.S. § 36-1934 or a state licensing entity.
16. "ETSNEA" means Educational Testing Service National Examination in Audiology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
17. "ETSNESLP" means Educational Testing Service National Examination in Speech-Language Pathology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
18. "Full-time" means 30 clock hours or more per week.
- ~~22.~~ "~~Graduate level~~" means ~~leading to, or creditable towards, a master's or doctoral degree.~~
19. "Hearing aid dispenser examination" means the International Licensing Examination for Hearing Healthcare Professionals approved by the Department as complying with A.R.S. § 36-1924.
- ~~23.~~20. "Local education agency" means a ~~school district~~ governing board established by ~~A.R.S. §§ 15-301 through 15-396~~ A.R.S. § 15-101 or A.R.S. Title 15, Chapter 3, Article 3.
- ~~24.~~21. "Monitoring" means being responsible for and providing direction to a clinical fellow without directly observing diagnostic and therapeutic procedures.
- ~~25.~~22. "On-site" observations" means the presence of a clinical fellowship supervisor who is watching a clinical fellow perform diagnostic and therapeutic procedures.
- ~~26.~~23. "Part-time equivalent" means:
- a. 25-29 clock hours per week for 48 weeks,
  - b. 20-24 clock hours per week for 60 weeks, or
  - c. 15-19 clock hours per week for 72 weeks.
27. "Pupil" means ~~a child attending a school, a charter school, a private school, or an accommodation school as defined in A.R.S. § 15-101.~~

- ~~28-24.~~ "Semester credit hour" means one earned academic unit of study based on completing, at an accredited college or university, a 50 to 60 minute class session per calendar week for 15 to 18 weeks.
- ~~29-25.~~ "Semester credit hour equivalent" means one quarter credit, which is equal in value to 2/3 of a semester credit hour.
- ~~30-26.~~ "State-supported institution" means ~~a school receiving funding under A.R.S. §§ 15-901 through 15-1045~~ a school, a charter school, a private school, or an accommodation school as defined in A.R.S. § 15-101.
- ~~27.~~ "Student" means a child attending a school, a charter school, a private school, or an accommodation school as defined in A.R.S. § 15-101.
- ~~31-28.~~ "Supervise" "Supervision" means being responsible for and providing direction to:
  - a. A clinical fellow during on-site observations or monitoring of the clinical fellow's performance of diagnostic and therapeutic procedures; or
  - b. An individual completing a clinical practicum.
- ~~32-29.~~ "Supervisory activities" means evaluating and assessing a clinical fellow's performance of diagnostic and therapeutic procedures in assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.
- ~~33.~~ "Week" means the period of time beginning at 12:00 a.m. on Sunday and ending at 11:59 p.m. the following Saturday.

**~~R9-16-202.~~ Application for an Initial License for an Audiologist**

- ~~A.~~ Except as provided in subsection (B), an applicant for an audiology license or an audiology license to fit and dispense shall submit to the Department:
- ~~1.~~ An application in a format provided by the Department that contains:
    - ~~a.~~ The applicant's name, home address, telephone number, and e-mail address;
    - ~~b.~~ The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
    - ~~c.~~ If applicable, the applicant's business address and telephone number;
    - ~~d.~~ If applicable, the name of applicant's employer, including the employer's business address and telephone number;
    - ~~e.~~ Whether the applicant is requesting an audiology license to fit and dispense;
    - ~~f.~~ Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;

- g. ~~If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:~~
  - 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;~~
- h. ~~Whether the applicant is or has been licensed as an audiologist or an audiologist to fit and dispense hearing aids in another state or country;~~
- i. ~~Whether the applicant has had a license revoked or suspended by any state within the previous two years;~~
- j. ~~Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;~~
- k. ~~Whether any disciplinary action has been imposed by any state, territory or district in this country for an act related to the applicant's practice of audiology;~~
- l. ~~Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-209;~~
- m. ~~An attestation that the information submitted is true and accurate; and~~
- n. ~~The applicant's signature and date of signature;~~
- 2. ~~If a license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:~~
  - a. ~~The date of the revocation or suspension;~~
  - b. ~~The state or jurisdiction of the revocation or suspension, and~~
  - e. ~~An explanation of the revocation or suspension;~~
- 3. ~~If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:~~
  - a. ~~The date of the ineligibility for licensing;~~
  - b. ~~The state or jurisdiction of the ineligibility for licensing, and~~
  - e. ~~An explanation of the ineligibility for licensing;~~
- 4. ~~If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's audiologist license that is grounds for disciplinary action under Title 37, Chapter 17, documentation that includes:~~
  - a. ~~The date of the disciplinary action;~~
  - b. ~~The state or jurisdiction of the disciplinary action;~~
  - e. ~~An explanation of the disciplinary action, and~~

- d. ~~Any other applicable documents, including a legal order or settlement agreement;~~
- 5. ~~If applicable, a list of all states and countries in which the applicant is or has been licensed as an audiologist or an audiologist to fit and dispense hearing aids;~~
- 6. ~~A copy of the applicant's:~~
  - a. ~~U.S. passport, current or expired;~~
  - b. ~~Birth certificate;~~
  - c. ~~Naturalization documents; or~~
  - d. ~~Documentation of legal resident alien status;~~
- 7. ~~One of the following:~~
  - a. ~~A copy of the applicant's official transcript issued to the applicant by an accredited college or university after the applicant's completion of a doctoral degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940(A)(2); or~~
  - b. ~~Documentation that the applicant is eligible for a waiver, according to A.R.S. § 36-1940.02(C), of the education and clinical rotation requirements in A.R.S. § 36-1940;~~
- 8. ~~Documentation:~~
  - a. ~~Of a passing grade on a ETSNEA dated within three years before the date of application required in A.R.S. § 36-1902(E);~~
  - b. ~~Of a current CCC completed by the applicant within three years before the date of application; or~~
  - c. ~~The applicant is eligible for a waiver, according to A.R.S. § 36-1940.02(D), of the audiology examination requirements in A.R.S. § 36-1940; and~~
- 9. ~~A nonrefundable \$100 application fee.~~

**B.** ~~An applicant for an audiology license to fit and dispense hearing aids who was awarded a master's degree before December 31, 2007 shall submit to the Department:~~

- 1. ~~An application in a format provided by the Department that contains the information in subsections (A)(1) through (A)(7) and (A)(9);~~
- 2. ~~A copy of the applicant's official transcript from an accredited college or university demonstrating the applicant's completion of a master's degree in audiology before December 31, 2007;~~
- 3. ~~Documentation that the applicant is eligible, according to A.R.S. § 36-1940.02(C), for a waiver of the education and clinical rotation requirements in A.R.S. § 36-1940;~~
- 4. ~~Documentation that the applicant:~~

- a. ~~Has a passing grade on a ETSNEA completed within three years before the date of application;~~
  - b. ~~Has a CCC completed within three years before the date of application; or~~
  - c. ~~Is eligible for a waiver, according to A.R.S. § 36-1940.02(D), of the audiology examination requirements in A.R.S. § 36-1940; and~~
5. ~~Documentation:~~
- a. ~~Of a passing grade obtained by the applicant on a Department designated written hearing aid dispenser's examination as required in A.R.S. § 36-1940(C); or~~
  - b. ~~That the applicant is eligible for a waiver, according to A.R.S. § 36-1940.02(E), of the hearing aid dispensing examination requirements in A.R.S. § 36-1940.~~
- C.** ~~The Department shall review the application packet for a license to practice as an audiologist, an audiologist to fit and dispense hearing aids, or an audiologist, who has a master's degree, to fit and dispense hearing aids, as applicable, according to R9-16-209 and Table 2.1.~~
- D.** ~~An audiologist with a doctoral degree in audiology who is licensed to fit and dispense hearing aids shall take and pass a Department provided jurisprudence and ethics examination within six months after the issue date of the audiologist's license.~~

**R9-16-202. Application**

- A.** An applicant for licensure shall submit to the Department:
- 1. An application in a Department-provided format that contains:
    - a. The applicant's name, home address, telephone number, and e-mail address;
    - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
    - c. If applicable, the applicant's business addresses and telephone number;
    - d. The applicant's current employment, if applicable, including:
      - i. The employer's name,
      - ii. The licensee'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;
    - e. If applicable, whether the applicant is requesting an audiology license to fit and dispense;

- f. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state;
- g. 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;
- h. Whether the applicant is or has been licensed as an audiologist, an audiologist to fit and dispense hearing aids, or a speech-language pathologist in another state or country;
- i. Whether the applicant has had a license revoked or suspended by any state;
- j. Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;
- k. Whether any disciplinary action has been imposed by any state, territory or district in this country for an act related to the applicant's practice of audiology or a speech-language pathologist license;
- l. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-214(C);
- m. An attestation that the information submitted as part of the application is true and accurate; and
- n. The applicant's signature and date of signature;
- 2. If a license for the applicant has been revoked or suspended by any state documentation that includes:
  - a. The date of the revocation or suspension,
  - b. The state or jurisdiction of the revocation or suspension, and
  - c. An explanation of the revocation or suspension;
- 3. If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
  - a. The date of the ineligibility for licensing,
  - b. The state or jurisdiction of the ineligibility for licensing, and
  - c. An explanation of the ineligibility for licensing;
- 4. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's license to practice audiology or a speech-language

pathologist license that is consistent with A.R.S. Title 36, Chapter 17, documentation that includes:

- a. The date of the disciplinary action,
  - b. The state or jurisdiction of the disciplinary action,
  - c. An explanation of the disciplinary action, and
  - d. Any other applicable documents, including a legal order or settlement agreement;
5. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080; and
6. A fee specified in R9-16-216.

**B.** In addition to complying with subsection (A), an applicant that may be eligible for licensure under A.R.S. § 36-1922 shall submit documentation to the Department that includes:

1. The name of each state that issued the applicant a current license, including:
  - a. The license number of each current license, and
  - b. The date each current license was issued;
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. For each state named in subsection (B)(1), 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 licensure is being requested;
  - b. Has met minimum education requirements according to A.R.S. §§ 36-1940 or 36-1940.01;
  - 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.

**C.** The Department shall review the application and required documentation for a license according to R9-16-214 and Table 2.1.

**R9-16-203. Application for an Initial License for a Speech-language Pathologist**

**A.** Except as provided in subsection (B), an applicant for a speech-language pathologist license shall submit to the Department:

1. An application in a format provided by the Department that contains:
  - a. The applicant's name, home address, telephone number, and e-mail address;

- b. ~~The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;~~
  - c. ~~If applicable, the applicant's business address and telephone number;~~
  - d. ~~If applicable, the name of the applicant's employer, including the employer's business address and telephone number;~~
  - e. ~~Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;~~
  - f. ~~If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:~~
    - 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;~~
  - g. ~~Whether the applicant is or has been licensed as a speech language pathologist in another state or country;~~
  - h. ~~Whether the applicant has had a license revoked or suspended by any state within the previous two years;~~
  - i. ~~Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;~~
  - j. ~~Whether a disciplinary action has been imposed by any state, territory, or district in this country for an act related to the applicant's speech language pathologist license;~~
  - k. ~~Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-209;~~
  - l. ~~An attestation that the information submitted is true and accurate; and~~
  - m. ~~The applicant's signature and date of signature;~~
2. ~~If applicable, a list of all states and countries in which the applicant is or has been licensed as speech language pathologist;~~
  3. ~~If a license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:~~
    - a. ~~The date of the revocation or suspension;~~
    - b. ~~The state or jurisdiction of the revocation or suspension, and~~
    - c. ~~An explanation of the revocation or suspension;~~

4. If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
  - a. The date of the ineligibility for licensing;
  - b. The state or jurisdiction of the ineligibility for licensing; and
  - c. An explanation of the ineligibility for licensing;
5. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's speech language pathologist license that is grounds for disciplinary action under Title 37, Chapter 17, documentation that includes:
  - a. The date of the disciplinary action;
  - b. The state or jurisdiction of the disciplinary action;
  - c. An explanation of the disciplinary action; and
  - d. Any other applicable documents, including a legal order or settlement agreement;
6. A copy of the applicant's:
  - a. U.S. passport, current or expired;
  - b. Birth certificate;
  - c. Naturalization documents; or
  - d. Documentation of legal resident alien status;
7. Documentation of the applicant's:
  - a. Official transcript issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities;
  - b. Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b); and
  - c. One of the following:
    - i. Completion of clinical fellowship signed by the clinical fellowship supervisor as required in A.R.S. § 36-1940.01(A)(2)(c); or
    - ii. Completion of a CCC within three years before the date of the application;
8. Documentation:
  - a. Of the applicant's passing score on the ETSNESLP; or
  - b. That the applicant is eligible for a waiver, according to A.R.S. § 36-1940.02(B), from the examination requirements in A.R.S. § 36-1940.01; and
9. A nonrefundable \$100 application fee.

- B.** ~~An applicant for a speech language pathologist license, limited to providing services to pupils under the authority of a local education agency or state supported institution, shall submit:~~
- ~~1. An application in a format provided by the Department that contains requirements in subsections (A)(1) through (6) and (A)(9);~~
  - ~~2. A copy of an employee agreement or employment contract, conditioned upon the applicant's receipt of a speech language pathologist license, with a local education agency or a state supported institution that includes the:~~
    - ~~a. Applicant's name and Social Security number;~~
    - ~~b. Name of the local education agency or state supported institution;~~
    - ~~c. Classification title of the applicant;~~
    - ~~d. Work dates or projected work dates of the employment contract, and~~
    - ~~e. Signatures of the applicant and the individual authorized by the governing board to represent the local education agency or state supported institution; and~~
  - ~~3. A copy of a temporary or regular certificate in speech and language therapy issued by the State Board of Education to the applicant.~~
- C.** ~~The Department shall review an application packet for a license to practice as a speech language pathologist according to R9-16-209 and Table 2.1.~~

**R9-16-203. Initial Application for an Audiologist**

- A.** In addition to complying with R9-16-202, an applicant for initial licensure as an audiologist shall submit to the Department the following:
1. A transcript or equivalent documentation issued to the applicant from an accredited college or university after the applicant's completion of a doctoral degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940(A)(2) or documentation of the applicant's current CCC.
  2. Documentation of a passing grade on a ETSNEA or current CCC dated within three years before the date of application required in A.R.S. §§ 36-1902(E) and 36-1940(A)(3) or current license from other state.
  3. Documentation of completing supervised clinical rotation consistent with the standards of this state's universities required in A.R.S. § 36-1940(B)(2) or current CCC.
  4. Whether the applicant is applying to fit and dispense hearing aids.
  5. If applicable, a list of all states and countries in which the applicant is or has been licensed as an audiologist or an audiologist to fit and dispense hearing aids.

**B.** In addition to complying with R9-16-202, an applicant for initial licensure as an audiologist licensed to fit and dispense hearing aids who was awarded a master's degree before December 31, 2007 shall submit to the Department the following:

1. A transcript or equivalent documentation issued to the applicant from an accredited college or university demonstrating the applicant's completion of a master's degree in audiology before December 31, 2007 or documentation of the applicant's current CCC;
2. Documentation of a passing grade on an ETSNEA or current CCC dated within three years before the date of application; and
3. Documentation of a passing grade obtained by the applicant on a written hearing aid dispenser examination as required in A.R.S. § 36-1940(C)(4).

**R9-16-204. Application for a Temporary License for a Speech-Language Pathologist License**

**A.** ~~An applicant for a temporary speech language pathologist license shall submit to the Department:~~

1. ~~An application in a format provided by the Department that contains:~~
  - a. ~~The applicant's name, home address, telephone number, and e-mail address;~~
  - b. ~~The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;~~
  - c. ~~If applicable, the applicant's business address and telephone number;~~
  - d. ~~If applicable, the name of the applicant's employer, including the employer's business address and telephone number;~~
  - e. ~~Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;~~
  - f. ~~If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:~~
    - 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;~~
  - g. ~~Whether the applicant is or has been licensed as a speech language pathologist in another state or country;~~
  - h. ~~Whether the applicant has had a license revoked or suspended by any state within the previous two years;~~
  - i. ~~Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;~~

- j. ~~Whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any state or country upon the applicant's speech-language pathologist license;~~
  - k. ~~Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-209;~~
  - l. ~~An attestation that the information submitted is true and accurate; and~~
  - m. ~~The applicant's signature and date of signature;~~
2. ~~If applicable, a list of all states and countries in which the applicant is or has been licensed as a speech language pathologist;~~
  3. ~~If a license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:
 
    - a. ~~The date of the revocation or suspension;~~
    - b. ~~The state or jurisdiction of the revocation or suspension, and~~
    - e. ~~An explanation of the revocation or suspension;~~~~
  4. ~~If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
 
    - a. ~~The date of the ineligibility for licensing;~~
    - b. ~~The state or jurisdiction of the ineligibility for licensing, and~~
    - e. ~~An explanation of the ineligibility for licensing;~~~~
  5. ~~If the applicant has been disciplined by any state, territory or district of this country for an act related to the applicant's audiologist license that is grounds for disciplinary action under Title 37, Chapter 17, documentation that includes:
 
    - a. ~~The date of the disciplinary action;~~
    - b. ~~The state or jurisdiction of the disciplinary action;~~
    - e. ~~An explanation of the disciplinary action; and~~
    - d. ~~Any other applicable documents, including a legal order or settlement agreement;~~~~
  6. ~~A copy of the applicant's:
 
    - a. ~~U.S. passport, current or expired;~~
    - b. ~~Birth certificate;~~
    - e. ~~Naturalization documents; or~~
    - d. ~~Documentation of legal resident alien status;~~~~
  7. ~~Documentation of the applicant's:~~

- a. ~~Official transcript issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940.01(A)(2)(a); and~~
- b. ~~Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b);~~
- 8. ~~A copy of the applicant's clinical fellowship agreement that includes:~~
  - a. ~~The applicant's name, home address, and telephone number;~~
  - b. ~~The clinical fellowship supervisor's name, business address, telephone number, and Arizona audiology or speech language pathology license number;~~
  - c. ~~The name and address where the clinical fellowship will take place;~~
  - d. ~~A statement by the clinical fellowship supervisor agreeing to comply with R9-16-210; and~~
  - e. ~~The signatures of the applicant and the clinical fellowship supervisor;~~
- 9. ~~Documentation of the applicant's completion of the ETSNESLP as required in A.R.S. § 36-1940.01(A)(3); and~~
- 10. ~~A nonrefundable \$100 application fee.~~
- B.** ~~A temporary license issued is effective for 12 months from the date of issuance.~~
- C.** ~~A temporary license may be renewed only once.~~
- D.** ~~An applicant issued a temporary speech language pathologist license shall:~~
  - 1. ~~Practice under the supervision of a licensed speech language pathologist, and~~
  - 2. ~~Not practice under the supervision of individual who has a temporary speech language pathologist license.~~
- E.** ~~The Department shall review an application packet for a temporary speech language pathologist license according to R9-16-209 and Table 2.1.~~

**R9-16-204. Initial Application for a Speech-language Pathologist**

In addition to complying with R9-16-202(A), an applicant for initial licensure as a speech-language pathologist shall submit to the Department the following:

- 1. A transcript or equivalent documentation issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940.01(A)(2)(a) or documentation of current CCC;
- 2. Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b) or documentation of current CCC.
- 3. Documentation of the applicant's completion of the ETSNESLP as required in A.R.S. § 36-1940.01(A)(3) or documentation of current CCC; and

4. Documentation of the completion of clinical fellowship or documentation of current CCC.

**R9-16-205. License Renewal for an Audiologist**

~~A.~~ Except as provided in subsection (B) and before the expiration date of the audiologist's license, a licensed audiologist or audiologist who fits and dispenses hearing aids shall submit to the Department:

- ~~1.~~ A renewal application in a format provided by the Department that contains:
  - ~~a.~~ The applicant's name, home address, telephone number, and e-mail address;
  - ~~b.~~ If applicable, the applicant's business address and telephone number;
  - ~~c.~~ If applicable, the name of the applicant's employer, including the employer's business address and telephone number;
  - ~~d.~~ The applicant's license number and date of expiration;
  - ~~e.~~ Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
  - ~~f.~~ If the applicant was convicted of a felony or a misdemeanor involving moral turpitude:
    - ~~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;
  - ~~g.~~ Whether the applicant has had, within two years before the renewal application date, an audiologist license suspended or revoked by any state;
  - ~~h.~~ An attestation that the information submitted is true and accurate; and
  - ~~i.~~ The applicant's signature and date of signature;
- ~~2.~~ Documentation of the continuing education required in R9-16-208, completed within the two years before the expiration date of the license, including:
  - ~~a.~~ The name of the individual or organization providing the course;
  - ~~b.~~ The date and location where the course was provided;
  - ~~c.~~ The title of each course attended;
  - ~~d.~~ A description of each course's content;
  - ~~e.~~ The name of the instructor;
  - ~~f.~~ The instructor's education, training, and experience background, if applicable; and
  - ~~g.~~ The number of continuing education hours earned for each course; and

3. ~~A \$200 license renewal fee.~~
- B.** ~~In addition to the documentation and renewal fee in subsection (A), an applicant who submits a renewal application within 30 calendar days after the license expiration date shall submit a \$25 late fee.~~
- C.** ~~An applicant who does not submit the documentation and the fee in subsection (A) and, if applicable, (B) within 30 calendar days after the license expiration date shall apply for a new license in R9-16-202.~~
- D.** ~~If an applicant applies for a license according to R9-16-202 more than 30 calendar days but less than one year after the expiration date of the applicant's previous license, the applicant:~~
1. ~~Is not required to submit ETSNEA documentation, and~~
  2. ~~Shall submit documentation of continuing education according to R9-16-208, completed within the two years before the date of application.~~
- E.** ~~The Department shall review the application packet for a renewal license to practice as an audiologist or an audiologist to fit and dispense hearing aids according to R9-16-209 and Table 2.1.~~

**R9-16-205. Initial Application for a Temporary Speech-language Pathologist**

- A.** In addition to complying with R9-16-202(A), an applicant for initial licensure as a temporary speech-language pathologist shall submit to the Department the following:
1. A transcript or equivalent documentation issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities, as required in A.R.S. § 36-1940.01(A)(2)(a)
  2. Completion of a clinical practicum, as required in A.R.S. § 36-1940.01(A)(2)(b).
  3. Documentation of the applicant's completion of the ETSNESLP as required in A.R.S. § 36-1940.01(A)(3).
  4. Documentation of the applicant's clinical fellowship agreement that includes:
    - a. The applicant's name, home address, and telephone number;
    - b. The clinical fellowship supervisor's name, business address, telephone number, and speech-language pathology license number;
    - c. The name and address where the clinical fellowship will take place;
    - d. A statement by the clinical fellowship supervisor agreeing to comply with R9-16-209; and
    - e. The signatures of the applicant and the clinical fellowship supervisor.
- B.** A temporary license issued is effective for 12 months from the date of issuance.
- C.** A temporary license may be renewed only once.

**D.** An applicant issued a temporary speech-language pathologist license shall:

1. Practice under the supervision of a licensed speech-language pathologist, and
2. Not practice under the supervision of an individual who has a temporary speech-language pathologist license.

**R9-16-206. License Renewal for a Speech-language Pathologist**

~~A.~~ Except as provided in subsection (B) and before the expiration date of the speech-language pathologist's license, a licensed speech-language pathologist shall submit to the Department:

1. ~~A renewal application in a format provided by the Department that contains:~~
  - a. ~~The applicant's name, home address, telephone number, and e-mail address;~~
  - b. ~~If applicable, the applicant's business address and telephone number;~~
  - c. ~~If applicable, the name of the applicant's employer, including the employer's business address and telephone number;~~
  - d. ~~The applicant's license number and date of expiration;~~
  - e. ~~Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;~~
  - f. ~~If the applicant was 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;~~
  - g. ~~Whether the applicant had, within two years before the renewal application date, a speech-language pathologist license suspended or revoked by any state;~~
  - h. ~~An attestation that the information submitted is true and accurate; and~~
  - i. ~~The applicant's signature and date of signature;~~
2. ~~Documentation of the continuing education required in R9-16-208, completed within the two years before the expiration date of the license, including:~~
  - a. ~~The name of the individual or organization providing the course;~~
  - b. ~~The date and location where the course was provided;~~
  - c. ~~The title of each course attended;~~
  - d. ~~The description of each course's content;~~
  - e. ~~The name of the instructor;~~
  - f. ~~The instructor's education, training, and experience background, if applicable;~~  
~~and~~
  - g. ~~The number of continuing education hours earned for each course;~~

3. ~~If the applicant is limited to providing speech language pathology services to pupils under the authority of a local education agency or state supported institution the documents required in R9-16-203(B); and~~
  4. ~~A \$200 license renewal fee.~~
- B.** ~~In addition to the documentation and renewal fee in subsection (A), an applicant who submits a renewal application within 30 calendar days after the license expiration date shall submit a \$25 late fee.~~
- C.** ~~An applicant who does not submit the documentation and the fee in subsection (A) and, if applicable, (B) within 30 calendar days after the license expiration date shall apply for a new license in R9-16-203.~~
- D.** ~~If an applicant applies for a license according to R9-16-203 more than 30 calendar days but less than one year after the expiration date of the applicant's previous license, the applicant:~~
1. ~~Is not required to submit ETSNESLP documentation, and~~
  2. ~~Shall submit documentation of continuing education according to R9-16-208 completed within the two years before the date of application.~~
- E.** ~~The Department shall review the application packet for a renewal license to practice as a speech language pathologist according to R9-16-209 and Table 2.1.~~

**R9-16-206. Requirements for a Speech-language Pathologist – Limited**

In addition to complying with R9-16-202(A), an applicant for initial licensure as a speech-language pathologist – limited as specified in A.R.S. § 36-1940.01(B) shall submit to the Department the following:

1. A certificate in speech and language therapy awarded by the Department of Education.
2. A document representing an employee or contractor relationship with a local education agency or a state supported institution.

**R9-16-207. License Renewal for a Temporary Speech-language Pathologist**

- A.** ~~Before the expiration date of the temporary speech language pathologist license, a licensed temporary speech language pathologist shall submit to the Department:~~
1. ~~A renewal application in a format provided by the Department that contains:~~
    - a. ~~The applicant's name, home address, e-mail address, and telephone number;~~
    - b. ~~The applicant's license number and date of expiration;~~
    - c. ~~The name of the applicant's employer, including the employer's business address, and telephone number;~~
    - d. ~~The name, business address, telephone number, and license number of the speech language pathologist providing supervision to the applicant;~~

- e. ~~Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;~~
  - f. ~~If the applicant was 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;~~
  - g. ~~An attestation that the information submitted is true and accurate; and~~
  - h. ~~The applicant's signature and date of signature;~~
  - 2. ~~A statement signed and dated by the applicant's clinical fellowship supervisor agreeing to comply with R9-16-210; and~~
  - 3. ~~A \$100 license renewal fee.~~
- B.** ~~The Department shall review the application packet for a renewal temporary license to practice as a temporary speech language pathologist according to R9-16-209 and Table 2.1.~~

**R9-16-207. License Renewal**

- A.** Before the expiration date of a license, a licensee shall submit to the Department:
- 1. A renewal application in a Department-provided format that contains:
    - a. The licensee's name, home address, telephone number, and e-mail address;
    - b. If applicable, the licensee's business address and telephone number;
    - c. The licensee's current employment, if applicable, including:
      - i. The employer's name,
      - ii. The licensee'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. The licensee's license number and date of expiration;
    - e. Since the previous license application, whether the licensee has been convicted of a felony or a misdemeanor in this or another state;
    - f. If the licensee was 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 licensee was convicted, and



**F.** If a licensee applies for a license according to R9-16-202 more than 30 calendar days but less than one year after the expiration date of the applicant's previous license, the applicant:

1. Is not required to submit ETSNEA or ETSNESLP documentation, and
2. Shall submit an attestation of continuing education according to R9-16-208, completed within the twenty-four months before the date of application.

**G.** The Department shall review the application for a renewal license according R9-16-214 and Table 2.1.

**R9-16-208. Continuing Education**

**A.** ~~Every 24 months after the effective date of a regular license, a licensee shall complete continuing education approved by the Department.~~

1. ~~Except as provided in (A)(2), a licensed audiologist shall complete at least 20 continuing education hours related to audiology;~~
2. ~~A licensed audiologist who fits and dispenses hearing aids shall complete:~~
  - a. ~~At least 20 continuing education hours related to audiology and hearing aid dispensing, and~~
  - b. ~~No more than eight continuing education hours required in subsection (A)(2)(a) provided by a single manufacturer of hearing aids; and~~
3. ~~A licensed speech language pathologist shall complete at least 20 continuing education hours in speech language pathology related courses.~~

**B.** ~~Continuing education shall:~~

1. ~~Directly relate to the practice of audiology, speech language pathology, or fitting and dispensing hearing aids;~~
2. ~~Have educational objectives that exceed an introductory level of knowledge of audiology, speech language pathology, or fitting and dispensing hearing aids; and~~
3. ~~Consist of courses that include advances within the last five years in:~~
  - a. ~~Practice of audiology,~~
  - b. ~~Practice of speech language pathology,~~
  - c. ~~Procedures in the selection and fitting of hearing aids,~~
  - d. ~~Pre and post fitting management of clients,~~
  - e. ~~Instrument circuitry and acoustic performance data,~~
  - f. ~~Ear mold design and modification contributing to improved client performance,~~
  - g. ~~Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,~~
  - h. ~~Auditory rehabilitation,~~

- i. Ethics,
- j. Federal and state statutes or rules, or
- k. Assistive listening devices.

**C.** ~~A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):~~

- 1. ~~Hearing Healthcare Providers of Arizona,~~
- 2. ~~Arizona Speech Language Hearing Association,~~
- 3. ~~American Speech Language Hearing Association,~~
- 4. ~~International Hearing Society,~~
- 5. ~~International Institute for Hearing Instrument Studies,~~
- 6. ~~American Auditory Society,~~
- 7. ~~American Academy of Audiology,~~
- 8. ~~Academy of Doctors of Audiology,~~
- 9. ~~Arizona Society of Otolaryngology Head and Neck Surgery,~~
- 10. ~~American Academy of Otolaryngology Head and Neck Surgery, or~~
- 11. ~~An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).~~

**D.** ~~An applicant may request approval for a continuing education course by submitting the following to the Department:~~

- 1. ~~The applicant's name, address, telephone number, and e-mail address, as applicable;~~
- 2. ~~If the applicant is a licensee, the licensee's license number;~~
- 3. ~~The title of the continuing education course;~~
- 4. ~~A brief description of the course;~~
- 5. ~~The name, educational background, and teaching experience of the individual presenting the course, if available;~~
- 6. ~~The educational objectives of the course; and~~
- 7. ~~The date, time, and place of presentation of the course.~~

**E.** ~~If an applicant submits the information in subsection (D), the Department shall review the request for approval for a continuing education course according to R9-16-209 and Table 2.1.~~

**F.** ~~The Department shall approve a continuing education course if the Department determines that the continuing education course:~~

- 1. ~~Is designed to provide current developments, skills, procedures, or treatment in diagnostic and therapeutic procedures in audiology, speech language pathology, or hearing aid dispensing;~~

- ~~2. Is developed and presented by individuals knowledgeable and experienced in the subject area; and~~
- ~~3. Contributes directly to the professional competence of a licensee.~~

**A.** Twenty-four months prior to submitting a renewal application, a licensee shall complete continuing education.

1. Except as provided in (A)(2), a licensed audiologist shall complete at least 20 continuing education hours related to audiology;
2. A licensed audiologist who fits and dispenses hearing aids shall complete:
  - a. At least 20 continuing education hours related to audiology and hearing aid dispensing, and
  - b. No more than eight continuing education hours required in subsection (A)(2)(a) provided by a single manufacturer of hearing aids; and
3. A licensed speech-language pathologist shall complete at least 20 continuing education hours in speech-language pathology related courses.

**B.** Continuing education shall:

1. Directly relate to the practice of audiology, speech-language pathology, or fitting and dispensing hearing aids;
2. Have educational objectives that exceed an introductory level of knowledge of audiology, speech-language pathology, or fitting and dispensing hearing aids; and
3. Consist of courses that include advances within the last five years in:
  - a. Practice of audiology,
  - b. Practice of speech-language pathology,
  - c. Procedures in the selection and fitting of hearing aids,
  - d. Pre- and post-fitting management of clients,
  - e. Instrument circuitry and acoustic performance data,
  - f. Ear mold design and modification contributing to improved client performance,
  - g. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,
  - h. Auditory rehabilitation,
  - i. Ethics,
  - j. Federal and state statutes or rules, or
  - k. Assistive listening devices.

**C.** A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):

1. Hearing Healthcare Providers of Arizona.
2. Arizona Speech-Language-Hearing Association.
3. American Speech-Language-Hearing Association.
4. International Hearing Society.
5. International Institute for Hearing Instruments Studies.
6. American Auditory Society.
7. American Academy of Audiology.
8. Academy of Doctors of Audiology.
9. Arizona Society of Otolaryngology, Head and Neck Surgery.
10. American Academy of Otolaryngology-Head and Neck Surgery, or
11. An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).

**R9-16-209. Time frames**

~~A. For each type of license or approval issued by the Department under this Article, Table 2.1 specifies the overall time frame described in A.R.S. § 41-1072(2).~~

1. ~~An applicant and the Department may agree in writing to extend the substantive review time frame and the overall time frame.~~
2. ~~The extension of the substantive review time frame and the overall time frame may not exceed 25% of the overall time frame.~~

~~B. For each type of license or approval issued by the Department under this Article, Table 2.1 specifies the administrative completeness review time frame described in A.R.S. § 41-1072(1), which begins on the date the Department receives an application packet.~~

1. ~~The administrative completeness review time frame begins:
 
  - a. ~~The date the Department receives an application packet required in this Article,~~  
~~or~~
  - b. ~~The date the Department receives a request for continuing education course approval according to R9-16-208.~~~~
2. ~~Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time frame.
 
  - a. ~~If a license application packet or request for continuing education course approval is not complete, the notice of deficiencies listing each deficiency and the information or documentation needed to complete the license application packet or request for continuing education course approval.~~~~

- b. ~~A notice of deficiencies suspends the administrative completeness review time frame and the overall time frame 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 license application packet or request for continuing education course approval withdrawn.~~
  - 3. ~~If the Department issues a license or approval during the administrative completeness review time frame, the Department shall not issue a separate written notice of administrative completeness.~~
- C. ~~For each type of license or approval issued by the Department under this Article, Table 2.1 specifies the substantive review time frame 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 time frame, the Department shall provide a written notice to the applicant that the Department approved or denied the license or continuing education course approval.~~
  - 2. ~~During the substantive review time frame:~~
    - 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 to allow one or more supplemental requests for additional information or documentation, the Department may make the number of supplemental requests agreed to between the Department and the applicant.~~
  - 3. ~~A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time frame and the overall time frame 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 license or approval.~~
- D. ~~After receiving the written notice of approval in an applicant for a regular license or a temporary license shall send the required license fee to the Department. If the applicant does not submit the~~

license fee within 30 calendar days after the date the Department sends the written notice of approval to the applicant, the Department shall consider the application withdrawn.

**E.** The Department shall issue a regular license or a temporary license:

1. Within five calendar days after receiving the license fee, and
2. From the date of issue, the license is valid for:
  - a. Two years, if a regular license, and
  - b. Twelve months, if a temporary license.

**F.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

**R9-16-209. Clinical Fellowship Supervisors**

In addition to complying with the requirements in A.R.S. § 36-1905, a clinical fellowship supervisor shall complete a minimum of 36 supervisory activities throughout an individual's clinical fellowship that include:

1. A minimum of 18 on-site observations,
2. No more than six on-site observations in a 24-hour period, and
3. A minimum of 18 monitoring activities.

**Table 2.1. Time-frames (in calendar days)**

<b>Type of Approval</b>	<b>Statutory Authority</b>	<b>Overall Time-Frame</b>	<b>Administrative Completeness Review Time-Frame</b>	<b>Time to Respond to Notice of Deficiency</b>	<b>Substantive Review Time-Frame</b>	<b>Time to Respond to Comprehensive Written Request</b>
Application for an Initial License for an Audiologist (R9-16-202)	A.R.S. §§ 36-1904 and 36-1940	60	30	30	30	30
Application for an Initial License for a Speech language Pathologist (R9-16-203)	A.R.S. §§ 36-1904 and 36-1940.01	60	30	30	30	30
Application for Temporary License for a Speech language Pathologist (R9-16-204)	A.R.S. §§ 36-1904 and 36-1940.03	60	30	30	30	30
License Renewal for an Audiologist	A.R.S. § 36-1904	60	30	30	30	30

(R9-16-205)						
License Renewal for a Speech-language Pathologist (R9-16-206)	A.R.S. § 36-1904	60	30	30	30	30
License Renewal for a Temporary Speech-language Pathologist (R9-16-207)	A.R.S. §§ 36-1904 and 36-1940.03	60	30	30	30	30
Approval of Continuing Education Course (R9-16-208)	A.R.S. § 36-1904	45	30	30	15	30

**R9-16-210. Clinical Fellowship Supervisors**

In addition to complying with the requirements in A.R.S. § 36-1905, a clinical fellowship supervisor shall:

1. Complete a minimum of 36 supervisory activities throughout an individual's clinical fellowship that include:
  - a. A minimum of 18 on-site observations;
  - b. No more than six on-site observations in a 24-hour period, and
  - c. A minimum of 18 monitoring activities;
2. Submit a copy of the clinical fellowship report to the Department within 30 calendar days after the completion of the clinical fellowship; and
3. Provide the Department and the clinical fellow with written notice within 72 hours of after the decision to stop supervising the clinical fellow if the clinical fellowship supervisor voluntarily stops supervising a clinical fellow before the completion of the clinical fellowship.

**R9-16-210. Requirements for Supervising a Speech-language Pathologist Assistant**

A licensed speech-language pathologist who provides direct supervision or indirect supervision to a speech-language pathologist assistant shall comply with A.R.S. § 36-1940.04(F) and (G):

1. Establish a record for each speech-language pathologist assistant who receives direct supervision and indirect supervision from the speech-language pathologist that includes:
  - a. The speech-language pathologist assistant's license number, name, home address, telephone number, and e-mail;

- b. A plan indicating the types of skills and the number of hours allocated to the development of each skill that the speech-language pathologist assistant is expected to complete;
  - c. A document listing each occurrence of direct supervision or indirect supervision provided to the speech-language pathologist assistant that includes:
    - i. Business name and address where supervision occurred,
    - ii. The date and times when the supervision started and ended,
    - iii. The types of clinical interactions provided, and
    - iv. Notation of speech-language pathologist assistant's progress;
  - d. Documentation of evaluations provided to the speech-language pathologist assistant during the time supervision was provided; and
  - e. Documentation of when supervision was terminated; and
2. Maintain a speech-language pathologist assistant record:
- a. Throughout the period that the speech-language pathologist assistant receives direct supervision and indirect supervision clinical interactions from the supervisor; and
  - b. For at least two years after the last date the speech-language pathologist assistant received clinical interactions from the supervisor.

**R9-16-211. Requirements for Supervising a Speech-language Pathologist Assistant**

A licensed speech language pathologist who provides direct supervision or indirect supervision to a speech language pathologist assistant shall:

- 1. Have at least two years of full-time professional experience as a licensed speech-language pathologist;
- 2. Provide direct supervision or indirect supervision to no more than two full-time or three part-time speech language pathologist assistants at one time;
- 3. Ensure that the amount and type of direct supervision and indirect supervision provided is consistent with:
  - a. The speech language pathologist assistant's skills and experience;
  - b. The needs of the clients served;
  - c. The setting where the services are provided, and
  - d. The tasks assigned;
- 4. Inform a client when the services of a speech language pathology assistant is being provided;

5. Document each occurrence of direct supervision and indirect supervision provided to a speech language pathology assistant, including:
  - a. The speech language pathologist assistant's name and license number;
  - b. The name and address of business where services occurred, and
  - c. The date and type of supervision provided;
6. Ensure that the amount and type of direct supervision and indirect supervision provided to a speech language pathology assistant is:
  - a. A minimum of 20 per cent direct supervision and 10 per cent indirect supervision during the first 90 days of employment; and
  - b. Subsequent to the first 90 days of employment, a minimum of 10 per cent direct supervision and 10 per cent indirect supervision;
7. If more than one licensed speech language pathologist provides direct supervision or indirect supervision to a speech language pathology assistant, designate one speech language pathologist as the primary speech language pathologist who is responsible for coordinating direct supervision and indirect supervision provided by other speech language pathologists;
8. Establish a record for each speech language pathologist assistant who receives direct supervision and indirect supervision from the speech language pathologist that includes:
  - a. The speech language pathologist assistant's name, home address, telephone number, and e-mail;
  - b. A plan indicating the types of skills and the number of hours allocated to the development of each skill that the speech language pathologist assistant is expected to complete;
  - c. A document listing each occurrence of direct supervision or indirect supervision provided to the speech language pathologist assistant that includes:
    - i. Business name and address where supervision occurred;
    - ii. The times when the supervision started and ended,
    - iii. The types of clinical interactions provided; and
    - iv. Notation of speech language pathologist assistant's progress;
  - d. Documentation of evaluations provided to the speech language pathologist assistant during the time supervision was provided; and
  - e. Documentation of when supervision was terminated; and
9. Maintain a speech language pathologist assistant record:

- a. ~~Throughout the period that the speech language pathologist assistant receives direct supervision and indirect supervision clinical interactions from the supervisor; and~~
- b. ~~For at least two years after the last date the speech language pathologist assistant received clinical interactions from the supervisor.~~

**R9-16-211. Equipment; Records**

- A.** A licensee shall maintain equipment used by the licensee in the practice of audiology or the practice of speech-language pathology according to the manufacturer's specifications.
- B.** If a licensee uses equipment that requires calibration, the licensee shall ensure that:
  - 1. The equipment is calibrated a minimum of every 12 months and according to the American National Standard - Specifications for Audiometers S3.6-2018, incorporated by reference and on file with the Department, with no future additions or amendments and available from the Standards Secretariat, c/o Acoustical Society of America, 1305 Walt Whitman Road, Suite 300, Melville, New York, 11747-4300, September 20, 2018; and
  - 2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.
- C.** A licensee shall maintain the following records according to A.R.S. § 32-3211 for each client for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of audiology, practice of speech-language pathology, or practice of fitting and dispensing hearing aids:
  - 1. The client's name, address, and telephone number;
  - 2. The name or description and the results of each test and procedure used in evaluating speech, language, and hearing disorders or determining the need for dispensing a product or service; and
  - 3. If a product such as a hearing aid, augmentative communication device, or laryngeal device is dispensed, a record of the following:
    - a. The name of the product dispensed;
    - b. The product's serial number, if any;
    - c. The product's warranty or guarantee, if any;
    - d. The refund policy for the product, if any;
    - e. A statement of whether the product is new or used;
    - f. The total amount charged for the product;
    - g. The name of the licensee; and
    - h. The name of the intended user of the product.

**R9-16-212. Equipment; Records**

- A.** A licensee shall maintain equipment used by the licensee in the practice of audiology or the practice of speech language pathology according to the manufacturer's specifications.
- B.** If a licensee uses equipment that requires calibration, the licensee shall ensure that:
1. The equipment is calibrated a minimum of every 12 months and according to the American National Standard—Specifications for Audiometers S3.6-2010, Standards Secretariat, c/o Acoustical Society of America, 1305 Walt Whitman Road, Suite 300, Melville, New York, 11747-4300, November 2, 2010, incorporated by reference and on file with the Department and the Office of the Secretary of State with no future additions or amendments; and
  2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.
- C.** A licensee shall maintain the following records according to A.R.S. § 32-3211 for each client for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of audiology, practice of speech language pathology, or practice of fitting and dispensing hearing aids:
1. The name, address, and telephone number of the individual to whom services are provided;
  2. The name or description and the results of each test and procedure used in evaluating speech, language, and hearing disorders or determining the need for dispensing a product or service; and
  3. If a product such as a hearing aid, augmentative communication device, or laryngeal device is dispensed, a record of the following:
    - a. The name of the product dispensed;
    - b. The product's serial number, if any;
    - c. The product's warranty or guarantee, if any;
    - d. The refund policy for the product, if any;
    - e. A statement of whether the product is new or used;
    - f. The total amount charged for the product;
    - g. The name of the licensee; and
    - h. The name of the intended user of the product.

**R9-16-212. Bill of Sale Requirements**

An audiologist who dispenses hearing aids shall provide a bill of sale to a client at the time the audiologist provides a hearing aid to the client or at a time requested by the client that complies with the requirements in R9-16-311(A)(7).

**R9-16-213. Bill of Sale Requirements**

~~An audiologist who dispenses hearing aids shall provide a bill of sale to a client at the time the audiologist provides a hearing aid to the client or at a time requested by the client that complies with the requirements in R9-16-314.~~

**R9-16-213. Enforcement**

**A.** The Department may, as applicable:

1. Deny, revoke, or suspend an audiology or speech-language pathology's license under A.R.S. § 36-1934;
2. Request an injunction under A.R.S. § 36-1937; or
3. Assess a civil money penalty under A.R.S. § 36-1939.

**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 the public health and safety,
4. The number of violations,
5. The number of clients affected by the violations,
6. The degree of harm to the consumer,
7. A pattern of noncompliance, and
8. Any mitigating or aggravating circumstances.

**C.** A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

**R9-16-214. Disciplinary Actions**

**A.** ~~The Department may, as applicable:~~

1. ~~Deny, revoke, or suspend an audiologist or speech language pathologist's license under A.R.S. § 36-1934;~~
2. ~~Request an injunction under A.R.S. § 36-1937; or~~
3. ~~Assess a civil money penalty under A.R.S. § 36-1939.~~

**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 the public health and safety,~~
  4. ~~The number of violations,~~
  5. ~~The number of clients affected by the violations,~~
  6. ~~The degree of harm to the consumer,~~
  7. ~~A pattern of noncompliance, and~~
  8. ~~Any mitigating or aggravating circumstances.~~
- C.** ~~A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.~~
- D.** ~~The Department shall notify a licensee's employer within five calendar days after the Department initiates a disciplinary action against a licensee.~~

**R9-16-214. Time-frames**

- A.** For each type of license issued by the Department under this Article, Table 2.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
1. An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
  2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** For each type of license issued by the Department under this Article, Table 2.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
1. The administrative completeness review time-frame begins the date the Department receives an application required in this Article.
  2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
    - a. If a license application is not complete, the notice of deficiencies listing each deficiency and the information or documentation needed to complete the application.
    - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame 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 withdrawn.

3. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

**C.** For each type of license issued by the Department under this Article, Table 2.1 specifies the substantive review time-frame 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 time-frame, the Department shall provide a written notice to the applicant that the Department approved or denied.
2. During the substantive review time-frame:
  - 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 or documentation.
3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame 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 license or approval.

**D.** The Department shall issue a regular license or a temporary license:

1. Within five calendar days after receiving the license fee, and
2. From the date of issue, the license is valid for:
  - a. Two years, if a regular license, and
  - b. Twelve months, if a temporary license.

**E.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

**Table 2.1 Time-frames (in calendar days)**

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-Frame</u>	<u>Administrative Completeness Review Time-Frame</u>	<u>Time to Respond to Notice of Deficiency</u>	<u>Substantive Review Time-Frame</u>	<u>Time to Respond to Comprehensive Written Request</u>
<u>Application for an Initial or Temporary License (R9-16-202)</u>	<u>A.R.S. §§ 36-1904 and 36-1940</u>	<u>60</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>
<u>License Renewal (R9-16-207)</u>	<u>A.R.S. § 36-1904</u>	<u>60</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>

**R9-16-215. Changes Affecting a License or a Licensee; Request for a Duplicate License**

- A.** A licensee shall submit a notice to the Department in writing within 30 calendar days after the effective date of a change in:
1. The licensee’s home address or e-mail address, including the new home address or e-mail address;
  2. The licensee’s name, including a copy of one of the following with the licensee’s new name:
    - a. Marriage certificate,
    - b. Divorce decree, or
    - c. Other legal document establishing the licensee’s new name; and
  3. The place or places, including address or addresses, where the licensee engages in the practice of audiology, speech language pathology, or fitting and dispensing hearing aids.
- B.** A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a format provided by the Department that includes:
1. The licensee’s name and address,
  2. The licensee’s license number and expiration date,
  3. The licensee’s signature and date of signature, and
  4. A \$25 duplicate license fee.
- A.** A licensee shall submit to the Department a notice in a Department-provided format within 30 calendar days after the effective date of a change in:

1. The licensee's home address or e-mail address, including the new home address or e-mail address;
2. The licensee's name, including a copy of one of the following with the licensee's new name:
  - a. Marriage certificate,
  - b. Divorce decree, or
  - c. Other legal document establishing the licensee's new name; and
3. The place or places, including address or addresses, where the licensee engages in the practice of audiology or speech-language pathology.

**B.** A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a format provided by the Department that includes:

1. The licensee's name and address,
2. The licensee's license number and expiration date,
3. The licensee's signature and date of signature, and
4. A duplicate license fee specified in R9-16-216.

**R9-16-216. Fees**

**A.** An applicant shall submit to the Department the following nonrefundable fee for:

1. An initial application as an audiologist, \$100;
2. An initial application as a speech-language pathologist, \$100; and
3. An initial application as a temporary speech-language pathologist, \$100.

**B.** An applicant shall submit to the Department the following fee for:

1. An initial license as an audiologist, \$200;
2. An initial license as a speech-language pathologist, \$200; and
3. A temporary license as a speech-language pathologist, \$100.

**C.** A licensee shall submit to the Department the following fee for:

1. A renewal license as an audiologist, \$200;
2. A renewal license as a speech-language pathologist, \$200; and
3. A temporary renewal license as a speech-language pathologist, \$100.

**D.** If a licensed audiologist or speech-language pathologist submits a renewal license application specified in subsection (C) within 30 calendar days after the license expiration date, the licensee shall submit with the renewal license application a \$25 late fee.

**E.** The fee for a duplicate license is \$25.

**F.** An applicant for initial licensure is not required to submit the applicable fee in subsection (A) and (B) if the applicant, as part of the applicable application in R9-16-202, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.



**ASHA**

American  
Speech-Language-Hearing  
Association

January 31, 2020

Mr. Thomas Salow, Branch Chief  
Arizona Department of Health Services  
Division of Licensing Services  
150 N. 18th Ave., Suite 400  
Phoenix, AZ 85007

Dear Mr. Salow:

On behalf of the American Speech-Language-Hearing Association, I write to provide comments on the proposed rule changes for audiologists and speech-language pathologists.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 204,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students. Over 3,000 ASHA members reside in Arizona.

ASHA recommends the following proposed changes to further support the practice of audiology and speech-language pathology.

**Article 2, R9-16-201, Definitions**

ASHA recommends further clarification of the clinical fellowship supervisor definition to include: "d. Has a CCC while supervising a clinical fellow in state."

The current clinical fellowship supervisor definition for a speech-language pathologist is missing a provision for those having a CCC while supervising in state; it only includes those with a CCC while supervising a clinical fellow in another state.

**R9-16-208, Continuing Education**

ASHA recommends adding a definition for continuing education hour to read "60 minutes." A continuing education hour may have different definitions in different credit systems. ASHA recommends specifying the exact minutes for purposes of clarity.

Thank you for the opportunity to provide comments on the audiology and speech-language pathology proposed regulations. If you or your staff have any questions, please contact Eileen Crowe, ASHA's director, state association relations, at [ecrowe@asha.org](mailto:ecrowe@asha.org).

Sincerely,

Theresa H. Rodgers, MA, CCC-SLP  
2020 ASHA President

## [A.A.C. Title 9, Ch. 16, Art. 2](#)

This document is current through Register 26, Issue 5, published January 31,2020.

**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 2. Licensing Audiologists and Speech-Language Pathologists**

### **Article 2. Licensing Audiologists and Speech-Language Pathologists**

Annotations

### **Notes**

Article 2, consisting of Sections [R9-16-201 through R9-16-209](#), adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4).

Article 2, consisting of Sections [R9-16-201 through R9-16-207](#) and [R9-16-211 through R9-16-214](#), repealed effective March 14, 1994 (Supp. 94-1).

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End of Document

## [A.A.C. § R9-16-201](#)

This document is current through Register 26, Issue 5, published January 31,2020.

**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 2. Licensing Audiologists and Speech-Language Pathologists**

### **R9-16-201. Definitions**

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In addition to the definitions in [A.R.S. § 36-1901](#), the following definitions apply in this Article, unless otherwise specified:

1. "Accredited" means approved by the:
  - a. New England Association of Schools and Colleges,
  - b. Middle States Commission on Higher Education,
  - c. North Central Association of Colleges and Schools,
  - d. Northwest Commission on Colleges and Universities,
  - e. Southern Association of Colleges and Schools, or
  - f. Western Association of Schools and Colleges.
2. "Applicant" means:
  - a. An individual who submits an application packet, or
  - b. A person who submits a request for approval for a continuing education course.
3. "Application packet" means the information, documents, and fees required by the Department for a license.
4. "ASHA" means the American Speech-Language-Hearing Association, a national scientific and professional organization for audiologists and speech-language pathologists.
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. "CCC" means Certificate of Clinical Competence, an award issued by ASHA to an individual who:
  - a. Completes a degree in audiology or speech-language pathology from an accredited college or university that includes a clinical practicum,
  - b. Passes the ETSNEA or ETSNESLP, and
  - c. Completes a clinical fellowship.
7. "Clinical fellow" means an individual engaged in a clinical fellowship.
8. "Clinical fellowship" means an individual's postgraduate professional experience assessing, diagnosing, screening, treating, writing reports, and counseling individuals exhibiting speech, language, hearing, or communication disorders, obtained:
  - a. After completion of graduate level academic course work and a clinical practicum;

## A.A.C. § R9-16-201

- b.** Under the supervision of a clinical fellowship supervisor; and
  - c.** While employed on a full-time or part-time equivalent basis.
- 9.** "Clinical fellowship agreement" means the document submitted to the Department by a clinical fellow to register the initiation of a clinical fellowship.
- 10.** "Clinical fellowship report" means a document completed by a clinical fellowship supervisor containing:
  - a.** A summary of the diagnostic and therapeutic procedures performed by the clinical fellow,
  - b.** A verification by the clinical fellowship supervisor of the clinical fellow's performance of diagnostic and therapeutic procedures, and
  - c.** An evaluation of the clinical fellow's ability to perform the diagnostic and therapeutic procedures.
- 11.** "Clinical fellowship supervisor" means a licensed speech-language pathologist who:
  - a.** Is a sponsor of a temporary licensee,
  - b.** Had a CCC while supervising a clinical fellow before October 28, 1999, or
  - c.** Has a CCC while supervising a clinical fellow in another state.
- 12.** "Clinical practicum" means the experience acquired by an individual who is completing course work in audiology or speech-language pathology, while supervised by a licensed audiologist, a licensed speech-language pathologist, or an individual holding a CCC, by assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.
- 13.** "Continuing education" means a course that provides instruction and training that is designed to develop or improve the licensee's professional competence in disciplines directly related to the licensee's scope of practice.
- 14.** "Course" means a workshop, seminar, lecture, conference, or class.
- 15.** "Current CCC" means documentation issued by ASHA verifying that an individual is presently certified by ASHA.
- 16.** "Department-designated written hearing aid dispenser examination" means one of the following that has been identified by the Department as complying with the requirements in [A.R.S. § 36-1924](#):
  - a.** The International Licensing Examination for Hearing Healthcare Professionals, administered by the International Hearing Society; or
  - b.** A test provided by the Department or other organization.
- 17.** "Diagnostic and therapeutic procedures" means the principles and methods used by an audiologist in the practice of audiology or a speech-language pathologist in the practice of speech-language pathology.
- 18.** "Disciplinary action" means a proceeding that is brought against a licensee by the Department under [A.R.S. § 36-1934](#) or a state licensing entity.
- 19.** "ETSNEA" means Educational Testing Service National Examination in Audiology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
- 20.** ETSNESLP means Educational Testing Service National Examination in Speech-Language Pathology, the specialty area test of the Praxis Series given by the Education Testing Service, Princeton, N.J.
- 21.** Full-time means 30 clock hours or more per week.
- 22.** "Graduate level" means leading to, or creditable towards, a master's or doctoral degree.

## A.A.C. § R9-16-201

- 23.**“Local education agency” means a school district governing board established by [A.R.S. §§ 15-301 through 15-396](#).
- 24.**“Monitoring” means being responsible for and providing direction to a clinical fellow without directly observing diagnostic and therapeutic procedures.
- 25.**“On-site” observations” means the presence of a clinical fellowship supervisor who is watching a clinical fellow perform diagnostic and therapeutic procedures.
- 26.**“Part-time equivalent” means:
- a. 25-29 clock hours per week for 48 weeks,
  - b. 20-24 clock hours per week for 60 weeks, or
  - c. 15-19 clock hours per week for 72 weeks.
- 27.**“Pupil” means a child attending a school, a charter school, a private school, or an accommodation school as defined in [A.R.S. § 15-101](#).
- 28.**“Semester credit hour” means one earned academic unit of study based on completing, at an accredited college or university, a 50 to 60 minute class session per calendar week for 15 to 18 weeks.
- 29.**“Semester credit hour equivalent” means one quarter credit, which is equal in value to 2/3 of a semester credit hour.
- 30.**“State-supported institution” means a school receiving funding under [A.R.S. §§ 15-901 through 15-1045](#).
- 31.**“Supervise” means being responsible for and providing direction to:
- a. A clinical fellow during on-site observations or monitoring of the clinical fellow’s performance of diagnostic and therapeutic procedures; or
  - b. An individual completing a clinical practicum.
- 32.**“Supervisory activities” means evaluating and assessing a clinical fellow’s performance of diagnostic and therapeutic procedures in assessing, diagnosing, evaluating, screening, treating, and counseling individuals exhibiting speech, language, cognitive, hearing, or communication disorders.
- 33.**“Week” means the period of time beginning at 12:00 a.m. on Sunday and ending at 11:59 p.m. the following Saturday.

## History

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Former Section R9-16-201 repealed, new Section [R9-16-201](#) adopted effective January 23, 1978 (Supp. 78-1). Repealed effective March 14, 1994 (Supp. 94-1). Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 2](#)

A.A.C. § R9-16-201

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## [A.A.C. § R9-16-202](#)

This document is current through Register 26, Issue 5, published January 31,2020.

**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 2. Licensing Audiologists and Speech-Language Pathologists**

### **R9-16-202. Application for an Initial License for an Audiologist**

---

**A.** Except as provided in subsection (B), an applicant for an audiology license or an audiology license to fit and dispense shall submit to the Department:

**1.** An application in a format provided by the Department that contains:

- a.** The applicant's name, home address, telephone number, and e-mail address;
- b.** The applicant's Social Security number, as required under [A.R.S. §§ 25-320](#) and [25-502](#);
- c.** If applicable, the applicant's business address and telephone number;
- d.** If applicable, the name of applicant's employer, including the employer's business address and telephone number;
- e.** Whether the applicant is requesting an audiology license to fit and dispense;
- f.** Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
- g.** If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:
  - 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;
- h.** Whether the applicant is or has been licensed as an audiologist or an audiologist to fit and dispense hearing aids in another state or country;
- i.** Whether the applicant has had a license revoked or suspended by any state within the previous two years;
- j.** Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;
- k.** Whether any disciplinary action has been imposed by any state, territory or district in this country for an act related to the applicant's practice of audiology;
- l.** Whether the applicant agrees to allow the Department to submit supplemental requests for information under *R9-16-209*;
- m.** An attestation that the information submitted is true and accurate; and
- n.** The applicant's signature and date of signature;

**2.** If a license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:

## A.A.C. § R9-16-202

- a. The date of the revocation or suspension,
  - b. The state or jurisdiction of the revocation or suspension, and
  - c. An explanation of the revocation or suspension;
3. If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
- a. The date of the ineligibility for licensing,
  - b. The state or jurisdiction of the ineligibility for licensing, and
  - c. An explanation of the ineligibility for licensing;
4. If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's audiologist license that is grounds for disciplinary action under Title 37, Chapter 17, documentation that includes:
- a. The date of the disciplinary action,
  - b. The state or jurisdiction of the disciplinary action,
  - c. An explanation of the disciplinary action, and
  - d. Any other applicable documents, including a legal order or settlement agreement;
5. If applicable, a list of all states and countries in which the applicant is or has been licensed as an audiologist or an audiologist to fit and dispense hearing aids;
6. A copy of the applicant's:
- a. U.S. passport, current or expired;
  - b. Birth certificate;
  - c. Naturalization documents; or
  - d. Documentation of legal resident alien status;
7. One of the following:
- a. A copy of the applicant's official transcript issued to the applicant by an accredited college or university after the applicant's completion of a doctoral degree consistent with the standards of this state's universities, as required in [A.R.S. § 36-1940\(A\)\(2\)](#); or
  - b. Documentation that the applicant is eligible for a waiver, according to [A.R.S. § 36-1940.02\(C\)](#), of the education and clinical rotation requirements in [A.R.S. § 36-1940](#);
8. Documentation:
- a. Of a passing grade on a ETSNEA dated within three years before the date of application required in [A.R.S. § 36-1902\(E\)](#);
  - b. Of a current CCC completed by the applicant within three years before the date of application; or
  - c. The applicant is eligible for a waiver, according to [A.R.S. § 36-1940.02\(D\)](#), of the audiology examination requirements in [A.R.S. § 36-1940](#); and
9. A nonrefundable \$100 application fee.
- B.** An applicant for an audiology license to fit and dispense hearing aids who was awarded a master's degree before December 31, 2007 shall submit to the Department:
- 1. An application in a format provided by the Department that contains the information in subsections (A)(1) through (A)(7) and (A)(9);

## A.A.C. § R9-16-202

2. A copy of the applicant's official transcript from an accredited college or university demonstrating the applicant's completion of a master's degree in audiology before December 31, 2007;
  3. Documentation that the applicant is eligible, according to [A.R.S. § 36-1940.02\(C\)](#), for a waiver of the education and clinical rotation requirements in [A.R.S. § 36-1940](#);
  4. Documentation that the applicant:
    - a. Has a passing grade on a ETSNEA completed within three years before the date of application;
    - b. Has a CCC completed within three years before the date of application; or
    - c. Is eligible for a waiver, according to [A.R.S. § 36-1940.02\(D\)](#), of the audiology examination requirements in [A.R.S. § 36-1940](#); and
  5. Documentation:
    - a. Of a passing grade obtained by the applicant on a Department designated written hearing aid dispenser's examination as required in [A.R.S. § 36-1940\(C\)](#); or
    - b. That the applicant is eligible for a waiver, according to [A.R.S. § 36-1940.02\(E\)](#), of the hearing aid dispensing examination requirements in [A.R.S. § 36-1940](#).
    - c. The Department shall review the application packet for a license to practice as an audiologist, an audiologist to fit and dispense hearing aids, or an audiologist, who has a master's degree, to fit and dispense hearing aids, as applicable, according to [R9-16-209](#) and Table 2.1.
- D. An audiologist with a doctoral degree in audiology who is licensed to fit and dispense hearing aids shall take and pass a Department-provided jurisprudence and ethics examination within six months after the issue date of the audiologist's license.

## History

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Former Section R9-16-202 repealed, new Section [R9-16-202](#) adopted effective January 23, 1978 (Supp. 78-1). Repealed effective March 14, 1994 (Supp. 94-1). Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section [R9-16-202](#) repealed; new Section [R9-16-202](#) renumbered from [R9-16-203](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 2](#)

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## [A.A.C. § R9-16-203](#)

This document is current through Register 26, Issue 5, published January 31,2020.

**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 2. Licensing Audiologists and Speech-Language Pathologists**

### **R9-16-203. Application for an Initial License for a Speech-language Pathologist**

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**A.** Except as provided in subsection (B), an applicant for a speech-language pathologist license shall submit to the Department:

**1.**An application in a format provided by the Department that contains:

- a.**The applicant's name, home address, telephone number, and e-mail address;
- b.**The applicant's Social Security number, as required under [A.R.S. §§ 25-320](#) and [25-502](#);
- c.**If applicable, the applicant's business address and telephone number;
- d.**If applicable, the name of the applicant's employer, including the employer's business address and telephone number;
- e.**Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
- f.**If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:
  - 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;
- g.**Whether the applicant is or has been licensed as a speech-language pathologist in another state or country;
- h.**Whether the applicant has had a license revoked or suspended by any state within the previous two years;
- i.**Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;
- j.**Whether a disciplinary action has been imposed by any state, territory, or district in this country for an act related to the applicant's speech-language pathologist license;
- k.**Whether the applicant agrees to allow the Department to submit supplemental requests for information under *R9-16-209*;
- l.**An attestation that the information submitted is true and accurate; and
- m.**The applicant's signature and date of signature;

**2.**If applicable, a list of all states and countries in which the applicant is or has been licensed as speech-language pathologist;

## A.A.C. § R9-16-203

- 3.If a license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:
- a.The date of the revocation or suspension,
  - b.The state or jurisdiction of the revocation or suspension, and
  - c.An explanation of the revocation or suspension;
- 4.If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
- a.The date of the ineligibility for licensing,
  - b.The state or jurisdiction of the ineligibility for licensing, and
  - c.An explanation of the ineligibility for licensing;
- 5.If the applicant has been disciplined by any state, territory, or district of this country for an act related to the applicant's speech-language pathologist license that is grounds for disciplinary action under Title 37, Chapter 17, documentation that includes:
- a.The date of the disciplinary action;
  - b.The state or jurisdiction of the disciplinary action;
  - c.An explanation of the disciplinary action; and
  - d.Any other applicable documents, including a legal order or settlement agreement;
- 6.A copy of the applicant's:
- a.U.S. passport, current or expired;
  - b.Birth certificate;
  - c.Naturalization documents; or
  - d.Documentation of legal resident alien status;
- 7.Documentation of the applicant's:
- a.Official transcript issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities;
  - b.Completion of a clinical practicum, as required in [A.R.S. § 36-1940.01\(A\)\(2\)\(b\)](#); and
  - c.One of the following:
    - i.Completion of clinical fellowship signed by the clinical fellowship supervisor as required in [A.R.S. § 36-1940.01\(A\)\(2\)\(c\)](#); or
    - ii.Completion of a CCC within three years before the date of the application;
- 8.Documentation:
- a.Of the applicant's passing score on the ETSNESLP; or
  - b.That the applicant is eligible for a waiver, according to [A.R.S. § 36-1940.02\(B\)](#), from the examination requirements in [A.R.S. § 36-1940.01](#); and
- 9.A nonrefundable \$100 application fee.
- B.**An applicant for a speech-language pathologist license, limited to providing services to pupils under the authority of a local education agency or state-supported institution, shall submit:
- 1.An application in a format provided by the Department that contains requirements in subsections (A)(1) through (6) and (A)(9);

## A.A.C. § R9-16-203

2.A copy of an employee agreement or employment contract, conditioned upon the applicant's receipt of a speech-language pathologist license, with a local education agency or a state-supported institution that includes the:

- a.Applicant's name and Social Security number,
- b.Name of the local education agency or state-supported institution,
- c.Classification title of the applicant,
- d.Work dates or projected work dates of the employment contract, and
- e.Signatures of the applicant and the individual authorized by the governing board to represent the local education agency or state-supported institution; and

3.A copy of a temporary or regular certificate in speech and language therapy issued by the State Board of Education to the applicant.

C.The Department shall review an application packet for a license to practice as a speech-language pathologist according to *R9-16-209* and Table 2.1.

## History

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Former Section R9-16-203 repealed, new Section [R9-16-203](#) adopted effective January 23, 1978 (Supp. 78-1). Repealed effective March 14, 1994 (Supp. 94-1). Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section [R9-16-203](#) renumbered to [R9-16-202](#); new Section [R9-16-203](#) made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 2](#)

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## [A.A.C. § R9-16-204](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 2. Licensing Audiologists and Speech-Language Pathologists**

### **R9-16-204. Application for a Temporary License for a Speech-Language Pathologist License**

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**A.** An applicant for a temporary speech-language pathologist license shall submit to the Department:

**1.**An application in a format provided by the Department that contains:

- a.**The applicant's name, home address, telephone number, and e-mail address;
- b.**The applicant's Social Security number, as required under [A.R.S. §§ 25-320](#) and [25-502](#);
- c.**If applicable, the applicant's business address and telephone number;
- d.**If applicable, the name of the applicant's employer, including the employer's business address and telephone number;
- e.**Whether the applicant has ever been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
- f.**If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:
  - 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;
- g.**Whether the applicant is or has been licensed as a speech-language pathologist in another state or country;
- h.**Whether the applicant has had a license revoked or suspended by any state within the previous two years;
- i.**Whether the applicant is currently ineligible for licensing in any state because of a license revocation or suspension;
- j.**Whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any state or country upon the applicant's speech-language pathologist license;
- k.**Whether the applicant agrees to allow the Department to submit supplemental requests for information under *R9-16-209*;
- l.**An attestation that the information submitted is true and accurate; and
- m.**The applicant's signature and date of signature;

**2.**If applicable, a list of all states and countries in which the applicant is or has been licensed as a speech-language pathologist;

## A.A.C. § R9-16-204

- 3.If a license for the applicant has been revoked or suspended by any state within the previous two years, documentation that includes:
- a.The date of the revocation or suspension,
  - b.The state or jurisdiction of the revocation or suspension, and
  - c.An explanation of the revocation or suspension;
- 4.If the applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
- a.The date of the ineligibility for licensing,
  - b.The state or jurisdiction of the ineligibility for licensing, and
  - c.An explanation of the ineligibility for licensing;
- 5.If the applicant has been disciplined by any state, territory or district of this country for an act related to the applicant's speech-language pathologist license that is grounds for disciplinary action under Title 37, Chapter 17, documentation that includes:
- a.The date of the disciplinary action;
  - b.The state or jurisdiction of the disciplinary action;
  - c.An explanation of the disciplinary action; and
  - d.Any other applicable documents, including a legal order or settlement agreement;
- 6.A copy of the applicant's:
- a.U.S. passport, current or expired;
  - b.Birth certificate;
  - c.Naturalization documents; or
  - d.Documentation of legal resident alien status;
- 7.Documentation of the applicant's:
- a.Official transcript issued to the applicant by an accredited college or university after the applicant's completion of a master's degree consistent with the standards of this state's universities, as required in [A.R.S. § 36-1940.01\(A\)\(2\)\(a\)](#); and
  - b.Completion of a clinical practicum, as required in [A.R.S. § 36-1940.01\(A\)\(2\)\(b\)](#);
- 8.A copy of the applicant's clinical fellowship agreement that includes:
- a.The applicant's name, home address, and telephone number;
  - b.The clinical fellowship supervisor's name, business address, telephone number, and Arizona speech-language pathology license number;
  - c.The name and address where the clinical fellowship will take place;
  - d.A statement by the clinical fellowship supervisor agreeing to comply with [R9-16-210](#); and
  - e.The signatures of the applicant and the clinical fellowship supervisor;
- 9.Documentation of the applicant's completion of the ETSNESLP as required in [A.R.S. § 36-1940.01\(A\)\(3\)](#); and
- 10.A nonrefundable \$100 application fee.
- B.A temporary license issued is effective for 12 months from the date of issuance.
  - C.A temporary license may be renewed only once.

## A.A.C. § R9-16-204

D. An applicant issued a temporary speech-language pathologist license shall:

1. Practice under the supervision of a licensed speech-language pathologist, and
2. Not practice under the supervision of individual who has a temporary speech-language pathologist license.

E. The Department shall review an application packet for a temporary speech-language pathologist license according to *R9-16-209* and Table 2.1

## History

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Former Section R9-16-204 repealed, new Section [R9-16-204](#) adopted effective January 23, 1978 (Supp. 78-1). Repealed effective March 14, 1994 (Supp. 94-1). Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section [R9-16-204](#) renumbered to *R9-16-209*; new Section [R9-16-204](#) made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

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## [A.A.C. § R9-16-205](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 2. Licensing Audiologists and Speech-Language Pathologists**

### **R9-16-205. License Renewal for an Audiologist**

---

**A.** Except as provided in subsection (B) and before the expiration date of the audiologist's license, a licensed audiologist or audiologist who fits and dispenses hearing aids shall submit to the Department:

1. A renewal application in a format provided by the Department that contains:
  - a. The applicant's name, home address, telephone number, and e-mail address;
  - b. If applicable, the applicant's business address and telephone number,
  - c. If applicable, the name of the applicant's employer, including the employer's business address and telephone number;
  - d. The applicant's license number and date of expiration;
  - e. Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
  - f. If the applicant was convicted of a felony or a misdemeanor involving moral turpitude:
    - 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;
  - g. Whether the applicant has had, within two years before the renewal application date, an audiologist license suspended or revoked by any state;
  - h. An attestation that the information submitted is true and accurate; and
  - i. The applicant's signature and date of signature;
2. Documentation of the continuing education required in [R9-16-208](#), completed within the two years before the expiration date of the license, including:
  - a. The name of the individual or organization providing the course;
  - b. The date and location where the course was provided;
  - c. The title of each course attended;
  - d. A description of each course's content;
  - e. The name of the instructor;
  - f. The instructor's education, training, and experience background, if applicable; and
  - g. The number of continuing education hours earned for each course; and
3. A \$200 license renewal fee.

## A.A.C. § R9-16-205

**B.** In addition to the documentation and renewal fee in subsection (A), an applicant who submits a renewal application within 30 calendar days after the license expiration date shall submit a \$25 late fee.

**C.** An applicant who does not submit the documentation and the fee in subsection (A) and, if applicable, (B) within 30 calendar days after the license expiration date shall apply for a new license in [R9-16-202](#).

**D.** If an applicant applies for a license according to [R9-16-202](#) more than 30 calendar days but less than one year after the expiration date of the applicant's previous license, the applicant:

1. Is not required to submit ETSNEA documentation, and
2. Shall submit documentation of continuing education according to [R9-16-208](#), completed within the two years before the date of application.

**E.** The Department shall review the application packet for a renewal license to practice as an audiologist or an audiologist to fit and dispense hearing aids according to [R9-16-209](#) and Table 2.1.

## History

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Former Section R9-16-205 repealed, new Section [R9-16-205](#) adopted effective January 23, 1978 (Supp. 78-1). Repealed effective March 14, 1994 (Supp. 94-1). Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section [R9-16-205](#) renumbered to [R9-16-210](#); new Section [R9-16-205](#) renumbered from [R9-16-206](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-206](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 2. Licensing Audiologists and Speech-Language Pathologists**

### **R9-16-206. License Renewal for a Speech-language Pathologist**

---

**A.** Except as provided in subsection (B) and before the expiration date of the speech-language pathologist's license, a licensed speech-language pathologist shall submit to the Department:

**1.** A renewal application in a format provided by the Department that contains:

- a.** The applicant's name, home address, telephone number, and e-mail address;
- b.** If applicable, the applicant's business address and telephone number;
- c.** If applicable, the name of the applicant's employer, including the employer's business address and telephone number;
- d.** The applicant's license number and date of expiration;
- e.** Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
- f.** If the applicant was 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;
- g.** Whether the applicant had, within two years before the renewal application date, a speech-language pathologist license suspended or revoked by any state;
- h.** An attestation that the information submitted is true and accurate; and
- i.** The applicant's signature and date of signature;

**2.** Documentation of the continuing education required in [R9-16-208](#), completed within the two years before the expiration date of the license, including:

- a.** The name of the individual or organization providing the course;
- b.** The date and location where the course was provided;
- c.** The title of each course attended;
- d.** The description of each course's content;
- e.** The name of the instructor;
- f.** The instructor's education, training, and experience background, if applicable; and
- g.** The number of continuing education hours earned for each course;

## A.A.C. § R9-16-206

3.If the applicant is limited to providing speech-language pathology services to pupils under the authority of a local education agency or state-supported institution the documents required in [R9-16-203\(B\)](#); and

4.A \$200 license renewal fee.

B. In addition to the documentation and renewal fee in subsection (A), an applicant who submits a renewal application within 30 calendar days after the license expiration date shall submit a \$25 late fee.

C.An applicant who does not submit the documentation and the fee in subsection (A) and, if applicable, (B) within 30 calendar days after the license expiration date shall apply for a new license in [R9-16-203](#).

D.If an applicant applies for a license according to [R9-16-203](#) more than 30 calendar days but less than one year after the expiration date of the applicant's previous license, the applicant:

1.Is not required to submit ETSNESLP documentation, and

2.Shall submit documentation of continuing education according to [R9-16-208](#) completed within the two years before the date of application.

E.The Department shall review the application packet for a renewal license to practice as a speech-language pathologist according to [R9-16-209](#) and Table 2.1.

## History

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Former Section R9-16-206 repealed, new Section [R9-16-206](#) adopted effective January 23, 1978 (Supp. 78-1). Repealed effective March 14, 1994 (Supp. 94-1). Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section [R9-16-206](#) renumbered to [R9-16-205](#); new Section [R9-16-206](#) made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

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## [A.A.C. § R9-16-207](#)

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### **R9-16-207. License Renewal for a Temporary Speech-language Pathologist**

**A.** Before the expiration date of the temporary speech-language pathologist license, a licensed temporary speech-language pathologist shall submit to the Department:

1. A renewal application in a format provided by the Department that contains:
  - a. The applicant's name, home address, e-mail address, and telephone number;
  - b. The applicant's license number and date of expiration;
  - c. The name of the applicant's employer, including the employer's business address, and telephone number;
  - d. The name, business address, telephone number, and license number of the speech language pathologist providing supervision to the applicant;
  - e. Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
  - f. If the applicant was 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;
  - g. An attestation that the information submitted is true and accurate; and
  - h. The applicant's signature and date of signature;
2. A statement signed and dated by the applicant's clinical fellowship supervisor agreeing to comply with [R9-16-210](#); and
3. A \$100 license renewal fee.

**B.** The Department shall review the application packet for a renewal temporary license to practice as a temporary speech-language pathologist according to [R9-16-209](#) and Table 2.1.

### **History**

Former Section R9-16-207 repealed, new Section [R9-16-207](#) adopted effective January 23, 1978 (Supp. 78-1). Repealed effective March 14, 1994 (Supp. 94-1). Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section [R9-16-207](#) renumbered to [R9-16-208](#); new Section [R9-16-207](#) made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-208](#)

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### **R9-16-208. Continuing Education**

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**A.** Every 24 months after the effective date of a regular license, a licensee shall complete continuing education approved by the Department.

1. Except as provided in (A)(2), a licensed audiologist shall complete at least 20 continuing education hours related to audiology;
2. A licensed audiologist who fits and dispenses hearing aids shall complete:
  - a. At least 20 continuing education hours related to audiology and hearing aid dispensing, and
  - b. No more than eight continuing education hours required in subsection (A)(2)(a) provided by a single manufacturer of hearing aids; and
3. A licensed speech-language pathologist shall complete at least 20 continuing education hours in speech-language pathology related courses.

**B.** Continuing education shall:

1. Directly relate to the practice of audiology, speech-language pathology, or fitting and dispensing hearing aids;
2. Have educational objectives that exceed an introductory level of knowledge of audiology, speech-language pathology, or fitting and dispensing hearing aids; and
3. Consist of courses that include advances within the last five years in:
  - a. Practice of audiology,
  - b. Practice of speech-language pathology,
  - c. Procedures in the selection and fitting of hearing aids,
  - d. Pre- and post-fitting management of clients,
  - e. Instrument circuitry and acoustic performance data,
  - f. Ear mold design and modification contributing to improved client performance,
  - g. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,
  - h. Auditory rehabilitation,
  - i. Ethics,
  - j. Federal and state statutes or rules, or
  - k. Assistive listening devices.

**C.** A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):

## A.A.C. § R9-16-208

1. Hearing Healthcare Providers of Arizona,
2. Arizona Speech-Language-Hearing Association,
3. American Speech-Language-Hearing Association,
4. International Hearing Society,
5. International Institute for Hearing Instrument Studies,
6. American Auditory Society,
7. American Academy of Audiology,
8. Academy of Doctors of Audiology,
9. Arizona Society of Otolaryngology-Head and Neck Surgery,
10. American Academy of Otolaryngology-Head and Neck Surgery, or
11. An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).

D. An applicant may request approval for a continuing education course by submitting the following to the Department:

1. The applicant's name, address, telephone number, and e-mail address, as applicable;
2. If the applicant is a licensee, the licensee's license number;
3. The title of the continuing education course;
4. A brief description of the course;
5. The name, educational background, and teaching experience of the individual presenting the course, if available;
6. The educational objectives of the course; and
7. The date, time, and place of presentation of the course.

E. If an applicant submits the information in subsection (D), the Department shall review the request for approval for a continuing education course according to *R9-16-209* and Table 2.1.

F. The Department shall approve a continuing education course if the Department determines that the continuing education course:

1. Is designed to provide current developments, skills, procedures, or treatment in diagnostic and therapeutic procedures in audiology, speech-language pathology, or hearing aid dispensing;
2. Is developed and presented by individuals knowledgeable and experienced in the subject area; and
3. Contributes directly to the professional competence of a licensee.

## History

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Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section [R9-16-208](#) renumbered to [R9-16-214](#); new Section [R9-16-208](#) renumbered from [R9-16-207](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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### **R9-16-209. Time-frames**

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**A.**For each type of license or approval issued by the Department under this Article, Table 2.1 specifies the overall time-frame described in [A.R.S. § 41-1072\(2\)](#).

- 1.An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
- 2.The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.

**B.**For each type of license or approval issued by the Department under this Article, Table 2.1 specifies the administrative completeness review time-frame described in [A.R.S. § 41-1072\(1\)](#), which begins on the date the Department receives an application packet.

- 1.The administrative completeness review time-frame begins:
  - a.The date the Department receives an application packet required in this Article, or
  - b.The date the Department receives a request for continuing education course approval according to [R9-16-208](#).
- 2.Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
  - a.If a license application packet or request for continuing education course approval is not complete, the notice of deficiencies listing each deficiency and the information or documentation needed to complete the license application packet or request for continuing education course approval.
  - b.A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame 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 license application packet or request for continuing education course approval withdrawn.
- 3.If the Department issues a license or approval during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

**C.**For each type of license or approval issued by the Department under this Article, Table 2.1 specifies the substantive review time-frame described in [A.R.S. § 41-1072\(3\)](#), which begins on the date the Department sends a written notice of administrative completeness.

## A.A.C. § R9-16-209

1. Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department approved or denied the license or continuing education course approval.
  2. During the substantive review time-frame:
    - 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 to allow one or more supplemental requests for additional information or documentation, the Department may make the number of supplemental requests agreed to between the Department and the applicant.
  3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame 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 license or approval.
- D.** After receiving the written notice of approval in subsection (C)(1), an applicant for a regular license or a temporary license shall send the required license fee to the Department. If the applicant does not submit the license fee within 30 calendar days after the date the Department sends the written notice of approval to the applicant, the Department shall consider the application withdrawn.
- E.** The Department shall issue a regular license or a temporary license:
1. Within five calendar days after receiving the license fee, and
  2. From the date of issue, the license is valid for:
    - a. Two years, if a regular license, and
    - b. Twelve months, if a temporary license.
- F.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

## History

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Adopted by final rulemaking at 5 A.A.R. 4359, effective October 28, 1999 (Supp. 99-4). Section *R9-16-209* renumbered to [R9-16-212](#); new Section *R9-16-209* renumbered from [R9-16-204](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## Research References & Practice Aids

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### Hierarchy Notes:

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A.A.C. § R9-16-209

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**A.A.C. § R9-16-209 Table 2.1**

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**Table 2.1. Time-frames (in calendar days)**

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## A.A.C. § R9-16-209 Table 2.1

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative Completeness Review Time-Frame	Time to Respond to Notice of Deficiency	Substantive Review Time-Frame	Time to Respond to Comprehensive Written Request	
Application for an Initial License for an Audiologist	<a href="#">(R9-16-202)</a>	<a href="#">A.R.S. §§ 36-1904</a> and <a href="#">36-1940</a>	60	30	30	30	30
Application for an Initial License for a Speech-language Pathologist	<a href="#">(R9-16-203)</a>	<a href="#">A.R.S. §§ 36-1904</a> and <a href="#">36-1940.01</a>	60	30	30	30	30
Application for Temporary License for a Speech-language Pathologist	<a href="#">(R9-16-204)</a>	<a href="#">A.R.S. §§ 36-1904</a> and <a href="#">36-1940.03</a>	60	30	30	30	30
License Renewal for an Audiologist	<a href="#">(R9-16-205)</a>	<a href="#">A.R.S. § 36-1904</a>	60	30	30	30	30
License Renewal for a Speech-language Pathologist	<a href="#">(R9-16-206)</a>	<a href="#">A.R.S. § 36-1904</a>	60	30	30	30	30
License Renewal for a Temporary Speech-language Pathologist	<a href="#">(R9-16-207)</a>	<a href="#">A.R.S. §§ 36-1904</a> and <a href="#">36-1940.03</a>	60	30	30	30	30
Approval of Continuing Education Course	<a href="#">(R9-16-208)</a>	<a href="#">A.R.S. § 36-1904</a>	45	30	30	15	30

## History

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Table 2.1 made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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### **R9-16-210. Clinical Fellowship Supervisors**

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In addition to complying with the requirements in [A.R.S. § 36-1905](#), a clinical fellowship supervisor shall:

1. Complete a minimum of 36 supervisory activities throughout an individual's clinical fellowship that include:
  - a. A minimum of 18 on-site observations,
  - b. No more than six on-site observations in a 24-hour period, and
  - c. A minimum of 18 monitoring activities;
2. Submit a copy of the clinical fellowship report to the Department within 30 calendar days after the completion of the clinical fellowship; and
3. Provide the Department and the clinical fellow with written notice within 72 hours after the decision to stop supervising the clinical fellow if the clinical fellowship supervisor voluntarily stops supervising a clinical fellow before the completion of the clinical fellowship.

### **History**

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New Section made by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section [R9-16-210](#) renumbered to [R9-16-215](#); new Section [R9-16-210](#) renumbered from [R9-16-205](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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#### **Hierarchy Notes:**

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## [A.A.C. § R9-16-211](#)

This document is current through Register 26, Issue 5, published January 31, 2020.

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### **R9-16-211. Requirements for Supervising a Speech-language Pathologist Assistant**

---

A licensed speech-language pathologist who provides direct supervision or indirect supervision to a speech-language pathologist assistant shall:

1. Have at least two years of full-time professional experience as a licensed speech-language pathologist;
2. Provide direct supervision or indirect supervision to no more than two full-time or three part-time speech-language pathologist assistants at one time;
3. Ensure that the amount and type of direct supervision and indirect supervision provided is consistent with:
  - a. The speech-language pathologist assistant's skills and experience,
  - b. The needs of the clients served,
  - c. The setting where the services are provided, and
  - d. The tasks assigned;
4. Inform a client when the services of a speech-language pathology assistant is being provided;
5. Document each occurrence of direct supervision and indirect supervision provided to a speech-language pathology assistant, including:
  - a. The speech-language pathologist assistant's name and license number,
  - b. The name and address of business where services occurred, and
  - c. The date and type of supervision provided;
6. Ensure that the amount and type of direct supervision and indirect supervision provided to a speech-language pathology assistant is:
  - a. A minimum of 20 per cent direct supervision and 10 per cent indirect supervision during the first 90 days of employment; and
  - b. Subsequent to the first 90 days of employment, a minimum of 10 per cent direct supervision and 10 per cent indirect supervision;
7. If more than one licensed speech-language pathologist provides direct supervision or indirect supervision to a speech-language pathology assistant, designate one speech-language pathologist as the primary speech-language pathologist who is responsible for coordinating direct supervision and indirect supervision provided by other speech-language pathologists;
8. Establish a record for each speech-language pathologist assistant who receives direct supervision and indirect supervision from the speech-language pathologist that includes:

## A.A.C. § R9-16-211

- a. The speech-language pathologist assistant's name, home address, telephone number, and e-mail;
  - b. A plan indicating the types of skills and the number of hours allocated to the development of each skill that the speech-language pathologist assistant is expected to complete;
  - c. A document listing each occurrence of direct supervision or indirect supervision provided to the speech-language pathologist assistant that includes:
    - i. Business name and address where supervision occurred;
    - ii. The times when the supervision started and ended,
    - iii. The types of clinical interactions provided; and
    - iv. Notation of speech-language pathologist assistant's progress;
  - d. Documentation of evaluations provided to the speech-language pathologist assistant during the time supervision was provided; and
  - e. Documentation of when supervision was terminated; and
9. Maintain a speech-language pathologist assistant record:
- a. Throughout the period that the speech-language pathologist assistant receives direct supervision and indirect supervision clinical interactions from the supervisor; and
  - b. For at least two years after the last date the speech-language pathologist assistant received clinical interactions from the supervisor.

## History

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Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule [R9-16-211](#) adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section [R9-16-211](#) made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 2](#)

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## [A.A.C. § R9-16-212](#)

This document is current through Register 26, Issue 5, published January 31,2020.

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### **R9-16-212. Equipment; Records**

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**A.**A licensee shall maintain equipment used by the licensee in the practice of audiology or the practice of speech-language pathology according to the manufacturer's specifications.

**B.**If a licensee uses equipment that requires calibration, the licensee shall ensure that:

**1.**The equipment is calibrated a minimum of every 12 months and according to the American National Standard - Specifications for Audiometers, S3.6-2010, Standards Secretariat, c/o Acoustical Society of America, 1305 Walt Whitman Road, Suite 300, Melville, New York, 11747-4300, November 2, 2010, incorporated by reference and on file with the Department and the Office of the Secretary of State with no future additions or amendments; and

**2.**A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.

**C.**A licensee shall maintain the following records according to [A.R.S. § 32-3211](#) for each client for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of audiology, practice of speech-language pathology, or practice of fitting and dispensing hearing aids:

**1.**The name, address, and telephone number of the individual to whom services are provided;

**2.**The name or description and the results of each test and procedure used in evaluating speech, language, and hearing disorders or determining the need for dispensing a product or service; and

**3.**If a product such as a hearing aid, augmentative communication device, or laryngeal device is dispensed, a record of the following:

**a.**The name of the product dispensed;

**b.**The product's serial number, if any;

**c.**The product's warranty or guarantee, if any;

**d.**The refund policy for the product, if any;

**e.**A statement of whether the product is new or used;

**f.**The total amount charged for the product;

**g.**The name of the licensee; and

**h.**The name of the intended user of the product.

### **History**

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Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule [R9-16-212](#) adopted effective January 14, 1983 (Supp. 83-1). Repealed

A.A.C. § R9-16-212

effective March 14, 1994 (Supp. 94-1). New Section [R9-16-212](#) renumbered from *R9-16-209* and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-214](#)

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### **R9-16-214. Disciplinary Actions**

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**A.** The Department may, as applicable:

1. Deny, revoke, or suspend an audiologist or speech-language pathologist's license under [A.R.S. § 36-1934](#);
2. Request an injunction under [A.R.S. § 36-1937](#); or
3. Assess a civil money penalty under [A.R.S. § 36-1939](#).

**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 the public health and safety,
4. The number of violations,
5. The number of clients affected by the violations,
6. The degree of harm to the consumer,
7. A pattern of noncompliance, and
8. Any mitigating or aggravating circumstances.

**C.** A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

**D.** The Department shall notify a licensee's employer within five calendar days after the Department initiates a disciplinary action against a licensee.

### **History**

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Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule [R9-16-214](#) adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section [R9-16-214](#) renumbered from [R9-16-208](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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## [A.A.C. § R9-16-213](#)

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### **R9-16-213. Bill of Sale Requirements**

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An audiologist who dispenses hearing aids shall provide a bill of sale to a client at the time the audiologist provides a hearing aid to the client or at a time requested by the client that complies with the requirements in [R9-16-314](#).

### **History**

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Adopted as an emergency effective July 12, 1982, pursuant to A.R.S. § 41-1003, valid for 90 days (Supp. 82-4). Emergency expired. Permanent rule [R9-16-213](#) adopted effective January 14, 1983 (Supp. 83-1). Repealed effective March 14, 1994 (Supp. 94-1). New Section [R9-16-213](#) made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-215](#)

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### **R9-16-215. Changes Affecting a License or a Licensee; Request for a Duplicate License**

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**A.** A licensee shall submit a notice to the Department in writing within 30 calendar days after the effective date of a change in:

- 1.The licensee§ home address or e-mail address, including the new home address or e-mail address;
- 2.The licensee§ name, including a copy of one of the following with the licensee§ new name:
  - a.Marriage certificate,
  - b.Divorce decree, or
  - c.Other legal document establishing the licensee§ new name; and
- 3.The place or places, including address or addresses, where the licensee engages in the practice of audiology, speech-language pathology, or fitting and dispensing hearing aids.

**B.** A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a format provided by the Department that includes:

- 1.The licensee§ name and address,
- 2.The licensee§ license number and expiration date,
- 3.The licensee§ signature and date of signature, and
- 4.A \$25 duplicate license fee.

### **History**

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New Section [R9-16-215](#) renumbered from [R9-16-210](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

### **Research References & Practice Aids**

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Hierarchy Notes:

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## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

### 36-104. Powers and duties

This section is not to be construed as a statement of the department's organization. This section is intended to be a statement of powers and duties in addition to the powers and duties granted by section 36-103. The director shall:

1. Administer the following services:

(a) Administrative services, which shall include at a minimum the functions of accounting, personnel, standards certification, electronic data processing, vital statistics and the development, operation and maintenance of buildings and grounds used by the department.

(b) Public health support services, which shall include at a minimum:

(i) Consumer health protection programs, consistent with paragraph 25 of this section, that include at least the functions of community water supplies, general sanitation, vector control and food and drugs.

(ii) Epidemiology and disease control programs that include at least the functions of chronic disease, accident and injury control, communicable diseases, tuberculosis, venereal disease and others.

(iii) Laboratory services programs.

(iv) Health education and training programs.

(v) Disposition of human bodies programs.

(c) Community health services, which shall include at a minimum:

(i) Medical services programs that include at least the functions of maternal and child health, preschool health screening, family planning, public health nursing, premature and newborn program, immunizations, nutrition, dental care prevention and migrant health.

(ii) Dependency health care services programs that include at least the functions of need determination, availability of health resources to medically dependent individuals, quality control, utilization control and industry monitoring.

(iii) Children with physical disabilities services programs.

(iv) Programs for the prevention and early detection of an intellectual disability.

(d) Program planning, which shall include at least the following:

(i) An organizational unit for comprehensive health planning programs.

(ii) Program coordination, evaluation and development.

(iii) Need determination programs.

(iv) Health information programs.

2. Include and administer, within the office of the director, staff services, which shall include at a minimum budget preparation, public information, appeals, hearings, legislative and federal government liaison, grant development and management and departmental and interagency coordination.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

3. Make rules for the organization and proper and efficient operation of the department.
4. Determine when a health care emergency or medical emergency situation exists or occurs within this state that cannot be satisfactorily controlled, corrected or treated by the health care delivery systems and facilities available. When such a situation is determined to exist, the director shall immediately report that situation to the legislature and the governor. The report shall include information on the scope of the emergency, recommendations for solution of the emergency and estimates of costs involved.
5. Provide a system of unified and coordinated health services and programs between this state and county governmental health units at all levels of government.
6. Formulate policies, plans and programs to effectuate the missions and purposes of the department.
7. Make contracts and incur obligations within the general scope of the department's activities and operations subject to the availability of monies.
8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.
9. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of the department's duties subject to the departmental rules and regulations on the confidentiality of information.
10. Establish and maintain separate financial accounts as required by federal law or regulations.
11. Advise with and make recommendations to the governor and the legislature on all matters concerning the department's objectives.
12. Take appropriate steps to reduce or contain costs in the field of health services.
13. Encourage and assist in the adoption of practical methods of improving systems of comprehensive planning, of program planning, of priority setting and of allocating resources.
14. Encourage an effective use of available federal resources in this state.
15. Research, recommend, advise and assist in the establishment of community or area health facilities, both public and private, and encourage the integration of planning, services and programs for the development of the state's health delivery capability.
16. Promote the effective use of health manpower and health facilities that provide health care for the citizens of this state.
17. Take appropriate steps to provide health care services to the medically dependent citizens of this state.
18. Certify training on the nature of sudden infant death syndrome, which shall include information on the investigation and handling of cases involving sudden and unexplained infant death for use by law enforcement officers as part of their basic training requirement.
19. Adopt protocols on the manner in which an autopsy shall be conducted under section 11-597, subsection D in cases of sudden and unexplained infant death.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

20. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

21. Administer the federal family violence prevention and services act grants, and the department is designated as this state's recipient of federal family violence prevention and services act grants.

22. Accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education. The department shall disburse these monies to local prosecutorial or law enforcement agencies with existing programs, faith-based organizations and nonprofit entities that are qualified under section 501(c)(3) of the United States internal revenue code, including nonprofit entities providing services to women with a history of dual diagnosis disorders, and that provide educational programs on the repercussions of methamphetamine use. State general fund monies shall not be spent for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are not lapsing and do not revert to the state general fund at the close of the fiscal year.

23. Identify successful methamphetamine prevention programs in other states that may be implemented in this state.

24. Pursuant to chapter 13, article 8 of this title, coordinate all public health and risk assessment issues associated with a chemical or other toxic fire event if a request for the event is received from the incident commander, the emergency response commission or the department of public safety and if funding is available. Coordination of public health issues shall include general environmental health consultation and risk assessment services consistent with chapter 13, article 8 of this title and, in consultation with the Arizona poison control system, informing the public as to potential public health risks from the environmental exposure. Pursuant to chapter 13, article 8 of this title, the department of health services shall also prepare a report, in consultation with appropriate state, federal and local governmental agencies, that evaluates the public health risks from the environmental exposure. The department of health services' report shall include any department of environmental quality report and map of smoke dispersion from the fire, the results of any environmental samples taken by the department of environmental quality and the toxicological implications and public health risks of the environmental exposure. The department of health services shall consult with the Arizona poison control system regarding toxicology issues and shall prepare and produce its report for the public as soon as practicable after the event. The department of health services shall not use any monies pursuant to section 49-282, subsection E to implement this paragraph.

25. Consult, cooperate, collaborate and, if necessary, enter into interagency agreements and memoranda of understanding with the Arizona department of agriculture concerning its administration, pursuant to title 3, chapter 3, article 4.1, of this state's authority under the United States food and drug administration produce safety rule (21 Code of Federal Regulations part 112) and any other federal produce safety

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

regulation, order or guideline or other requirement adopted pursuant to the FDA food safety modernization act (P.L. 111-353; 21 United States Code sections 2201 through 2252).

26. Adopt rules pursuant to title 32, chapter 32, article 5 prescribing the designated database information to be collected by health profession regulatory boards for the health professionals workforce database.

### **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.

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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.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.

(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.

21. License and regulate the health and safety of group homes for persons with developmental disabilities. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end-stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

### **36-136. Powers and duties of director; compensation of personnel; rules; definitions**

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.

2. Perform all duties necessary to carry out the functions and responsibilities of the department.

3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.

4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

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.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

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.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

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

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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

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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

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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.

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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.

### **Article 1 – Administration**

#### **36-1901. Definitions**

In this chapter, unless the context otherwise requires:

1. "Accredited program" means a program leading to the award of a degree in audiology that is accredited by an organization recognized for that purpose by the United States department of education.
2. "Approved training program" means a postsecondary speech-language pathology assistant training program that is approved by the director.
3. "Assistive listening device or system" means an amplification system that is specifically designed to improve the signal-to-noise ratio for the listener who is hearing impaired, reduce interference from noise in the background and enhance hearing levels at a distance by picking up sound from as close to the source as possible and sending it directly to the ear of the listener, excluding hearing aids.
4. "Audiologist" means a person who engages in the practice of audiology and who meets the requirements prescribed in this chapter.
5. "Audiology" means the nonmedical and nonsurgical application of principles, methods and procedures of measurement, testing, evaluation and prediction that are related to hearing, its disorders and related communication impairments for the purpose of nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions.
6. "Clinical interaction" means a fieldwork practicum in speech-language pathology that is supervised by a licensed speech-language pathologist.
7. "Department" means the department of health services.
8. "Direct supervision" means the on-site, in-view observation and guidance of a speech-language pathology assistant by a licensed speech-language pathologist while the speech-language pathology assistant performs an assigned clinical activity.
9. "Director" means the director of the department.
10. "Disorders of communication" means an organic or nonorganic condition that impedes the normal process of human communication and includes disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition and communications and oral, pharyngeal and laryngeal sensorimotor competencies.
11. "Disorders of hearing" means an organic or nonorganic condition, whether peripheral or central, that impedes the normal process of human communication and includes disorders of auditory sensitivity, acuity, function or processing.
12. "Hearing aid" means any wearable instrument or device designed for or represented as aiding or improving human hearing or as aiding, improving or compensating for defective human hearing,

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and any parts, attachments or accessories of the instrument or device, including ear molds, but excluding batteries and cords.

13. "Hearing aid dispenser" means any person who engages in the practice of fitting and dispensing hearing aids.
14. "Indirect supervision" means supervisory activities, other than direct supervision that are performed by a licensed speech-language pathologist and that may include consultation, record review and review and evaluation of audiotaped or videotaped sessions.
15. "Letter of concern" means an advisory letter to notify a licensee that, while there is insufficient evidence to support disciplinary action, the director believes the licensee should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the director may result in action against the licensee.
16. "License" means a license issued by the director under this chapter and includes a temporary license.
17. "Nonmedical diagnosing" means the art or act of identifying a communication disorder from its signs and symptoms. Nonmedical diagnosing does not include diagnosing a medical disease.
18. "Practice of audiology" means:
  - (a) Rendering or offering to render to a person or persons who have or who are suspected of having disorders of hearing any service in audiology including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research.
  - (b) Participating in hearing conservation, hearing aid and assistive listening device evaluation and hearing aid prescription preparation, fitting, dispensing and orientation.
  - (c) Screening, identifying, assessing, nonmedical diagnosing, preventing and rehabilitating peripheral and central auditory system dysfunctions.
  - (d) Providing and interpreting behavioral and physiological measurements of auditory and vestibular functions.
  - (e) Selecting, fitting and dispensing assistive listening and alerting devices and other systems and providing training in their use.
  - (f) Providing aural rehabilitation and related counseling services to hearing impaired persons and their families.
  - (g) Screening speech-language and other factors that affect communication function in order to conduct an audiologic evaluation and an initial identification of persons with other communications disorders and making the appropriate referral.
  - (h) Planning, directing, conducting or supervising services.
19. "Practice of fitting and dispensing hearing aids" means the measurement of human hearing by means of an audiometer or by any other means, solely for the purpose of making selections or adaptations of hearing aids, and the fitting, sale and servicing of hearing aids, including assistive listening devices and the making of impressions for ear molds and includes identification, instruction, consultation, rehabilitation and hearing conservation as these relate only to hearing

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aids and related devices and, at the request of a physician or another licensed health care professional, the making of audiograms for the professional's use in consultation with the hearing impaired. The practice of fitting and dispensing hearing aids does not include formal auditory training programs, lip reading and speech conservation.

20. "Practice of speech-language pathology" means:
- (a) Rendering or offering to render to an individual or groups of individuals who have or are suspected of having disorders of communication service in speech-language pathology including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research.
  - (b) Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating disorders of speech and language.
  - (c) Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating disorders of oral-pharyngeal functions and related disorders.
  - (d) Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating cognitive and communication disorders.
  - (e) Assessing, selecting and developing augmentative and alternative communication systems and providing training in the use of these systems and assistive listening devices.
  - (f) Providing aural rehabilitation and related counseling services to hearing impaired persons and their families.
  - (g) Enhancing speech-language proficiency and communication effectiveness.
  - (h) Screening hearing and other factors for speech-language evaluation and initially identifying persons with other communication disorders and making the appropriate referral.
21. "Regular license" means each type of license issued by the director, except a temporary license.
22. "Sell" or "sale" means a transfer of title or of the right to use by lease, bailment or any other contract, but does not include transfers at wholesale to distributors or dealers.
23. "Speech-language pathology" means the nonmedical and nonsurgical application of principles, methods and procedures of assessment, testing, evaluation and prediction related to speech and language and its disorders and related communication impairments for the nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions.
24. "Speech-language pathology assistant" means a person who provides services prescribed in section 36-1940.04 and under the direction and supervision of a speech-language pathologist licensed pursuant to this chapter.
25. "Sponsor" means a person who is licensed pursuant to this chapter and who agrees to train or directly supervise a temporary licensee in the same field of practice.
26. "Temporary licensee" means a person who is licensed under this chapter for a specified period of time under the sponsorship of a person licensed pursuant to this chapter.
27. "Unprofessional conduct" means:

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- (a) Obtaining any fee or making any sale by fraud or misrepresentation.
- (b) Employing directly or indirectly any suspended or unlicensed person to perform any work covered by this chapter.
- (c) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation, however disseminated or published, that is misleading, deceiving, improbable or untruthful.
- (d) Advertising for sale a particular model, type or kind of product when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind if the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.
- (e) Representing that the professional services or advice of a physician will be used or made available in the selling, fitting, adjustment, maintenance or repair of hearing aids if this is not true, or using the words "doctor", "clinic", "clinical" or like words, abbreviations or symbols while failing to affix the word, term or initials "audiology", "audiologic", "audiologist", "doctor of audiology", "Au.D.", "Ph.D." or "Sc.D.".
- (f) Defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts or questionable credit standing or by other false representations, or falsely disparaging the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies or services.
- (g) Displaying competitive products in the licensee's show window, shop or advertising in such manner as to falsely disparage such products.
- (h) Representing falsely that competitors are unreliable.
- (i) Quoting prices of competitive products without disclosing that they are not the current prices, or showing, demonstrating or representing competitive models as being current models when they are not current models.
- (j) Imitating or simulating the trademarks, trade names, brands or labels of competitors with the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers.
- (k) Using in the licensee's advertising the name, model name or trademark of a particular manufacturer of hearing aids in such a manner as to imply a relationship with the manufacturer that does not exist, or otherwise to mislead or deceive purchasers or prospective purchasers.
- (l) Using any trade name, corporate name, trademark or other trade designation that has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the name, nature or origin of any product of the industry, or of any material used in the product, or that is false, deceptive or misleading in any other material respect.
- (m) Obtaining information concerning the business of a competitor by bribery of an employee or agent of that competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means.

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- (n) Giving directly or indirectly, offering to give, or permitting or causing to be given money or anything of value, except miscellaneous advertising items of nominal value, to any person who advises another in a professional capacity as an inducement to influence that person or have that person influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser, or to influence persons to refrain from dealing in the products of competitors.
- (o) Sharing any profits or sharing any percentage of a licensee's income with any person who advises another in a professional capacity as an inducement to influence that person or have that person influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser or to dissuade persons from dealing in products of competitors.
- (p) Failing to comply with existing federal regulations regarding the fitting and dispensing of a hearing aid.
- (q) Conviction of a felony or a misdemeanor that involves moral turpitude.
- (r) Fraudulently obtaining or attempting to obtain a license or a temporary license for the applicant, the licensee or another person.
- (s) Aiding or abetting unlicensed practice.
- (t) Wilfully making or filing a false audiology, speech-language pathology or hearing aid dispenser evaluation.
- (u) The use of narcotics, alcohol or drugs to the extent that the performance of professional duties is impaired.
- (v) Betraying a professional confidence.
- (w) Any conduct, practice or condition that impairs the ability of the licensee to safely and competently engage in the practice of audiology, speech-language pathology or hearing aid dispensing.
- (x) Providing services or promoting the sale of devices, appliances or products to a person who cannot reasonably be expected to benefit from these services, devices, appliances or products.
- (y) Being disciplined by a licensing or disciplinary authority of any state, territory or district of this country for an act that is grounds for disciplinary action under this chapter.
- (z) Violating any provision of this chapter or failing to comply with rules adopted pursuant to this chapter.
- (aa) Failing to refer an individual for medical evaluation if a condition exists that is amenable to surgical or medical intervention prescribed by the advisory committee and consistent with federal regulations.
- (bb) Practicing in a field or area within that licensee's defined scope of practice in which the licensee has not either been tested, taken a course leading to a degree, received supervised training, taken a continuing education course or had adequate prior experience.

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(cc) Failing to affix the word, term or initials "audiology", "audiologic", "audiologist", "doctor of audiology", "Au.D.", "Ph.D." or "Sc.D." in any sign, written communication or advertising media in which the term "doctor" or the abbreviation "Dr." is used in relation to the audiologist holding a doctoral degree.

### **36-1902. Powers and duties of the director; advisory committee; examining committee**

#### A. The director shall:

1. Appoint an advisory committee to collaborate with and assist the director and to perform duties as prescribed by this chapter. The director shall inform the advisory committee regarding all disciplinary actions.
2. Supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for a hearing aid dispenser's license.
3. Designate the time and place for holding examinations for a hearing aid dispenser's license.
4. License persons who apply for and pass the examination for a license, and possess all other qualifications required for the practice of fitting and dispensing hearing aids, the practice of audiology and the practice of speech-language pathology.
5. License persons who apply for a license and possess all other qualifications required for licensure as a speech-language pathology assistant.
6. Authorize all disbursements necessary to carry out this chapter.
7. Ensure the public's health and safety by adopting and enforcing qualification standards for licensees and applicants for licensure under this chapter.

#### B. The director may:

1. Purchase and maintain, or rent, equipment and facilities necessary to carry out the examination of applicants for a license.
2. Issue and renew a license.
3. Deny, suspend, revoke or refuse renewal of a license or file a letter of concern, issue a decree of censure, prescribe probation, impose a civil penalty or restrict or limit the practice of a licensee pursuant to this chapter.
4. Appoint an examining committee to assist in the conduct of the examination of applicants for a hearing aid dispenser's license.
5. Make and publish rules that are not inconsistent with the laws of this state and that are necessary to carry out this chapter.
6. Require the periodic inspection of testing equipment and facilities of persons engaging in the practice of fitting and dispensing hearing aids, audiology and speech-language pathology.
7. Require a licensee to produce customer records of patients involved in complaints on file with the department.

#### C. The advisory committee appointed pursuant to subsection A, paragraph 1 consists of the director, two physicians licensed under title 32, chapter 13 or 17, one of whom is a specialist in otolaryngology,

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two licensed audiologists, one of whom dispenses hearing aids, two licensed speech-language pathologists, two public members, one of whom is hearing impaired, one member of the Arizona commission for the deaf and the hard of hearing who is not licensed pursuant to this chapter and two licensed hearing aid dispensers who are not licensed to practice audiology. Committee members who are licensed under this chapter shall have at least five years' experience immediately preceding the appointment in their field of practice in this state.

- D. The examining committee authorized pursuant to subsection B, paragraph 4 consists of one otolaryngologist, two licensed dispensing audiologists and two licensed hearing aid dispensers. Committee members who are licensed under this chapter shall have at least five years' experience immediately preceding the appointment in their field of practice in this state. The findings of the examining committee shall be advisory to the director.
- E. The director shall verify that the audiology licensee has passed a nationally recognized examination approved by the director.
- F. The director shall verify that the speech-language pathology licensee has passed a nationally recognized examination approved by the director.
- G. The director may recognize a nationally recognized speech-language hearing association or audiology association examination, or both, as an approved examination.
- H. The advisory committee shall provide recommendations to the director in the following areas, on which the director shall act within a reasonable period of time:
  - 1. Issuance and renewal of a license.
  - 2. Prescribing disciplinary procedures.
  - 3. Appointment of an examining committee to assist in the conduct of the examination of applicants for a hearing aid dispenser's license.
  - 4. Adopting rules that are not inconsistent with the laws of this state and that are necessary to carry out this chapter.
  - 5. Requiring the periodic inspection of testing equipment and facilities of persons engaging in the practice of fitting and dispensing hearing aids, audiology and speech-language pathology.
  - 6. Requiring a licensee to produce customer records of patients involved in complaints on file with the department of health services.

### **36-1903. Deposit of monies; hearing and speech professionals fund; exemption**

- A. All monies received by the director for any purpose pursuant to this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in a hearing and speech professionals fund established in the state treasury by the director, except monies collected from civil penalties imposed pursuant to this chapter shall be deposited in the state general fund. Monies in the fund shall be administered by the director for the purposes of this chapter.
- B. Monies in the fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

### **36-1904. Issuance of license; renewal of license; continuing education; military members**

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- A. The director shall issue a regular license to each applicant who meets the requirements of this chapter. A regular license is valid for one year.
- B. A licensee shall renew a regular license annually on payment of the renewal fee prescribed in section 36-1908. There is a thirty day grace period after the expiration of a regular license. During this period the licensee may renew a regular license on payment of a late fee in addition to the renewal fee.
- C. When renewing a regular license as a hearing aid dispenser, the licensee shall provide proof of having completed at least twelve hours of continuing education within the prior twelve months. Courses sponsored by a single manufacturer of hearing aids may not satisfy more than four hours of continuing education within the prior twelve months. Courses on topics that provide a hearing aid dispenser an opportunity to stay current on business or client service practices or trends in the profession or that contribute to the professional or business competence of a hearing aid dispenser may qualify for up to one-third of the annual continuing education requirement.
- D. When renewing a regular license in audiology or in speech-language pathology, the licensee shall provide proof of having completed at least ten hours of continuing education within the prior twelve months. Courses sponsored by a single manufacturer of hearing aids may not satisfy more than four hours of continuing education within the prior twelve months for persons with a license in audiology.
- E. The director by rule shall provide standards for continuing education courses required by this section.
- F. The director may refuse to renew a regular license for any cause provided in section 36-1934.
- G. A person who does not renew a regular license as prescribed by this section shall apply for a new license pursuant to the requirements of this chapter. If an application is received by the director within one year of the expiration date of the license, the applicant is not required to take an examination.
- H. A person who reapplies for a regular license issued pursuant to this chapter must provide proof of completion of the continuing education hours prescribed by subsection C or D of this section within the previous twelve months before the date of reapplication.
- I. A license issued pursuant to this chapter to any member of the Arizona national guard or the United States armed forces reserves shall not expire while the member is serving on federal active duty and shall be extended one hundred eighty days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the director of the federal active duty status of the member. A license issued pursuant to this chapter to any member serving in the regular component of the United States armed forces shall be extended one hundred eighty days from the date of expiration, provided that the member, or the legal representative of the member, notifies the director of the federal active duty status of the member. If the license is renewed during the applicable extended time period after the member returns from federal active duty, the member is responsible only for normal fees and activities relating to renewal of the license and shall not be charged any additional costs such as late fees or delinquency fees. The member, or the legal representative of the member, shall present to the director a copy of the member's official military orders, a redacted military identification card or a written verification from the member's commanding officer before the end of the applicable extended time period in order to qualify for the extension.

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- J. A license issued pursuant to this chapter to any member of the Arizona national guard, the United States armed forces reserves or the regular component of the United States armed forces shall not expire and shall be extended one hundred eighty days from the date the military member is able to perform activities necessary under the license if the member both:
1. Is released from active duty service.
  2. Suffers an injury as a result of active duty service that temporarily prevents the member from being able to perform activities necessary under the license.

### **36-1905. Sponsors; duties**

- A. A sponsor shall directly train and supervise a temporary licensee. The director shall prescribe by rule a reasonable number of hours of training and supervision required. A sponsor may not sponsor more than two temporary licensees at one time.
- B. A sponsor and the temporary licensee are equally liable for violations of this chapter and rules adopted pursuant to this chapter that are committed by the temporary licensee.
- C. A sponsor who violates this section is subject to disciplinary action as prescribed pursuant to section 36-1934.

### **36-1906. Registering place of business with director**

- A. A person who holds a license shall notify the director in writing of the address of the place or places where the person engages in the practice of fitting and dispensing hearing aids, audiology or speech-language pathology and any change of address.
- B. The director shall keep a record of the places of practice of persons who hold licenses. Any notice required to be given by the director to a person who holds a license may be given by mailing it to that person at the address given by that person to the director.

### **36-1907. Practicing without a license; prohibition**

- A. A person shall not engage in the practice of fitting and dispensing hearing aids, audiology or speech-language pathology or display a sign or in any other way advertise or claim to be a hearing aid dispenser, an audiologist or a speech-language pathologist unless the person holds an active license in good standing issued by the director as provided in this chapter.
- B. A person shall not engage in performing the duties of a speech-language pathology assistant or claim to be a speech-language pathology assistant unless the person holds an active license in good standing issued by the director as provided by this chapter.
- C. A licensee shall conspicuously post a license issued pursuant to this chapter in the licensee's office or place of business.

### **36-1908. Fees**

The director shall prescribe and collect fees from persons who are regulated under this chapter for the following:

1. An original application for a regular or temporary license.

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2. An original issuance of a regular or temporary license.
3. An original application for a regular or temporary license if an examination pursuant to section 36-1924 is required.
4. A renewal of a regular or temporary license.
5. An issuance of a duplicate regular or temporary license.
6. A late fee.

### **36-1909. Bill of sale; requirements**

- A. A hearing aid dispenser or dispensing audiologist shall deliver a bill of sale to each person supplied with a hearing aid by the hearing aid dispenser or the dispensing audiologist or at that person's order or direction.
- B. A bill of sale shall contain the hearing aid dispenser's or the dispensing audiologist's signature and shall show the address of that person's regular place of practice and the number of that person's license, a description of the make and model of the hearing aid and the amount charged. The bill of sale shall also state the serial number and the condition of the hearing aid as to whether it is new, used or rebuilt.
- C. A bill of sale shall contain language that verifies that the client has been informed about audio switch technology, including benefits such as increased access to telephones and assistive listening devices. If the hearing device purchased by the client has audio switch technology, the client shall be informed of the proper use of the technology. The client shall be informed that an audio switch is also referred to as a telecoil, t-coil or t-switch.
- D. A bill of sale shall contain language that informs the client about the Arizona telecommunications equipment distribution program established by section 36-1947 that provides assistive telecommunications devices to residents of this state who have hearing loss.

### **36-1910. Application of chapter to corporations and other organizations; exemptions**

- A. Except as provided in subsection B of this section and to the extent practicable, this chapter applies to corporations, partnerships, trusts, associations or like organizations.
- B. Corporations, partnerships, trusts, associations or like organizations that are fitting and dispensing hearing aids are exempt from the qualification and examination requirements of sections 36-1923 and 36-1924, provided they pay the license fee prescribed in section 36-1908 and employ only licensed persons in the over-the-counter or other in-person fitting and dispensing of hearing aids.

## **Article 2 – Hearing Aid Dispensers**

### **36-1921. Persons not affected by chapter**

This chapter does not:

1. Apply to a person while engaged in the practice of recommending hearing aids if such practice is part of the academic curriculum of an accredited institution of higher education or part of a

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

program conducted by a public or charitable institution, or a nonprofit organization which is primarily supported by voluntary contributions unless they sell hearing aids.

2. Apply to any person engaging in the practice of measuring human hearing for the purpose of selection of hearing aids provided that the person or the organization that employs that person does not sell hearing aids or hearing aid accessories.
3. Prevent a health care professional who is licensed or certified under title 32 from acting within the scope of that person's license or certificate.
4. Apply to a person who is credentialed by this state as a teacher of the deaf from acting within the scope of those credentials.
5. Apply to a student, intern or trainee pursuing a course of study in audiology or speech-language pathology in a nationally or regionally accredited institution of higher education or training institution if all of the following are true:
  - (a) The activities are part of a planned course of study at that institution.
  - (b) The person is designated by a title that clearly indicates the status appropriate to the person's level of education.
  - (c) The person works under the supervision of a person who is licensed in this state as an audiologist or a speech-language pathologist.
  - (d) Before a person receives services from a student or a temporary licensee, the supervising licensee provides written notification of this fact to the patient.
6. Apply to any person certified by the department of health services for the school hearing screening program.

### **36-1922. Reciprocity**

- A. The director may issue a license to a person who is currently licensed in another state or jurisdiction that the director determines meets the minimum licensure requirements of this chapter. The person shall apply for licensure and pay all applicable fees as prescribed by this chapter and shall pass an examination approved by the director in jurisprudence and ethics related to this chapter within six months after initial licensure. The director shall offer the examination at least four times each calendar year.
- B. The applicant shall provide information the director determines is necessary to investigate the status of the applicant's current license.

### **36-1923. Hearing aid dispensers; licensure; requirements**

- A. An applicant for a hearing aid dispenser license shall pay to the director a nonrefundable application fee and shall show to the satisfaction of the director that he:
  1. Is a person of good moral character.
  2. Has an education equivalent to a four-year course in an accredited high school or has continuously engaged in the practice of fitting and dispensing hearing aids during the three years preceding August 11, 1970.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

3. Has not had his license revoked or suspended by a state within the past two years and is presently not ineligible for licensure in any state due to prior revocation or suspension.
- B. An applicant for a hearing aid dispenser license who is notified by the director that he has fulfilled the requirements of subsection A shall appear at a time, place and before persons the director designates, to be examined by written and practical tests in order to demonstrate that he is qualified to practice the fitting and dispensing of hearing aids.
- C. The director shall give at least one and not exceeding four examinations of the type described in this section in each calendar year as the volume of applications may make appropriate. A minimum of three months shall elapse following the last examination before another may be given.

### **36-1924. Examination for license**

- A. The examination provided for in this article shall consist of:
  1. A demonstration of minimal knowledge in the techniques of testing hearing and fitting and evaluating hearing aids.
  2. A knowledge of the medical and rehabilitation facilities, for children and adults with hearing disorders, in this state.
  3. A knowledge of the code of ethics contained in this chapter.
  4. Tests of knowledge in the following areas as they pertain to the fitting of hearing aids:
    - (a) Physics.
    - (b) The human hearing mechanism, including its functions and causes of its disorders.
    - (c) The function of hearing aids.
  5. Practical tests of proficiency in the techniques of taking ear mold impressions and measurement of hearing by pure tone audiometry, including the air, bone and masking methods, and speech audiometry and other skills as they pertain to the candidacy for, selection of and adaptation of hearing aids.
  6. A knowledge of rehabilitation and hearing conservation techniques as they relate only to hearing aids and related devices.
- B. The examination shall not be constructed to require knowledge or abilities inconsistent with the realistic services of a hearing aid dispenser or with the requirements of sound public health practices.
- C. To provide adequate tests of proficiency, the examination requirements provided in this section may be changed when deemed necessary due to technological advances.

### **36-1926. Temporary license; sponsorship; termination of sponsorship**

- A. An applicant who fulfills the requirements of section 36-1923 may apply to the director for a temporary license.
- B. On receiving an application as provided by subsection A of this section, accompanied by an application fee and proof of sponsorship, the director shall issue a temporary license. A temporary license allows the licensee to practice the fitting and dispensing of hearing aids for a period ending on the last day of the month following a scheduled examination.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

- C. An applicant shall provide proof to the satisfaction of the director that the applicant is or will be supervised and trained for fitting and dispensing activities by a sponsor licensed pursuant to this chapter.
- D. A sponsor may terminate sponsorship at any time and for any reason. The director shall not review the reasons for the termination. A temporary license terminates on the date that the director receives notice from the sponsor that the sponsor is terminating sponsorship. This notice shall be accompanied by documentation that the sponsor has notified the licensee of the termination. The director shall prescribe by rule how the sponsor shall document this notification of termination. A person whose license is terminated shall apply for a new temporary license as prescribed by this section and shall not practice until granted a license.
- E. A person shall either take the next examination that is given following issuance of a temporary license or renew the temporary license. If the person takes and fails the examination the person may renew the temporary license once. The person shall take the next examination following the issuance of the renewal license. If the person does not take the examination but renews the temporary license, the person shall take the next examination following issuance of renewal of the temporary license.
- F. The director shall not issue a renewal to a person who has renewed a temporary license and failed the examination.
- G. A temporary license expires on the last day of the month following the next scheduled examination.
- H. The director may revoke or suspend a temporary license in the same manner and for the same reasons as prescribed pursuant to section 36-1934.

### **Article 3 – Regulation of Hearing Aid Dispensers, Audiologists and Speech-Language**

#### **36-1934. Denial, revocation or suspension of license; hearings; alternative sanctions**

- A. The director may deny, revoke or suspend a license issued under this chapter for any of the following reasons:
  - 1. Conviction of a felony or misdemeanor involving moral turpitude. The record of the conviction or a certified copy from the clerk of the court where the conviction occurred or from the judge of that court is sufficient evidence of conviction.
  - 2. Securing a license under this chapter through fraud or deceit.
  - 3. Unprofessional conduct, or incompetence in the conduct of his practice.
  - 4. Using a false name or alias in the practice of his profession.
  - 5. Violating any of the provisions of this chapter.
  - 6. Failing to comply with existing federal regulations regarding the fitting and dispensing of a hearing aid.
- B. If the director determines pursuant to a hearing that grounds exist to revoke or suspend a license, the director may do so permanently or for a fixed period of time and may impose conditions as prescribed by rule.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

- C. The department may deny a license without holding a hearing. After receiving notification of the denial, the applicant may request a hearing to review the denial.
- D. The department shall conduct any hearing to revoke or suspend a license or impose a civil penalty under section 36-1939 pursuant to title 41, chapter 6, article 10.
- E. Instead of denying, revoking or suspending a license the director may file a letter of concern, issue a decree of censure, prescribe a period of probation or restrict or limit the practice of a licensee.
- F. The director shall promptly notify a licensee's employer if the director initiates a disciplinary action against the licensee.

### **36-1936. Unlawful acts**

A person may not:

1. Sell, barter, or offer to sell or barter, a license.
2. Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to engage in the practice of fitting and dispensing hearing aids.
3. Alter materially a license with fraudulent intent.
4. Use or attempt to use as a valid license one which has been purchased, fraudulently obtained, counterfeited or materially altered.
5. Wilfully make a false, material statement in an application or related document for a license or for renewal of a license.

### **36-1937. Injunctive relief**

The director may enforce any provision of this chapter by injunction or by any other appropriate proceeding. No such proceeding shall be barred by any proceeding had or pending pursuant to any other provisions of this chapter, or by the imposition of any fine or term of imprisonment pursuant thereto.

### **36-1938. Violation; classification**

Violation of any provision of this chapter is a class 3 misdemeanor.

### **36-1939. Civil penalties; enforcement**

- A. The director may impose a civil penalty of not more than five hundred dollars for a violation of this chapter or a rule adopted pursuant to this chapter.
- B. The attorney general and the county attorney may bring an action in the name of this state to enforce civil penalties imposed pursuant to this section. Actions shall be brought in the superior court in the county where the violation occurs.
- C. The director may impose penalties assessed pursuant to this section in addition to other penalties imposed pursuant to this chapter.
- D. All monies collected from civil penalties collected for violation of this chapter or a rule adopted pursuant to this chapter shall be deposited in the state general fund.

## **Article 4 – Audiology and Speech-Language Pathology**

**36-1940. Audiology; licensure requirements**

- A. A person who wishes to be licensed as an audiologist shall:
1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant has:
    - (a) A doctoral degree with an emphasis in audiology from a nationally or regionally accredited college or university in an accredited program consistent with the standards of this state's universities.
    - (b) Completed supervised clinical rotations in audiology from a nationally or regionally accredited college or university in an accredited program consistent with the standards of this state's universities.
  3. Pass an examination pursuant to section 36-1902, subsection G. The applicant must have completed the examination within three years before the date of application for licensure pursuant to this article.
  4. Be of good moral character.
  5. Not have had a license revoked or suspended by a state within the past two years and not be presently ineligible for licensure in any state because of a prior revocation or suspension.
- B. A person who has a doctoral degree in audiology and who wishes to be licensed as an audiologist to fit and dispense hearing aids shall:
1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant has:
    - (a) A doctoral degree with an emphasis in audiology from a nationally or regionally accredited college or university in a program consistent with the standards of this state's universities.
    - (b) Completed supervised clinical rotations in audiology from a nationally or regionally accredited college or a university in an accredited program that is consistent with the standards of this state's universities.
  3. Pass an examination pursuant to section 36-1902, subsection G. The applicant must have completed the examination within three years before the date of application for licensure pursuant to this article.
  4. Pass an examination approved by the director in jurisprudence and ethics related to this chapter within six months after initial licensure. The director shall offer the examination at least four times each calendar year.
  5. Be of good moral character.
  6. Not have had a license revoked or suspended by a state within the past two years and not be presently ineligible for licensure in any state because of a prior revocation or suspension.
- C. A person who wishes to be licensed as an audiologist to fit and dispense hearing aids and who was awarded a master's degree in audiology before December 31, 2007 must:

STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

1. Submit a nonrefundable application fee as prescribed pursuant to section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant meets the requirements prescribed in section 36-1940.02, subsection C for a waiver of the educational and clinical rotation requirements of this article.
  3. Pass an audiology examination pursuant to section 36-1902, subsection E. The applicant must have completed the examination within three years before the date of application for licensure pursuant to this article unless the applicant is currently practicing audiology and meets the audiology examination waiver requirements of section 36-1940.02, subsection D.
  4. Pass the hearing aid dispenser's examination pursuant to section 36-1924.
  5. Be of good moral character.
  6. Not have had a license to practice as an audiologist or hearing aid dispenser revoked or suspended by another state within the past two years and not currently be ineligible for licensure in any state because of a prior revocation or suspension.
- D. The director shall adopt rules prescribing criteria for approved postgraduate professional experience.

**36-1940.01. Speech-language pathologist; licensure requirements**

- A. A person who wishes to be licensed as a speech-language pathologist shall:
1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant has:
    - (a) A master's degree in speech-language pathology or the equivalent from a nationally or regionally accredited college or university in a program consistent with the standards of this state's universities.
    - (b) Completed a supervised clinical practicum in speech-language pathology from a nationally or regionally accredited college or university in a program consistent with the standards of this state's universities.
    - (c) Completed postgraduate professional experience in the field of speech-language pathology approved by the director.
  3. Pass an examination pursuant to section 36-1902, subsection G.
  4. Be of good moral character.
  5. Not have had a license revoked or suspended by a state within the past two years and not be presently ineligible for licensure in any state because of a prior revocation or suspension.
- B. A person who wishes to be licensed as a speech-language pathologist whose practice is limited to providing services to pupils under the authority of a local education agency or state supported institution shall:
1. Submit a nonrefundable application fee as provided by section 36-1908.
  2. Submit proof of an employee or contractor relationship with a local education agency or a state supported institution.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

3. Hold a certificate in speech and language therapy awarded by the state board of education.

C. The director shall adopt rules prescribing criteria for approved postgraduate professional experience.

### **36-1940.02. Waiver of licensure and examination requirements**

A. The advisory committee appointed under section 36-1902 may recommend to the director a waiver of the educational requirements of sections 36-1940 and 36-1940.01 if an applicant submits proof satisfactory to the department that the applicant received professional education in another country equivalent to the education and practicum requirements of this article.

B. The department shall waive the examination requirements of section 36-1940.01 under either of the following conditions:

1. The applicant presents proof satisfactory to the department that the applicant is currently licensed in a state, district or territory of this country that has standards that are at least equivalent to those of this state.

2. The applicant holds a certificate of clinical competence in speech-language pathology from a nationally recognized speech-language hearing association approved by the department in the field for which the applicant is applying for licensure.

C. The department shall waive the education and clinical rotation requirements of section 36-1940 if an applicant submits proof satisfactory to the director that the applicant either:

1. Is currently licensed in a state that has standards that are at least equivalent to those of this state.

2. Has a master's degree in audiology that was awarded by an accredited program before December 31, 2007 and has completed postgraduate professional experience in audiology as approved by the director.

D. The department shall waive the audiology examination requirements of section 36-1940 if either:

1. The applicant presents proof satisfactory to the department that the applicant is currently licensed and practicing audiology in this state or in another state that has standards that are at least equivalent to those of this state.

2. The applicant presents proof satisfactory to the department that the applicant is currently practicing audiology under the authority and supervision of an agency of the United States government or of another board, agency or department of another state and holds a certificate in audiology from a recognized credentialing body approved by the director.

E. The department shall waive the hearing aid dispensing examination requirements of section 36-1940 if:

1. The applicant presents proof satisfactory to the department that the applicant holds a current license that includes dispensing and that is issued by another state that has standards that are at least equivalent to those of this state.

2. The applicant passes an examination approved by the director in jurisprudence and ethics related to this chapter within six months after initial licensure. The director shall offer the examination at least four times each calendar year.

### **36-1940.03. Temporary licenses**

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

- A. The department shall issue a temporary license to a person who does not meet the professional experience requirement of section 36-1940.01 if the applicant meets the other requirements of that section and:
  - 1. Includes with the application a plan for meeting the postgraduate professional experience.
  - 2. Submits a fee prescribed by section 36-1908.
- B. A person may renew a temporary license only once.
- C. A person issued a temporary license shall practice only under the supervision of a person who is fully licensed by this state.

### **36-1940.04. Speech-language pathologist assistant; licensure requirements; scope of practice; supervision**

- A. A person who wishes to be licensed as a speech-language pathologist assistant shall:
  - 1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  - 2. Submit written evidence satisfactory to the director that the applicant has completed:
    - (a) An approved training program for speech-language pathology assistants or the equivalent from a nationally or regionally accredited college or university that consisted of a minimum of sixty semester credit hours of course work with the following curriculum content:
      - (i) Twenty to forty semester credit hours of general education.
      - (ii) Twenty to forty semester credit hours of speech-language pathology technical course work.
    - (b) A minimum of one hundred hours of clinical interaction that does not include observation, under the supervision of a licensed master's level speech-language pathologist.
  - 3. Be of good moral character.
  - 4. Not have had a license revoked or suspended by a state within the past two years and is not presently ineligible for licensure in any state because of a prior revocation or suspension.
- B. The director shall grant a waiver of the requirements for licensure as provided by subsection A of this section until September 1, 2007 to individuals who have performed the functions of a speech-language pathology assistant if the individual:
  - 1. Has completed a minimum of forty semester credit hours of speech-language pathology technical course work.
  - 2. Has satisfactorily completed a minimum of two years of experience as a speech-language pathology assistant under the supervision of a licensed master's level speech-language pathologist.
  - 3. Is of good moral character.
  - 4. Has not had a license revoked or suspended by a state within the past two years and is not presently ineligible for licensure in any state because of a prior revocation or suspension.
- C. A speech-language pathology assistant may do the following under the supervision of the licensed speech-language pathologist:
  - 1. Conduct speech and language screenings without interpretation, using screening protocols specified by the supervising speech-language pathologist.
  - 2. Provide direct treatment assistance, including feeding for nutritional purposes to patients, clients or students except for patients, clients or students with dysphagia, identified by the supervising speech-language pathologist by following written treatment plans, individualized education

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

programs, individual support plans or protocols developed by the supervising speech-language pathologist.

3. Document patient, client or student progress toward meeting established objectives as stated in the treatment plan, individual support plan or individualized education program without interpretation of the findings, and report this information to the supervising speech-language pathologist.
  4. Assist the speech-language pathologist in the collecting and tallying of data for assessment purposes, without interpretation of the data.
  5. Act as a second-language interpreter during assessments.
  6. Assist with informal documentation during an intervention session by collecting and tallying data as directed by the speech-language pathologist, preparing materials and assisting with other clerical duties as specified by the supervising speech-language pathologist.
  7. Schedule activities and prepare charts, records, graphs or other displays of data.
  8. Perform checks and maintenance of equipment.
  9. Participate with the speech-language pathologist in research projects, in-service training and public relations programs.
  10. Sign and initial treatment notes for review and co-signature by the supervising speech-language pathologist.
- D. A speech-language pathology assistant shall not:
1. Conduct swallowing screening, assessment and intervention protocols, including modified barium swallow studies.
  2. Administer standardized or nonstandardized diagnostic tests, formal or informal evaluations or interpret test results.
  3. Participate in parent conferences, case conferences or any interdisciplinary team meeting without the presence of the supervising speech-language pathologist, except for individualized education program or individual support plan meetings if the licensed speech pathologist has been excused by the individualized education program team or the individual support plan team.
  4. Write, develop or modify a patient's, client's or student's treatment plan, individual support plan or individualized education program in any way.
  5. Provide intervention for patients, clients or students without following the treatment plan, individual support plan or individualized education program prepared by the supervising speech-language pathologist.
  6. Sign any formal documents, including treatment plans, individual support plans, individualized education programs, reimbursement forms or reports.
  7. Select patients, clients or students for services.
  8. Discharge patients, clients or students from services.
  9. Unless required by law, disclose clinical or confidential information orally or in writing to anyone not designated by the speech-language pathologist.
  10. Make a referral for any additional service.
  11. Communicate with the patient, client or student or with family or others regarding any aspect of the patient, client or student status without the specific consent of the supervising speech-language pathologist.
  12. Claim to be a speech-language pathologist.
  13. Write a formal screening, diagnostic, progress or discharge note.

STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

14. Perform any task without the express knowledge and approval of the supervising speech-language pathologist.
- E. All services provided by a speech-language pathology assistant shall be performed under the direction and supervision of a speech-language pathologist licensed pursuant to this chapter.
- F. A licensed speech-language pathologist who supervises or directs the services provided by a speech-language pathology assistant shall:
  1. Have at least two years of full-time professional experience as a licensed speech-language pathologist.
  2. Provide direction and supervision to not more than two full-time or three part-time speech-language pathology assistants at one time.
  3. Ensure that the amount and type of supervision and direction provided to a speech-language pathology assistant is consistent with the individual's skills and experience, the needs of the patient, client or student served, the setting in which services are provided and the tasks assigned and provide:
    - (a) A minimum of twenty per cent direct supervision and ten per cent indirect supervision of all of the time that a speech-language pathology assistant is providing services during the first ninety days of the person's employment.
    - (b) Subsequent to the first ninety days of a speech-language pathology assistant's employment, a minimum of ten per cent direct supervision and ten per cent indirect supervision of all of the time a speech-language pathologist assistant is providing service.
  4. Inform a patient, client or student when the services of a speech-language pathology assistant are being provided.
  5. Document all periods of direct and indirect supervision provided to a speech-language pathology assistant.
- G. If more than one speech-language pathologist provides supervision to a speech-language pathology assistant, one of the speech-language pathologists shall be designated as the primary supervisor who is responsible for coordinating any supervision provided by other speech-language pathologists.

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<b>Chapter 17</b>	<b>HEARING AID DISPENSERS, AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS</b>
<b>Article 1</b>	<b>Administration</b>
36-1901	Definitions
36-1902	Powers and duties of the director; advisory committee; examining committee
36-1903	Deposit of monies; hearing and speech professionals fund; exemption
36-1904	Issuance of license; renewal of license; continuing education; military members
36-1905	Sponsors; duties
36-1906	Registering place of business with director
36-1907	Practicing without a license; prohibition
36-1908	Fees
36-1909	Bill of sale; requirements
36-1910	Application of chapter to corporations and other organizations; exemptions
<b>Article 2</b>	<b>Hearing Aid Dispensers</b>
36-1921	Persons not affected by chapter
36-1922	Reciprocity
36-1923	Hearing aid dispensers; licensure; requirements
36-1924	Examination for license
36-1926	Temporary license; sponsorship; termination of sponsorship
<b>Article 3</b>	<b>Regulation of Hearing Aid Dispensers, Audiologists and Speech-Language Pathologists</b>
36-1934	Denial, revocation or suspension of license; hearings; alternative sanctions
36-1936	Unlawful acts
36-1937	Injunctive relief
36-1938	Violation; classification
36-1939	Civil penalties; enforcement
<b>Article 4</b>	<b>Audiology and Speech-Language Pathology</b>
36-1940	Audiology; licensure requirements
36-1940.01	Speech-language pathologist; licensure requirements
36-1940.02	Waiver of licensure and examination requirements
36-1940.03	Temporary licenses
36-1940.04	Speech-language pathologist assistant; licensure requirements; scope of practice; supervision

**D-2**

**DEPARTMENT OF HEALTH SERVICES (R20-0405)**

Title 9, Chapter 16, Article 3, Licensing Hearing Aid Dispensers

**Amend:** R9-16-301

**Repeal:** R9-16-302, R9-16-303, R9-16-304, R9-16-305, R9-16-306, R9-16-307, R9-16-308, R9-16-309, R9-16-310, R9-16-311, R9-16-312, R9-16-313, R9-16-314, R9-16-315, R9-16-316, Table 3.1, R9-16-317

**New Section:** R9-16-302, R9-16-303, R9-16-304, R9-16-305, R9-16-306, R9-16-307, R9-16-308, R9-16-309, R9-16-310, R9-16-311, R9-16-312, R9-16-313, R9-16-314, R9-16-315, R9-16-316

**New Table:** Table 3.1



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

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**MEETING DATE:** April 7, 2020

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

**FROM:** Council Staff

**DATE:** March 4, 2020

**SUBJECT: DEPARTMENT OF HEALTH SERVICES (R20-0405)**  
Title 9, Chapter 16, Article 3, Licensing Hearing Aid Dispensers

**Amend:** R9-16-301

**Repeal:** R9-16-302, R9-16-303, R9-16-304, R9-16-305, R9-16-306,  
R9-16-307, R9-16-308, R9-16-309, R9-16-310, R9-16-311,  
R9-16-312, R9-16-313, R9-16-314, R9-16-315, R9-16-316, Table  
3.1, R9-16-317

**New Section:** R9-16-302, R9-16-303, R9-16-304, R9-16-305, R9-16-306,  
R9-16-307, R9-16-308, R9-16-309, R9-16-310, R9-16-311,  
R9-16-312, R9-16-313, R9-16-314, R9-16-315, R9-16-316

**New Table:** Table 3.1

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### **Summary:**

This Notice of Final Expedited Rulemaking from the Department of Health Services (Department) seeks to amend and repeal and replace rules in Title 9, Chapter 16, Article 3, relating to Licensing Hearing Aid Dispensers. This expedited rulemaking seeks to implement a course of action that was proposed in the Department's recent Five Year Review Report (5YRR) for these rules, which the Council approved on July 2, 2019. The 5YRR stated that the rules

could be improved to increase understandability by simplifying and clarifying some requirements, updating antiquated language and outdated citations and references, and making technical and grammatical changes. This expedited rulemaking also seeks to consolidate and clarify all fees. The Department received an exemption from the rulemaking moratorium to conduct this expedited rulemaking on September 26, 2019.

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

Yes. The Department states that this expedited rulemaking implements a course of action proposed in a 5YRR pursuant to A.R.S. § 41-1027(A)(7). The Council approved the Department's 5YRR for these rules on July 2, 2019. In that 5YRR, the Department proposed to amend numerous rules and submit a Notice of Final Expedited Rulemaking to the Council by December 31, 2019. This Notice of Expedited Rulemaking, which was submitted on February 14, 2020, seeks to amend and repeal and replace the rules identified in the 5YRR. The rulemaking also seeks to add a new table. Therefore, this rulemaking meets the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)(7).

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

Yes. The Department cites both general and specific statutory authority for these rules.

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

No. This expedited rulemaking does not establish a new fee or fees, or contain a fee increase. However, this rulemaking does attempt to consolidate and clarify all existing fees, including: initial application, temporary initial application, initial licensing, temporary licensing, renewal licensing, temporary renewal licensing, renewal licensing late fee, and duplicate license fees into a new rule, R9-16-316 (Fees). The Director of the Department is authorized to prescribe and collect these fees pursuant to A.R.S. § 36-1908 (Fees).

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

The Department did not receive any comments in conducting this expedited rulemaking.

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

The Department made minor revisions to the rules between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking in order to correct typographical errors, as described in Item 10 of the Notice of Final Expedited

Rulemaking. These changes do not result in rules that are “substantially different” pursuant to A.R.S. § 41-1025.

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

Not applicable. There is no corresponding federal law.

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

Yes. The Department indicates that it believes the license issued under these rules is a general permit because the license specifies the individual and the tasks/services the individual is licensed to provide, but a licensed individual is not limited to providing the tasks/services in any one location. Council staff finds that the license issued under these rules meets the definition of “general permit” in A.R.S. § 41-1001(11). The Department complies with A.R.S. § 41-1037.

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 in conducting this expedited rulemaking.

9. **Conclusion**

The Department is conducting this expedited rulemaking to implement a course of action proposed in its recent 5YRR for these rules, which the Council approved in July 2019. The rulemaking seeks to simplify and clarify requirements, as well as make technical and grammatical changes. Council staff finds that these rules would be more clear, concise, understandable, and effective. If the Council approves this expedited rulemaking, the rules would be immediately effective upon the Department filing its Certificate of Approval with the Secretary of State. Council staff recommends approval of this expedited rulemaking.



ARIZONA DEPARTMENT  
OF HEALTH SERVICES

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POLICY & INTERGOVERNMENTAL AFFAIRS

February 14, 2020

**VIA EMAIL:** [grrc@azdoa.gov](mailto:grrc@azdoa.gov)

Nicole Sorensen, 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 3 Expedited Rulemaking

Dear Ms. Sorensen:

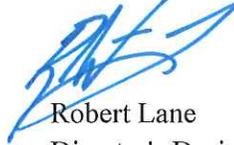
1. The close of record date: January 31, 2020
  2. Explanation of how the expedited rule meets the criteria in A.R.S. § 41-1027(A):

The rulemaking is consistent with A.R.S. § 41-1027(A) in that the rulemaking does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated. In addition, the rulemaking implements, without material change, a course of action proposed in a five-year-review report approved by the Council pursuant to A.R.S. § 41-1056. Thus, the rulemaking complies with criteria for expedited rulemaking under A.R.S. § 41-1027(A)(7).
  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 3, relates to a five-year-review report and the 9 A.A.C. 16, Article 3 five-year review report was approved by the Council on July 2, 2019.
- The Department certifies 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.
4. A list of all items enclosed:
    - a. Notice of Final Expedited Rulemaking, including the Preamble, Table of Contents, and text of the rule
    - b. Statutory authority

The Department's point of contact for questions about the rulemaking documents is Teresa Koehler at [Teresa.Koehler@azdhs.gov](mailto:Teresa.Koehler@azdhs.gov).

Sincerely,



Robert Lane  
Director's Designee

RL:tk

Enclosures

Douglas A. Ducey | Governor    Cara M. Christ, MD, MS | Director

**NOTICE OF FINAL EXPEDITED RULEMAKING**  
**TITLE 9. HEALTH SERVICES**  
**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING**  
**ARTICLE 3. LICENSING HEARING AID DISPENSERS**

**PREAMBLE**

<b><u>1.</u></b>	<b><u>Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
	R9-16-301.	Amend
	R9-16-302.	Repeal
	R9-16-302.	New Section
	R9-16-303.	Repeal
	R9-16-303.	New Section
	R9-16-304.	Repeal
	R9-16-304.	New Section
	R9-16-305.	Repeal
	R9-16-305.	New Section
	R9-16-306.	Repeal
	R9-16-306.	New Section
	R9-16-307.	Repeal
	R9-16-307.	New Section
	R9-16-308.	Repeal
	R9-16-308.	New Section
	R9-16-309.	Repeal
	R9-16-309.	New Section
	R9-16-310.	Repeal
	R9-16-310.	New Section
	R9-16-311.	Repeal
	R9-16-311.	New Section
	R9-16-312.	Repeal

R9-16-312.	New Section
R9-16-313.	Repeal
R9-16-313.	New Section
R9-16-314.	Repeal
R9-16-314.	New Section
Table 3.1.	New Table
R9-16-315.	Repeal
R9-16-315.	New Section
R9-16-316.	Repeal
R9-16-316.	New Section
Table 3.1.	Repeal
R9-16-317.	Repeal

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

Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A)(18), and 36-136(G)

Implementing statutes: A.R.S. §§ 36-1901 through 36-1910, 36-1921 through 36-1926; and 36-1934 through 36-1940.02.

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

The rules are effective the day the Notice of Final Expedited Rulemaking is filed with the Office of the Secretary of State.

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

Notice of Rulemaking Docket Opening: 25 A.A.R. 3321, November 15, 2019

Notice of Proposed Expedited Rulemaking: 26 A.A.R. 148, January 24, 2020

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

Name: Thomas Salow, Branch Chief  
Address: Arizona Department of Health Services  
Division of Licensing Services  
150 N. 18th Ave., Suite 400  
Phoenix, AZ 85007  
Telephone: (602) 364-1935

Fax: (602) 364-4808  
E-mail: [Thomas.Salow@azdhs.gov](mailto:Thomas.Salow@azdhs.gov)  
or  
Name: Stephanie Elzenga, Administrative Counsel  
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](mailto: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 expedited rulemaking:**

The five-year-review report (Report) for 9 A.A.C. 16, Article 3 was approved by the Governor's Regulatory Review Council on July 2, 2019. The Report indicated that the rules' effectiveness could be improved to increase understandability by simplifying and clarifying some requirements, updating antiquated language and outdated citations and references, and making technical and grammatical changes. The Report also stated a plan to amend the rules as identified in the Report. Changes include consolidating and clarifying all fees including: initial application, initial licensing, renewal licensing, renewal for temporary licensing, renewal licensing late fee, and duplicate license. The changes do not increase a fee or the cost of regulatory compliance and do not reduce procedural rights of a regulated person. This rulemaking meets the criteria for expedited rulemaking and implements a course of action proposed in a five-year-review report specified in A.R.S. § 41-1027(A)(7). The Department believes amending these rules will eliminate confusion and reduce regulatory burden to affected persons. The Department received an exception from the rulemaking moratorium, established by Executive Order 2019-1, to amend the rules through expedited rulemaking on September 26, 2019.

**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 expedited rulemaking.

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

This final expedited rulemaking does not diminish a previous grant of authority of a political subdivision of this state.

**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, a change was made to correct a cite in R9-16-305(F). The Department changed “A.R.S. § 36-1928(D)” to “A.R.S. § 36-1926(D).” The Department also changed “A.R.S. § 36-1910” to “A.R.S. § 36-1904” in Table 3.1 for license renewal and added a strike to R9-16-317 Section title on page 40.

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

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

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

There are no other matters prescribed by statute applicable specifically to the Department or this specific expedited 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 license issued to an individual is a general permit in that the license specifies the individual and the tasks/services the individual is authorized by licensure to provide, but a licensed individual is not limited to providing 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:**

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

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

No such analysis was submitted.

**13.** **Incorporations by reference and their location in the rules:**

None

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

The rule was not previously made as an emergency rule.

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING**

**ARTICLE 3. LICENSING HEARING AID DISPENSERS**

- R9-16-301. Definitions
- R9-16-302. ~~Individuals to Act for Applicant~~ Examination Requirements
- R9-16-303. ~~Examination Requirements~~ Application
- R9-16-304. ~~Written Hearing Aid Dispenser Examination~~ Requirements for an Initial Hearing Aid Dispenser License
- R9-16-305. ~~Practical Examination~~ Requirements for an Initial Temporary Hearing Aid Dispenser License
- R9-16-306. ~~Application for an Initial License by Examination~~ Application for Examination
- R9-16-307. ~~Application for an Initial License by Reciprocity~~ Initial Application for a Business Hearing Aid Dispenser License
- R9-16-308. ~~Application for an Initial License to a Business Organization~~ License Renewal
- R9-16-309. ~~Application for a Temporary License~~ Continuing Education
- R9-16-310. Sponsors
- R9-16-311. ~~License Renewal~~ Responsibilities of a Hearing Aid Dispenser
- R9-16-312. ~~Continuing Education~~ Equipment and Records
- R9-16-313. ~~Responsibilities of a Hearing Aid Dispenser~~ Enforcement
- R9-16-314. ~~Equipment and Records~~ Time-frames
- Table 3.1. Time-frames (in calendar days)
- R9-16-315. ~~Disciplinary Actions~~ Change Affecting a License or a Licensee; Request for Duplicate License
- R9-16-316. ~~Time frames~~ Fees
- Table 3.1. Time frames (in calendar days)
- R9-16-317. ~~Change Affecting a License or a Licensee; Request for Duplicate License~~

**R9-16-301. Definitions**

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article unless otherwise specified:

1. "Applicant" means an individual or a business organization that submits ~~to the Department an approval to test, or initial, renewal or temporary license~~ an application packet and required documentation for approval to practice as a hearing aid dispenser.
- ~~2.~~ "Application packet" ~~means the information, documents, and fees required by the Department to apply for a license.~~
- ~~3.~~2. "Business organization" means an entity identified in A.R.S. § 36-1910.
- ~~4.~~3. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
- ~~5.~~4. "Continuing education" means a course that provides instruction and training that directly relates to the practice of fitting and dispensing hearing aids as specified in A.R.S. § 36-1904.
- ~~6.~~ "Continuing education hour" ~~means 50 minutes of continuing education.~~
- ~~7.~~ "Controlling person" ~~has the same meaning as in A.R.S. § 36-881.~~
- ~~8.~~ "Course" ~~means a workshop, seminar, lecture, conference, or class.~~
- ~~9.~~ "Department designated written hearing aid dispenser examination" ~~means one of the following that has been identified by the Department as complying with the requirements in A.R.S. § 36-1924:~~
  - ~~a. The International Licensing Examination for Healthcare Professionals, administered by the International Hearing Society; or~~
  - ~~b. A test provided by the Department or other organization.~~
- ~~10.~~5. "Designated agent" means an individual who is:
  - a. Is authorized by an applicant or hearing aid dispenser [a person] to receive communications from the Department, including legal service of process; and to
  - b. file May file or sign documents on behalf of the applicant or hearing aid dispenser;
  - c. Is a U.S. citizen or legal resident;
  - d. Has an Arizona address; and
  - e. Is a controlling person of the business organization, if applicable.

- ~~4-6.~~ "Disciplinary action" means a proceeding that is brought against a licensee by the Department under A.R.S. § 36-1934 or ~~a state licensing entity~~ a state specified in R9-16-311(A)(2) and (3) R9-16-308(A)(2).
7. "GED" means a general education development test.
8. "Hearing aid dispenser examination" means one of the following that has been identified by the Department as complying with the requirements in A.R.S. § 36-1924:
- a. The International Licensing Examination for Hearing Health Professionals, administered by the International Hearing Society; or
  - b. A test provided by the Department or other organization.
- ~~12.~~ ~~"In service education" means organized instruction or information that is provided to a licensed hearing aid dispenser.~~
9. "Practical examinator" means a test:
- a. Designated by the Department that demonstrates an applicant's proficiency in the practice of fitting and dispensing of hearing aids, and
  - b. Compliant with A.R.S. § 36-1924(A)(4).
10. "State licensing entity" means a state agency or board that approves licensure and takes disciplinary action of individuals or businesses that practice as a hearing aid dispenser.
11. "Temporary hearing aid dispenser" means a person who is licensed under A.R.S. Title 36, Chapter 17 and this Article for a specified period of time under the sponsorship of a hearing aid dispenser also licensed under A.R.S. Title 36, Chapter 17 and this Article.

**~~R9-16-302. Individuals to Act for Applicant~~**

~~When an applicant or a hearing aid dispenser is required by this Article to provide information on or sign an application form or other document, the following shall satisfy the requirement on behalf of the applicant or hearing aid dispenser:~~

- ~~1. If the applicant or the hearing aid dispenser is an individual, the individual; or~~
- ~~2. If the applicant or hearing aid dispenser is a business organization, the designated agent who:~~
  - ~~a. Is a controlling person of the business organization;~~
  - ~~b. Is a U.S. citizen or legal resident, and~~
  - ~~c. Has an Arizona address.~~

**R9-16-302. Examination Requirements**

- A. Within two years after the date an applicant receives the approval notification in R9-16-306(B), or a temporary hearing aid dispenser receives the approval in R9-16-305(B), the applicant or**

temporary hearing aid dispenser shall take and obtain a passing score on the Department-designated:

1. Written hearing aid dispenser examination required in subsection (B), and
2. Practical examination required in subsection (B).

**B.** An applicant approved to take the Department-designated practical examination or a temporary hearing aid dispenser approved to take the Department-designated practical examination shall:

1. Arrive on the scheduled date and time of the examination,
2. Provide proof of identity by a government-issued photographic identification card that is provided by the applicant or temporary hearing aid dispenser upon the request of the individual administering the examination, and
3. Exhibit ethical conduct during the examination process.

**C.** After the Department receives an applicant's Department-designated written hearing aid dispenser examination results, the Department shall notify the applicant of:

1. A passing score and approval to take the practical examination; or
2. A failing score that includes, as applicable, approval to retake the written hearing aid dispenser examination.

**D.** An applicant or temporary hearing aid dispenser who does not comply with subsection (B)(1) or (B)(2) is ineligible to take the examination on the scheduled date and time.

**E.** An applicant or temporary hearing aid dispenser taking the examination will receive a passing score on the examination if the applicant or temporary hearing aid dispenser demonstrates the proficiencies in A.R.S. § 36-1924, as determined by the Department.

**F.** After the Department receives an applicant's practical examination results, the Department shall notify the applicant whether the applicant received:

1. A passing score; or
2. A failing score and, as applicable, approval to retake the Department-designated practical examination for the examination sections that the applicant failed.

**G.** The Department shall notify an applicant or temporary hearing aid dispenser that the applicant or temporary hearing aid dispenser may apply for an initial hearing aid dispenser license when the applicant or temporary hearing aid dispenser has received a passing score on both of the examinations in subsection (A).

**R9-16-303. Examination Requirements**

~~A. Within two years after the date an applicant receives the approval notification in R9-16-304(C)(1), or a hearing aid dispenser with a temporary license receives the approval in R9-16-~~

~~309(C), the applicant or hearing aid dispenser with a temporary license shall take and obtain a passing score on the Department designated:~~

- ~~1. Written hearing aid dispenser examination required R9-16-304, and~~
- ~~2. Practical examination required in R9-16-305.~~

~~B. An applicant approved to take the Department designated practical examination according to R9-16-304(C)(1), the examination required in R9-16-307(E), or a hearing aid dispenser with a temporary license approved to take the Department designated practical examination according to R9-16-309 (F)(1) shall:~~

- ~~1. Arrive on the scheduled date and time of the examination,~~
- ~~2. Provide proof of identity by a government issued photographic identification card that is provided by the applicant or hearing aid dispenser with a temporary license upon the request of the individual administering the examination, and~~
- ~~3. Exhibit ethical conduct during the examination process.~~

~~C. An applicant or hearing aid dispenser with a temporary license who does not comply with subsection (B)(1) or (B)(2) is ineligible to take the examination on the scheduled date and time.~~

~~D. An applicant or hearing aid dispenser with a temporary license taking the examination:~~

- ~~1. Required in R9-16-307(E), will receive:~~
  - ~~a. A passing score if 75% or more of the responses are correct, as determined by the Department; or~~
  - ~~b. A failing score if fewer than 75% of the responses are incorrect, as determined by the Department; and~~
- ~~2. Required in R9-16-304(C)(1) or R9-16-309 (F)(1) will receive a passing score on the examination if the applicant or hearing aid dispenser with a temporary license demonstrates the proficiencies in A.R.S. § 36-1924(A)(4), as determined by the Department.~~

~~E. The Department shall notify an applicant or hearing aid dispenser with a temporary license that the applicant or hearing aid dispenser with a temporary license may apply for an initial hearing aid dispenser license when the applicant or hearing aid dispenser with a temporary license has received a passing score on both of the examinations in subsection (A).~~

**R9-16-303. Application**

**A. An applicant for licensure shall submit to the Department:**

- 1. An application in a Department-provided format that contains:**
  - a. The applicant's name, home address, telephone number, and e-mail address;**

- b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
  - c. The applicant's current employment, if applicable, including:
    - i. The employer's name,
    - ii. The licensee'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 ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
  - e. If the applicant was convicted of a felony or misdemeanor:
    - i. The date of the conviction,
    - ii. The state or jurisdiction of the conviction,
    - iii. An explanation of the crime of which the applicant was convicted, and
    - iv. The disposition of the case;
  - f. Whether a hearing aid dispenser license issued to the applicant has been suspended or revoked;
  - g. Whether the applicant is currently ineligible to apply for a hearing aid dispenser license due to a prior revocation or suspension of the applicant's hearing aid dispenser license;
  - h. Whether the applicant has been disciplined by any state, territory or district in this country for an act upon the applicant's hearing aid dispenser license;
  - i. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-314;
  - j. An attestation that the information submitted as part of the application is true and accurate; and
  - k. The applicant's signature and date of signature;
2. Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080;
  3. Documentation that the applicant received a high school diploma, a high school equivalency diploma, an associate degree, or a higher degree;

4. Whether a professional license or certificate has been revoked or suspended by another state or jurisdiction;
5. If a license for an applicant has been revoked or suspended by any state, documentation that includes:
  - a. The date of the revocation or suspension,
  - b. The state or jurisdiction of the revocation or suspension, and
  - c. An explanation of the revocation or suspension;
6. If an applicant is currently ineligible for licensing in any state because of a license revocation or suspension, documentation that includes:
  - a. The date of the ineligibility for licensing,
  - b. The state or jurisdiction of the ineligibility for licensing, and
  - c. An explanation of the ineligibility for licensing;
7. If an applicant has been disciplined by any state, territory or district, in this country for an act upon the applicant's hearing aid dispenser license, documentation that includes:
  - a. The date of the disciplinary action,
  - b. The state or jurisdiction of the disciplinary action,
  - c. An explanation of the disciplinary action, and
  - d. Any other applicable documents, including a legal order or settlement agreement;  
and
8. A nonrefundable application fee specified in R9-16-316.

**B.** The Department shall review an application and documentation for approval according to R9-16-314 and Table 3.1.

**R9-16-304. Written Hearing Aid Dispenser Examination**

- A.** An applicant applying for an approval to take the Department designated written hearing aid dispenser examination shall submit to the Department:
1. An application in a format provided by the Department that contains:
    - a. The applicant's name, home address, telephone number, and e-mail address;
    - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
    - c. If applicable, the name of the applicant's employer and the employer's business address and business telephone number;
    - d. Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction; and
    - e. If the applicant was convicted of a felony or misdemeanor:

- i. The date of the conviction;
      - ii. The state or jurisdiction of the conviction;
      - iii. An explanation of the crime of which the applicant was convicted; and
      - iv. The disposition of the case;
    - f. Whether within the two years before the application date, a hearing aid dispenser license issued to the applicant was suspended or revoked;
    - g. Whether the applicant is currently ineligible to apply for a hearing aid dispenser license due to a prior revocation or suspension of the applicant's hearing aid dispenser license;
    - h. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-16-316;
    - i. An attestation that the information submitted as part of the application is true and accurate; and
    - j. The applicant's signature and date of signature;
  - 2. A copy of the applicant's:
    - a. U.S. passport, current or expired;
    - b. Birth certificate;
    - c. Naturalization documents; or
    - d. Documentation of legal resident alien status;
  - 3. Documentation that the applicant:
    - a. Received a high school diploma from an accredited high school;
    - b. Passed the general education development tests;
    - c. Completed an associate degree or higher from an accredited college or university; or
    - d. Continuously engaged in the practice of fitting and dispensing hearing aids during the three years before August 11, 1970;
  - 4. If the applicant was issued a hearing aid dispenser license in another state or jurisdiction, where the applicant was issued a hearing aid dispenser license; and
  - 5. A nonrefundable \$100 application fee.
- B. The Department shall review an application for an approval to take the Department-designated written hearing aid examination according to R9-16-316 and Table 3.1.
- C. Within five calendar days after the Department receives the applicant's Department-designated written hearing aid dispenser examination results, the Department shall provide written notification to the applicant of:

1. ~~A passing score that includes approval to take the Department designated practical examination in R9-16-305; or~~
2. ~~A failing score that includes, as applicable, approval to retake the Department designated written hearing aid dispenser examination.~~

**R9-16-304. Requirements for an Initial Hearing Aid Dispenser License**

**A.** An applicant for initial licensure shall submit an application to the Department that includes:

1. The information and documents required in R9-16-303;
2. Documentation of passing the:
  - a. Written hearing aid dispenser examination, and
  - b. Practical examination; and
3. The fees specified in R9-16-316.

**B.** In addition to complying with subsections (A)(1) and (A)(3), an applicant that may be eligible for licensure under A.R.S. § 36-1922 shall submit documentation to the Department that includes:

1. The name of each state that issued the applicant a current hearing aid dispenser license, including:
  - a. The license number of each current hearing aid dispenser license, and
  - b. The date each current hearing aid dispenser license was issued;
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. For each state named in subsection (B)(1), 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 licensure is being requested;
  - b. Has met minimum education requirements according to A.R.S. § 36-1923(A);
  - 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.

**C.** An initial hearing aid dispenser license is valid for two years from the date of issue for licensure by examination or licensure by reciprocity.

**D.** If the Department does not issue an initial hearing aid dispenser license to an applicant, the Department shall return the license fee to the applicant.

**R9-16-305. Practical Examination**

- ~~A. After an applicant takes the Department designated practical examination required in R9-16-303(A), the Department shall provide written notification to the applicant within five calendar days after the Department receives the applicant's examination results whether the applicant received:~~
- ~~1. A passing score; or~~
  - ~~2. A failing score and, as applicable, approval to retake the Department designated practical examination.~~
- ~~B. The Department shall administer the Department designated practical exam that complies with A.R.S. § 36-1924(A)(4):~~
- ~~1. In October each calendar year, and~~
  - ~~2. According to A.R.S. § 36-1923.~~

**R9-16-305. Requirements for an Initial Temporary Hearing Aid Dispenser License**

- A.** In addition to complying with R9-16-303, an applicant for a temporary hearing aid dispenser license shall submit to the Department:
1. The sponsor's:
    - a. Name,
    - b. Business address,
    - c. Business telephone number, and
    - d. Arizona hearing aid dispenser license number.
  2. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905.
- B.** If the Department issues a temporary license to the applicant, the Department shall notify the applicant of approval to take the hearing aid dispenser examination as specified in R9-16-302.
- C.** A temporary hearing aid dispenser may renew a temporary license according to A.R.S. § 36-1926.
- D.** A temporary license is no longer valid on the date the Department receives notice from the sponsor that the sponsor is terminating sponsorship.
- E.** A hearing aid dispenser whose temporary license is terminated according to subsection (D):
1. Shall not practice until issued a new license,
  2. May apply for an initial or temporary license as a hearing aid dispenser according to this Article; and
  3. May choose to:

- a. Complete the two-year test period issued to the applicant with a previous temporary license, or
- b. Restart the two-year test period on the date the Department approves the hearing aid dispenser's temporary license in subsection (E)(2); and
- 4. If the applicant chooses to restart the two-year test period in subsection (3)(b), the previous test result obtained will not apply.

**F.** An initial hearing aid dispenser license is valid for 12 months from the date of issue for a temporary license or in compliance with A.R.S. § 36-1926(D).

**~~R9-16-306.~~ Application for an Initial License by Examination**

~~A.~~ Within six months after receiving the written notice in R9-16-303(E), an applicant for an initial license by examination shall submit to the Department:

- ~~1.~~ An application in a format provided by the Department that contains:
  - a. The applicant's name, home address, telephone number, and e-mail address;
  - b. An attestation that the information submitted as part of the application for approval to take the Department designated written hearing aid dispenser examination required in R9-16-304 is currently true and accurate; and
  - e. The applicant's signature and date signed; and
- ~~2.~~ A license fee of \$200.

~~B.~~ The Department shall review an application for an initial hearing aid dispenser license by examination according to R9-16-316 and Table 3.1.

~~C.~~ If the Department does not issue an initial hearing aid dispenser license by examination to an applicant, the Department shall return the license fee to the applicant.

~~D.~~ An initial hearing aid dispenser license is valid for two years from the date of issue.

**~~R9-16-306.~~ Application for Examination**

**A.** In addition to complying with R9-16-303, an applicant for initial licensure by examination shall submit an application to the Department that includes:

- 1. Information and documentation required in R9-16-303, and
- 2. The fee in R9-16-316.

**B.** If the Department approves the application, the Department shall notify the applicant of approval to take the written hearing aid dispenser examination as specified in R9-16-302.

**C.** If the Department approves an application, the applicant shall not practice fitting and dispensing hearing aids without a license issued by the Department.

**R9-16-307. Application for an Initial License by Reciprocity**

- A. An applicant for an initial license by reciprocity shall submit to the Department:
1. An application in a format provided by the Department that contains:
    - a. The information required in R9-16-304(A)(1)(a) through (A)(1)(j);
    - b. The name of each state that issued the applicant a current hearing aid dispenser license;
    - c. The license number of each current hearing aid dispenser license, and
    - d. The date each current hearing aid dispenser license was issued;
  2. The documents required R9-16-304(A)(2) through (A)(5);
  3. For each state named in subsection (A)(1)(b):
    - a. A statement, on the letterhead of the state licensing entity that issued the hearing aid dispenser license and signed by an official of the state licensing entity, that the applicant holds a current hearing aid dispenser license in good standing;
    - b. A copy of the written and practical portions of the Department-designated hearing aid dispenser examination taken by the applicant or a detailed description of each portion of the examination;
    - c. The state licensing entity's statement of:
      - i. The applicant's score on each section of the hearing aid dispenser examination taken by the applicant,
      - ii. The minimum passing score for each section of the hearing aid dispenser examination taken by the applicant, and
      - iii. The minimum passing score for the hearing aid dispenser examination taken by the applicant;
    - d. A copy of the applicant's current license;
    - e. An attestation that the information submitted as part of the application for an initial license by reciprocity is true and accurate; and
    - f. The applicant's signature and date of signature; and
  4. A \$200 license fee.
- B. Based on the information submitted under subsections (A)(1) through (A)(3), the Department shall determine whether:
1. The content of the examination taken by the applicant is substantially the same as the content of the Department's examinations in:
    - a. The Department-designated written hearing aid dispenser examination, and
    - b. The Department-designated practical examination;

2. ~~The applicant's scores on the examinations in (A)(3)(c) meet the requirements in R9-16-303 for passing; and~~
  3. ~~The applicant complies with A.R.S. §§ 36-1922 and 36-1923(A), and this Article.~~
- C. ~~The Department shall review an application for an initial license by reciprocity according to R9-16-316 and Table 3.1.~~
- D. ~~If the Department does not issue an initial license by reciprocity to an applicant, the Department shall return the license fee to the applicant.~~
- E. ~~If the Department issues an initial license by reciprocity to an applicant, the Department shall provide notification to the applicant that the applicant is approved to take and required to pass the examination identified in A.R.S. § 36-1922 within six months after the initial license by reciprocity is issued.~~
- F. ~~After an applicant takes the examination in subsection (E), the Department shall provide written notification to the applicant within five calendar days after the Department receives the applicant's examination results whether the applicant received:~~
1. ~~A passing score; or~~
  2. ~~A failing score and, as applicable, approval to retake the examination.~~
- G. ~~An initial license by reciprocity issued to an applicant is valid for two years from the date of issue.~~

**R9-16-307. Initial Application for a Business Hearing Aid Dispenser License**

- A.** An applicant for a business hearing aid dispenser license shall submit to the Department:
1. An application in a Department-provided format that contains:
    - a. The name of the business organization;
    - b. The business organization's Arizona business name, address, e-mail address, and telephone number;
    - c. If the business organization has more than one location, provide the name, address, e-mail address, and telephone number for each location;
    - d. The name, address, telephone number, and e-mail address of the individual authorized by the business organization to be the designated agent;
    - e. The name, business telephone number, and Arizona hearing aid dispenser license number of each hearing aid dispenser employed by the business organization in Arizona;
    - f. Whether the business organization or a hearing aid dispenser working for the business organization has had a hearing aid dispenser license suspended or revoked by any state;

- g. Whether the business organization or a hearing aid dispenser working for the business organization is currently ineligible for licensing in any state due to a suspension or revocation;
- h. An attestation that the:
  - i. Business organization allows the Department to make supplemental requests for additional information; and
  - ii. Information required as part of the application has been submitted and is true and accurate; and
- i. The signature and date of signature from the designated agent; and
- 2. An application and license fee specified in R9-16-316.
- B.** A business organization with more than one location shall submit a duplicate license fee for each additional location according to R9-16-315 and R9-16-316.
- C.** The Department shall review an application for an initial business hearing aid dispenser license according to R9-16-314 and Table 3.1.
- D.** A business organization licensed according to this Article shall comply with A.R.S. § 36-1910.
- E.** An initial license issued to a business organization according to this Section is valid for two years from the date of issue.

**R9-16-308. Application for an Initial License to a Business Organization**

- ~~A. An applicant that is a business organization shall submit to the Department:~~
  - ~~1. An application for an initial hearing aid dispenser license in a format provided by the Department that contains:~~
    - a. ~~The name of the business organization;~~
    - b. ~~The business organization's Arizona business name, address, and telephone number;~~
    - c. ~~The name, address, telephone number, and e-mail address of the individual authorized by the business organization to be the designated agent;~~
    - d. ~~The name, business telephone number, and Arizona hearing aid dispenser license number of each hearing aid dispenser employed by the business organization in Arizona;~~
    - e. ~~Whether the business organization or a hearing aid dispenser working for the business organization has had a hearing aid dispenser license suspended or revoked by any state within two years before the application date;~~

- f. ~~Whether the business organization or a hearing aid dispenser working for the business organization currently is not eligible for licensing in any state due to a suspension or revocation;~~
- g. ~~An attestation that information required as part of the application has been submitted and is true and accurate; and~~
- h. ~~The signature and date of signature from the designated agent;~~
- 2. ~~A nonrefundable \$100 application fee; and~~
- 3. ~~A \$200 license fee.~~
- B. ~~The Department shall review an application for an initial hearing aid dispenser license to a business organization according to R9-16-316 and Table 3.1.~~
- C. ~~If the Department does not issue an initial hearing aid dispenser license to a business organization, the Department shall return the license fee in subsection (A)(3) to the applicant.~~
- D. ~~A business organization licensed according to this Section shall comply with A.R.S. § 36-1910.~~
- E. ~~An initial license issued to a business organization according to this Section is valid for two years from the date of issue.~~

**R9-16-308. License Renewal**

- A. A licensee, except for a temporary hearing aid dispenser, shall submit a renewal application in a Department-provided format that contains:
  - 1. For an individual licensed as a hearing aid dispenser:
    - a. The licensee's name, home address, telephone number, and e-mail address;
    - b. The licensee's current employment, if applicable, including:
      - i. The employer's name,
      - ii. The licensee'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;
    - c. The licensee's license number and expiration date;
    - d. Since the hearing aid dispenser's previous license application, whether the licensee has been convicted of a felony or a misdemeanor in this or another state or jurisdiction;
    - e. If the licensee was convicted of a felony or misdemeanor:
      - i. The date of the conviction,



2. An attestation of continuing education, according to R9-16-309, completed with twenty-four months before the date of the date of application; and

3. A nonrefundable application fee and a license fee specified in R9-16-316.

**F.** If allowed in R9-16-303, a temporary hearing aid dispenser shall submit at least 30 calendar days before the expiration date on the license, a renewal application to the Department in a Department-provided format that contains:

1. The information in R9-16-303(A);

2. The applicant's sponsor's:

a. Name,

b. Business address,

c. Business telephone number, and

d. Arizona hearing aid dispenser license number;

3. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905; and

4. A license renewal fee specified in R9-16-316.

**G.** A renewal license issued to a licensee according to subsection (F) is valid for one year after the expiration date of the previous license issued by the Department.

**H.** The Department shall review a renewal application according to R9-16-314 and Table 3.1.

**R9-16-309. Application for a Temporary License**

**A.** An applicant for a temporary license shall submit to the Department:

1. An application in a format provided by the Department that contains:

a. The information in R9-16-304(A)(1)(a) through (A)(5); and

b. The applicant's sponsor's:

i. Name,

ii. Business address,

iii. Business telephone number, and

iv. Arizona hearing aid dispenser license number;

2. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905; and

3. A \$100 license fee.

**B.** The Department shall review an application for a temporary license according to R9-16-316 and Table 3.1.

- ~~C. If the Department issues a temporary license to the applicant, the Department shall also provide written notification to the applicant of approval to take the Department designated written hearing aid dispenser examination within six months after the temporary license is issued.~~
- ~~D. If the Department does not issue an applicant a temporary license, the Department shall return the license fee in subsection (A)(3) to the applicant.~~
- ~~E. If a hearing aid dispenser with a temporary license takes and fails the Department designated written hearing aid dispenser examination required in subsection (C), the temporary hearing aid dispenser may:
 
  - ~~1. Renew the temporary license once according to R9-16-311(F), and~~
  - ~~2. Take the Department designated written hearing aid dispenser examination within the six months after renewal of the temporary license.~~~~
- ~~F. Within five calendar days after the Department receives an individual's Department designated written hearing aid dispenser examination results, the Department shall provide written notification to the individual of:
 
  - ~~1. A passing score that includes approval to take the Department designated practical examination; or~~
  - ~~2. A failing score that includes, as applicable, approval to retake the Department designated written hearing aid dispenser examination.~~~~
- ~~G. A temporary license is no longer valid on the date the Department receives notice from the sponsor that the sponsor is terminating sponsorship.~~
- ~~H. A hearing aid dispenser whose temporary license is terminated according to subsection (G), shall:
 
  - ~~1. Not practice until issued a new license, and~~
  - ~~2. May apply for an initial license as a hearing aid dispenser according to this Article or a temporary license according to this Section.~~~~
- ~~I. A temporary license is valid for 12 months from the date of issue.~~

**R9-16-309. Continuing Education**

- A.** Twenty-four months prior to submitting a renewal application, a licensee shall complete 24 continuing education hours that includes no more than eight continuing education hours provided by a single manufacturer of hearing aids.
- B.** Continuing education shall:
  - 1. Directly relate to the practice of fitting and dispensing hearing aids;
  - 2. Have educational objectives that exceed an introductory level of knowledge of fitting and dispensing hearing aids; and
  - 3. Consist of courses that include advances within the last five years in:

- a. Procedures in the selection and fitting of hearing aids.
- b. Pre- and post-fitting management of clients.
- c. Instrument circuitry and acoustic performance data.
- d. Ear mold design and modification contributing to improved client performance.
- e. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss.
- f. Auditory rehabilitation.
- g. Ethics.
- h. Federal and state statutes or rules, or
- i. Assistive listening devices.

**C.** A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):

- 1. Hearing Healthcare Providers of Arizona.
- 2. Arizona Speech-Language-Hearing Association.
- 3. American Speech-Language-Hearing Association.
- 4. International Hearing Society.
- 5. International Institute for Hearing Instruments Studies.
- 6. American Auditory Society.
- 7. American Academy of Audiology.
- 8. Academy of Doctors of Audiology.
- 9. Arizona Society of Otolaryngology, Head and Neck Surgery.
- 10. American Academy of Otolaryngology-Head and Neck Surgery, or
- 11. An organization determined by the Department to be consistent with an organization in subsection (B)(1) through (10).

**R9-16-310. Sponsors**

~~A. A sponsor shall:~~

- ~~1. Provide to a hearing aid dispenser with a temporary license a minimum of 64 hours per month of on-site training and supervision that:~~
  - ~~a. Consists of coordinating, directing, watching, inspecting, and evaluating the fitting and dispensing activities of the hearing aid dispenser with a temporary license; and~~
  - ~~b. Directly relates to the type of training and education needed to pass the licensing examination required in A.R.S. § 36-1924;~~
- ~~2. Maintain a record that:~~

- a. ~~Is signed by the hearing aid dispenser with a temporary license;~~
  - b. ~~Has the date, time, and content of the training and supervision provided to the hearing aid dispenser with a temporary license, as required in subsection (A)(1); and~~
  - e. ~~Is available for inspection by the Department for at least 12 months after the end of the sponsorship agreement; and~~
3. ~~Not provide sponsorship to more than two hearing aid dispensers with temporary licenses, at one time.~~
- B.** ~~When a sponsor terminates a sponsorship agreement with a hearing aid dispenser with a temporary license:~~
- 1. ~~The sponsor shall:~~
    - a. ~~Provide a written notice to the hearing aid dispenser with a temporary license indicating termination of the sponsorship agreement; and~~
    - b. ~~Provide a copy of the written notice required in subsection (B)(1)(a), and documentation that the hearing aid dispenser with a temporary license received the written notice, to the Department; and~~
  - 2. ~~The hearing aid dispenser with a temporary license shall return the temporary license to the Department.~~
- A.** A sponsor shall:
- 1. Provide to a temporary hearing aid dispenser for on-site training and supervision that:
    - a. Consists of coordinating, directing, watching, inspecting, and evaluating the fitting and dispensing activities of the temporary hearing aid dispenser; and
    - b. Directly relates to the type of training and education needed to pass the licensing examination required in A.R.S. § 36-1924;
  - 2. Maintain a training record that:
    - a. Is signed by the temporary hearing aid dispenser;
    - b. Has the date, time, and content of the training and supervision provided to the temporary hearing aid dispenser, as required in subsection (A)(1); and
    - c. Is available for inspection by the Department for at least 12 months after the end of the sponsorship agreement; and
  - 3. Not provide sponsorship to more than two temporary hearing aid dispenser licensees at one time.
- B.** When a sponsor terminates a sponsorship agreement with a temporary hearing aid dispenser, the sponsor shall:

1. Provide to the temporary hearing aid dispenser a:
  - a. Written notice indicating termination of the sponsorship agreement, and
  - b. Copy of the hearing aid dispenser's records in subsection (A)(2); and
2. Provide to the Department documentation of the notice required in subsection (B)(1)(a).

**R9-16-311. License Renewal**

- A. ~~A licensee, except for a hearing aid dispenser with a temporary license, shall submit a renewal application in a format provided by the Department that contains:~~
1. ~~For an individual licensed as a hearing aid dispenser:~~
    - a. ~~The applicant's name, home address, telephone number, and e-mail address;~~
    - b. ~~The applicant's Social Security Number, as required under A.R.S. §§ 25-320 and 25-502;~~
    - e. ~~If applicable, the name of the applicant's employer and the employer's business address and business telephone number;~~
    - d. ~~The applicant's license number and expiration date;~~
    - e. ~~Since the hearing aid dispenser's previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state or jurisdiction;~~
    - f. ~~If the applicant was convicted of a felony or misdemeanor involving moral turpitude:~~
      - 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;~~
    - g. ~~Whether the applicant has had a license revoked or suspended by any state within the previous two years;~~
    - h. ~~Whether the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension;~~
    - i. ~~Whether any disciplinary action has been imposed by any state, territory or district in this country for an act upon the applicant's hearing aid dispenser license;~~
    - j. ~~An attestation that information required as part of the application has been submitted and is true and accurate; and~~
    - k. ~~The applicant's signature and date of signature;~~
  2. ~~In addition to the requirements in subsection (A)(1) an individual shall submit:~~

- a. ~~Documentation of 24 continuing education hours completed within the 24 months before the expiration date on the license, including:~~
  - i. ~~The name of the organization providing the course;~~
  - ii. ~~The date and location where the course was provided;~~
  - iii. ~~The title of each course attended;~~
  - iv. ~~A description of each course's content;~~
  - v. ~~Whether the course was taught in person;~~
  - vi. ~~The name of the instructor;~~
  - vii. ~~The instructor's education, training, and experience background, if available; and~~
  - viii. ~~The number of continuing education hours earned for each course; and~~
- b. ~~A \$200 license renewal fee; or~~
- 3. ~~For a business organization licensed as a hearing aid dispenser:~~
  - a. ~~The information in subsection R9-16-308(A)(1), and~~
  - b. ~~A \$200 license renewal fee.~~
- B. ~~A licensee, except for a hearing aid dispenser with a temporary license, who renews a license within 30 calendar days after the expiration date of the license, shall submit to the Department:~~
  - 1. ~~The information and renewal fee required in subsection (A), and~~
  - 2. ~~A \$25 late fee.~~
- C. ~~A renewal license issued to a licensee, except for a hearing aid dispenser with a temporary license, is valid for two years after the expiration date of the previous license issued by the Department.~~
- D. ~~If a licensee does not comply with subsections (A) or (B), the license is nonrenewable and:~~
  - 1. ~~The hearing aid dispenser may apply for a new license according to subsection (E), or~~
  - 2. ~~The business organization may apply for a new license according to R9-16-308.~~
- E. ~~A licensee whose license is nonrenewable according to subsection (D)(1) and it is within one year after the expiration date of the hearing aid dispenser's license:~~
  - 1. ~~The applicant shall submit an application in a format provided by the Department that contains:~~
    - a. ~~The information required in R9-16-304(A)(1) through (A)(4), and~~
    - b. ~~Documentation of continuing education according to R9-16-312; and~~
  - 2. ~~A nonrefundable \$100 application fee and a \$100 license fee.~~

- F. ~~If allowed in R9-16-309(E)(1), a hearing aid dispenser with a temporary license shall submit at least 30 calendar days before the expiration date on the license, a renewal application in a format provided by the Department that contains:~~
- ~~1. The information in R9-16-304(A)(1) through (A)(4);~~
  - ~~2. The applicant's sponsor's:~~
    - ~~a. Name;~~
    - ~~b. Business address;~~
    - ~~c. Business telephone number; and~~
    - ~~d. Arizona hearing aid dispenser license number;~~
  - ~~3. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to A.R.S. § 36-1905; and~~
  - ~~4. A \$100 license renewal fee.~~
- G. ~~A renewal license issued to a licensee according to subsection (F) is valid for one year after the expiration date of the previous license issued by the Department.~~
- H. ~~The Department shall review a renewal application according to R9-16-316 and Table 3.1.~~

**R9-16-311. Responsibilities of a Hearing Aid Dispenser**

**A. A hearing aid dispenser licensed shall:**

1. Upon licensure, notify the Department in writing of the address where the hearing aid dispenser practices the fitting and dispensing of hearing aids;
2. Conspicuously post the license received in the hearing aid dispenser's office or place of business;
3. Except as specified in subsections (A)(4) or (A)(5), conduct audiometric tests before selecting a hearing aid for a client that provides detailed information about the client's hearing loss, including:
  - a. Type, degree, and configuration of hearing loss;
  - b. Ability, as measured by the percentage of words the client is able to repeat correctly, to discriminate speech; and
  - c. The client's most comfortable and uncomfortable loudness levels in decibels;
4. Have the option to conduct audiometric testing required in subsection (A)(3) before selling a client a hearing aid if the client provides to the dispenser the information required in subsection (A)(3) from a licensed professional and the information was:
  - a. Obtained within the previous 12 months for an adult, or
  - b. Within the previous six months for an individual under the age of 18;

5. Have the option to conduct audiometric testing required in subsection (A)(3) if the tests cannot be performed on the client due to:
    - a. The client's young age, or
    - b. A physical or mental disability;
  6. Evaluate the performance characteristics of the hearing aid as it functions on the client's ear for the purpose of assessing the degree of audibility provided by the device and benefit to the client;
  7. Provide a bill of sale to a client according to A.R.S. § 36-1909(A) that contains:
    - a. Information required in A.R.S. § 36-1909;
    - b. A complete description of:
      - i. Warranty information, and
      - ii. The conditions of any offer of a trial period with a money back guarantee or partial refund; and
    - c. The client's signature and date of signature; and
  8. Not:
    - a. Practice without a license according to A.R.S. § 36-1907,
    - b. Commit unlawful acts according to A.R.S. § 36-1936, or
    - c. Commit actions described in A.R.S. § 36-1934(A).
- B.** The trial period described in subsection (A)(7)(b)(ii) shall not include any time that the hearing aid is in the possession of the hearing aid dispenser or the manufacturer of the hearing aid.

**R9-16-312. Continuing Education**

- A. ~~Continuing education shall:~~
1. ~~Directly relate to the practice of fitting and dispensing hearing aids;~~
  2. ~~Have educational objectives that exceed an introductory level of knowledge of fitting and dispensing hearing aids; and~~
  3. ~~Consist of courses that include advances within the last five years in:~~
    - a. ~~Procedures in the selection and fitting of hearing aids,~~
    - b. ~~Pre and post fitting management of clients,~~
    - c. ~~Instrument circuitry and acoustic performance data,~~
    - d. ~~Ear mold design and modification contributing to improved client performance,~~
    - e. ~~Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,~~
    - f. ~~Auditory rehabilitation,~~
    - g. ~~Ethics,~~

- h. ~~Federal and state statutes or rules, or~~
- i. ~~Assistive listening devices.~~

**B.** ~~A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (A):~~

- 1. ~~Hearing Healthcare Providers of Arizona,~~
- 2. ~~Arizona Speech Language Hearing Association,~~
- 3. ~~American Speech Language Hearing Association,~~
- 4. ~~International Hearing Society,~~
- 5. ~~International Institute for Hearing Instrument Studies,~~
- 6. ~~American Auditory Society,~~
- 7. ~~American Academy of Audiology,~~
- 8. ~~Academy of Doctors of Audiology,~~
- 9. ~~Arizona Society of Otolaryngology Head and Neck Surgery,~~
- 10. ~~American Academy of Otolaryngology Head and Neck Surgery, or~~
- 11. ~~An organization determined by the Department to be consistent with an organization in subsection (B)(1) through (10).~~

**C.** ~~A hearing aid dispenser shall comply with the continuing education requirements in A.R.S. § 36-1904.~~

**R9-16-312. Equipment and Records**

**A.** A licensee shall maintain an audiometer and other hearing devices according to the manufacturer's specifications.

**B.** If a licensee uses equipment that requires calibration, the licensee shall ensure that:

- 1. The equipment is calibrated at least every 12 months and according to the American National Standard Institution/Acoustical Society incorporated by reference and on file with the Department, with no future additions or amendments, and available from the American National Standards Institution at <http://webstore.ansi.org>; and
- 2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.

**C.** A licensee shall maintain a record according to A.R.S. § 32-3211 for each client with the following documents for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of fitting and dispensing hearing aids:

- 1. The name, address, and telephone number of the individual to whom services are provided;

2. A written statement from a licensed physician that the client has medical clearance to use hearing aids or a medical waiver signed by the client who is 18 years of age or older;
3. For each audiometric test conducted for the client, the:
  - a. Audiometric test results by date and procedure used in evaluating hearing disorders or determining the need for dispensing a product or service,
  - b. Name of the individual who performed the audiometric tests, and
  - c. Signature of the individual who performed the audiometric tests;
4. A copy of the bill of sale required in R9-16-311(A)(7);
5. Documented verification of the effectiveness of the hearing aid required in R9-16-311(A)(6); and
6. The contracts, agreements, warranties, trial periods, or other documents involving the client.

**R9-16-313. Responsibilities of a Hearing Aid Dispenser**

- A. ~~A hearing aid dispenser licensed according to subsections R9-16-306 or R9-16-307 shall:~~
1. ~~Upon licensure, notify the Department in writing of the address where the hearing aid dispenser practices the fitting and dispensing of hearing aids;~~
  2. ~~Conspicuously post the license received according to subsections R9-16-306 or R9-16-307 in the hearing aid dispenser's office or place of business;~~
  3. ~~Except as specified in subsections (A)(4) or (A)(5), conduct audiometric tests before selecting a hearing aid for a client that provides detailed information about the client's hearing loss, including:~~
    - a. ~~Type, degree, and configuration of hearing loss;~~
    - b. ~~Ability, as measured by the percentage of words the client is able to repeat correctly, to discriminate speech; and~~
    - c. ~~The client's most comfortable and uncomfortable loudness levels in decibels;~~
  4. ~~Have the option to conduct audiometric testing required in subsection (A)(3) before selling a client a hearing aid if the client provides to the dispenser the information required in subsection (A)(3) from a licensed professional and the information was:~~
    - a. ~~Obtained within the previous 12 months for an adult, or~~
    - b. ~~Within the previous six months for an individual under the age of 18;~~
  5. ~~Have the option to conduct audiometric testing required in subsection (A)(3) if the tests cannot be performed on the client due to:~~
    - a. ~~The client's young age, or~~
    - b. ~~A physical or mental disability;~~

- 6. ~~Maintain documentation for three years from the date of receipt of the information, that supports the exclusion of specific audiometric tests according to subsections (A)(4) and (A)(5);~~
  - 7. ~~Evaluate the performance characteristics of the hearing aid as it functions on the client's ear for the purpose of assessing the degree of audibility provided by the device and benefit to the client;~~
  - 8. ~~Provide a bill of sale to a client according to A.R.S. § 36-1909(A) that contains:~~
    - a. ~~Information required in A.R.S. § 36-1909;~~
    - b. ~~A complete description of:~~
      - i. ~~Warranty information, and~~
      - ii. ~~The conditions of any offer of a trial period with a money back guarantee or partial refund; and~~
    - e. ~~The client's signature and date of signature; and~~
  - 9. ~~Not:~~
    - a. ~~Practice without a license according to A.R.S. § 36-1907,~~
    - b. ~~Commit unlawful acts according to A.R.S. § 36-1936, or~~
    - e. ~~Commit actions described in A.R.S. § 36-1934(A).~~
- B. ~~The trial period described in subsection (A)(8)(b)(ii) shall not include any time that the hearing aid is in the possession of the hearing aid dispenser or the manufacturer of the hearing aid.~~

**R9-16-313. Enforcement**

**A.** The Department may, as applicable:

- 1. Deny, revoke, or suspend a license under A.R.S. § 36-1934,
- 2. Request an injunction under A.R.S. § 36-1937, or
- 3. Assess a civil money penalty under A.R.S. § 36-1939.

**B.** In determining which disciplinary action specified in subsection (A), the Department shall consider:

- 1. The type of violation,
- 2. The severity of the violation,
- 3. The danger to the public health and safety,
- 4. The number of violations,
- 5. The number of clients affected by the violations,
- 6. The degree of harm to the consumer,
- 7. A pattern of noncompliance, and
- 8. Any mitigating or aggravating circumstances.

C. A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

**R9-16-314. Equipment and Records**

~~A. A licensee shall maintain an audiometer that performs the audiometric tests as described in R9-16-313 according to the manufacturer's specifications.~~

~~B. If a licensee uses equipment that requires calibration, the licensee shall ensure that:~~

- ~~1. The equipment is calibrated at least every 12 months and according to the American National Standard—Specifications for Audiometers, S3.6-2010, Standards Secretariat, c/o Acoustical Society of America, 1305 Walt Whitman Road, Suite 300, Melville, New York, 11747-4300, November 2, 2010, incorporated by reference and on file with the Department and the Office of the Secretary of State, with no future additions or amendments; and~~
- ~~2. A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.~~

~~C. A licensee shall maintain a record according to A.R.S. § 32-3211 for each client with the following documents for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of fitting and dispensing hearing aids:~~

- ~~1. The name, address, and telephone number of the individual to whom services are provided;~~
- ~~2. A written statement from a licensed physician that the client has medical clearance to use hearing aids or a medical waiver signed by the client who is 18 years of age or older;~~
- ~~3. For each audiometric test conducted for the client, the:
  - ~~a. Audiometric test results by date and procedure used in evaluating hearing disorders or determining the need for dispensing a product or service;~~
  - ~~b. Name of the individual who performed the audiometric tests, and~~
  - ~~c. Signature of the individual who performed the audiometric tests;~~~~
- ~~4. A copy of the bill of sale required in R9-16-313(A)(8);~~
- ~~5. Documented verification of the effectiveness of the hearing aid required in R9-16-313(A)(7); and~~
- ~~6. The contracts, agreements, warranties, trial periods, or other documents involving the client.~~

**R9-16-314. Time-frames**

A. For each type of license issued by the Department under this Article, Table 6.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).

1. An applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
2. The extension of the substantive review time-frame and overall time-frame may not exceed 25% of the overall time-frame.

**B.** For each type of license issued by the Department under this Article, Table 6.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).

1. The administrative completeness review time-frame begins on the date the Department receives an application 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 time-frame.
  - a. If an application and required documentation is not complete, the notice of deficiencies shall list each deficiency and the information or documentation needed to complete the application.
  - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame 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 withdrawn.
3. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

**C.** For each type of license issued by the Department under this Article, Table 6.1 specifies the substantive review time-frame 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 time-frame, the Department shall provide written notice to the applicant that the Department approved or denied the application.
2. During the substantive review time-frame:
  - 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 or documentation.

3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame 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 license.

**D.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

**Table 3.1** Time-frames (in calendar days)

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Review Time-frame</u>	<u>Time to Respond to Notice of Deficiency</u>	<u>Substantive Review Time-frame</u>	<u>Time to Respond to Comprehensive Written Request</u>
<u>Initial Application for a Hearing Aid Dispenser</u>	<u>A.R.S. §§ 36-1904, 36-1923</u>	<u>60</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>
<u>Initial Application for a Business Organization</u>	<u>A.R.S. § 36-1910</u>	<u>60</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>
<u>License Renewal</u>	<u>A.R.S. § 36-1904</u>	<u>60</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>

**R9-16-315. Disciplinary Actions**

A. The Department may, as applicable:

1. ~~Take an action under A.R.S. § 36-1934,~~
2. ~~Request an injunction under A.R.S. § 36-1937, or~~
3. ~~Assess a civil money penalty under A.R.S. § 36-1939.~~

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 the public health and safety,~~
  - 4. ~~The number of violations;~~
  - 5. ~~The number of clients affected by the violations;~~
  - 6. ~~The degree of harm to the consumer,~~
  - 7. ~~A pattern of noncompliance, and~~
  - 8. ~~Any mitigating or aggravating circumstances.~~
- C. ~~A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.~~
- D. ~~The Department shall notify a licensee's employer within five days after the Department initiates a disciplinary action against a licensee.~~

**R9-16-315. Change Affecting a License or a Licensee; Request for Duplicate License**

- A.** A hearing aid dispenser licensee or temporary hearing aid dispenser licensee shall submit a written notice to the Department in writing within 30 calendar days after the effective date of a change in:
- 1. The licensee's home address or e-mail address, including the new home address or e-mail address;
  - 2. The licensee's name, including a copy of one of the following with the licensee's new name:
    - a. Marriage certificate,
    - b. Divorce decree, or
    - c. Other legal document establishing the licensee's new name; or
  - 3. The place or places where the licensee engages in the practice of hearing aid dispensing, including the address or addresses of the place or places where the licensee engages in the practice of hearing aid dispensing.
- B.** A licensee may obtain a duplicate license by submitting to the Department a request for a duplicate license in a Department-provided format that includes:
- 1. The licensee's name and address,
  - 2. The licensee's license number and expiration date,
  - 3. The licensee's signature and date of signature, and
  - 4. A duplicate license fee specified in R9-16-316.
- C.** A business hearing aid dispenser licensee shall submit a written notice to the Department within 30 calendar days after the licensee:
- 1. Has a change in the information provided in R9-16-307(A)(1)(b).
  - 2. Closes a location specified in R9-16-307(A)(1)(b) and (c), including the location address.

3. Begins operating at new location, not specified in R9-16-307(A)(1)(c), including the new location address.

**R9-16-316. Time-frames**

- A. ~~The overall time frame described in A.R.S. § 41-1072 for each type of license or approval granted by the Department is specified in Table 3.1. The Department and an applicant may agree in writing to extend the substantive review time frame and the overall time frame. The substantive review time frame and the overall time frame may not be extended by more than 25 percent of the overall time frame.~~
- B. ~~The administrative completeness review time frame described in A.R.S. § 41-1072 for each type of license or approval granted by the Department is specified in Table 3.1.~~
  1. ~~The administrative completeness review time frame begins:~~
    - a. ~~For an applicant submitting an application for approval to take the Department-designated written hearing aid dispenser examination, when the Department receives the application required in R9-16-304(A);~~
    - b. ~~For an applicant submitting an application for initial hearing aid dispenser license by examination, when the Department receives the application required in R9-16-306;~~
    - c. ~~For an applicant submitting an application for initial hearing aid dispenser license by reciprocity, when the Department receives the application required in R9-16-307;~~
    - d. ~~For a business organization submitting an application for an initial hearing aid dispenser license to a business organization, when the Department receives the application required in R9-16-308;~~
    - e. ~~For an applicant submitting an application for a temporary license, when the Department receives the application required in R9-16-309;~~
    - f. ~~For a licensed hearing aid dispenser applying to renew a hearing aid dispenser license, when the Department receives the application required in R9-16-311;~~
    - g. ~~For a business organization applying to renew a business organization hearing aid dispenser license, when the Department receives the application required in R9-16-311; and~~
    - h. ~~For a temporary hearing aid dispenser applying to renew a temporary license, when the Department receives the application required in R9-16-311.~~
  2. ~~If an application is incomplete, the Department shall provide a notice of deficiencies to the applicant or licensee describing the missing documents or incomplete information.~~

The administrative completeness review time frame and the overall time frame are suspended from the date of the notice until the date the Department receives the documentation or information listed in the notice of deficiencies. An applicant or licensee shall submit to the Department the documentation or information listed in the notice of deficiencies within the time specified in Table 3.1 for responding to a notice of deficiencies.

3. If the applicant or licensee submits the documentation or information listed in the notice of deficiencies within the time specified in Table 3.1, the Department shall provide a written notice of administrative completeness to the applicant or licensee.
4. If the applicant or licensee does not submit the documentation or information listed in the notice of deficiencies within the time specified in Table 3.1, the Department shall consider the application withdrawn.
5. When an application is complete, the Department shall provide a notice of administrative completeness to the applicant or licensee.
6. If the Department issues a license or notice of approval during the administrative completeness review time frame, the Department shall not issue a separate written notice of administrative completeness.

C. The substantive review time frame described in A.R.S. § 41-1072 is specified in Table 3.1 and begins on the date of the notice of administrative completeness.

1. If an application complies with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall issue a notice of approval to an applicant or a license to an applicant or licensee.
2. If an application does not comply with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall make one comprehensive written request for additional information, unless the applicant or licensee has agreed in writing to allow the Department to submit supplemental requests for information. The substantive review time frame and the overall time frame are suspended from the date that the Department sends a comprehensive written request for additional or a supplemental request for information until the date that the Department receives all of the information requested.
3. An applicant or licensee shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information within the time specified in Table 3.1.
4. If the applicant or licensee does not submit the additional information within the time specified in Table 3.1 or the additional information submitted by the applicant or

licensee does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall provide to the applicant or licensee a written notice of denial that complies with A.R.S. § 41-1092.03(A).

5. If the applicant or licensee submits the additional information within the time specified in Table 3.1 and the additional information submitted by the applicant or licensee demonstrates compliance with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall issue a license to an applicant or licensee or a notice of approval to an applicant.

**R9-16-316. Fees**

- A.** An applicant shall submit to the Department the following fee for:
1. A nonrefundable initial application, \$100;
  2. An initial license for a regular or business hearing aid dispenser, \$200;
  3. A renewal application for temporary hearing aid dispenser license, \$100.
  4. A regular or business hearing aid dispenser licensee for a renewal license, \$200.
- B.** If a renewal application is submitted within 30 calendar days after the license expiration date, a licensee shall submit with the renewal application a \$25 late fee.
- C.** The fee for a duplicate license is \$25.
- D.** An applicant, who is not a business organization, for initial licensure is not required to submit the applicable fee in subsection (A) if the applicant, as part of the applicable application in R9-16-303 or R9-16-306, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.

**Table 3.1. Time-frames (in calendar days)**

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review Time-frame	Time to Respond to Notice of Deficiency	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
Approval to take the Department-designated Written Hearing Aid Dispenser Examination	A.R.S. §§ 36-1923, 36-1924	60	30	60	30	30

Initial License by Examination	A.R.S. §§ 36-1904, 36-1923	60	30	30	30	15
Initial License by Reciprocity	A.R.S. § 36-1922	60	30	30	30	15
Initial License to a Business Organization	A.R.S. § 36-1910	60	30	30	30	15
Temporary License	A.R.S. § 36-1926	60	30	30	30	15
Renewal of a Hearing Aid Dispenser License	A.R.S. § 36-1904	60	30	30	30	15
Renewal of a Business Organization License	A.R.S. § 36-1910	60	30	30	30	15
Renewal of a Temporary License	A.R.S. § 36-1926	60	30	30	30	15

**R9-16-317. ~~Change Affecting a License or a Licensee; Request for Duplicate License~~**

- A. ~~A licensee shall submit a written notice to the Department in writing within 30 calendar days after the effective date of a change in:~~
1. ~~The licensee's home address or e-mail address, including the new home address or e-mail address;~~
  2. ~~The licensee's name, including a copy of one of the following with the licensee's new name:~~
    - a. ~~Marriage certificate,~~
    - b. ~~Divorce decree, or~~
    - c. ~~Other legal document establishing the licensee's new name; or~~
  3. ~~The place or places where the licensee engages in the practice of hearing aid dispensing, including the address or addresses of the place or places where the licensee engages in the practice of hearing aid dispensing.~~
- B. ~~A licensee may obtain a duplicate license by submitting to the Department a request for a duplicate license in a format provided by the Department that includes:~~

1. ~~The licensee's name and address,~~
2. ~~The licensee's license number and expiration date,~~
3. ~~The licensee's signature and date of signature, and~~
4. ~~A \$25 duplicate license fee.~~

## [A.A.C. Title 9, Ch. 16, Art. 3](#)

This document is current through Register 26, Issue 5, published January 31,2020.

**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 3. Licensing Hearing Aid Dispensers**

### **Article 3. Licensing Hearing Aid Dispensers**

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Annotations

### **Notes**

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Article 3, consisting of Sections [R9-16-301 through R9-16-314](#), adopted effective June 25, 1993 (Supp. 93-1).

Article 3, consisting of Sections [R9-16-301 through R9-16-305](#), repealed effective June 25, 1993 (Supp. 93-1).

Arizona Administrative Code

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End of Document

## [A.A.C. § R9-16-301](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 3. Licensing Hearing Aid Dispensers**

### **R9-16-301. Definitions**

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In addition to the definitions in [A.R.S. § 36-1901](#), the following definitions apply in this Article unless otherwise specified:

- 1.“Applicant” means an individual or a business organization that submits to the Department an approval to test, or initial, renewal or temporary license application packet to practice as a hearing aid dispenser.
- 2.“Application packet” means the information, documents, and fees required by the Department to apply for a license.
- 3.“Business organization” means an entity identified in [A.R.S. § 36-1910](#).
- 4.“Calendar day” means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
- 5.“Continuing education” means a course that provides instruction and training that directly relates to the practice of fitting and dispensing hearing aids as specified in [A.R.S. § 36-1904](#).
- 6.“Continuing education hour” means 50 minutes of continuing education.
- 7.“Controlling person” has the same meaning as in [A.R.S. § 36-881](#).
- 8.“Course” means a workshop, seminar, lecture, conference, or class.
- 9.“Department-designated written hearing aid dispenser examination” means one of the following that has been identified by the Department as complying with the requirements in [A.R. S. § 36-1924](#):
  - a.The International Licensing Examination for Healthcare Professionals, administered by the International Hearing Society; or
  - b.A test provided by the Department or other organization.
- 10.“Designated agent” means an individual who is authorized by an applicant or hearing aid dispenser to receive communications from the Department, including legal service of process, and to file or sign documents on behalf of the applicant or hearing aid dispenser.
- 11.“Disciplinary action” means a proceeding that is brought against a licensee by the Department under [A.R.S. § 36-1934](#) or a state licensing entity.
- 12.“In-service education” means organized instruction or information that is provided to a licensed hearing aid dispenser.

### **History**

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A.A.C. § R9-16-301

Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 3](#)

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End of Document

## [A.A.C. § R9-16-302](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 3. Licensing Hearing Aid Dispensers**

### **R9-16-302. Individuals to Act for Applicant**

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When an applicant or a hearing aid dispenser is required by this Article to provide information on or sign an application form or other document, the following shall satisfy the requirement on behalf of the applicant or hearing aid dispenser:

- 1.If the applicant or the hearing aid dispenser is an individual, the individual; or
- 2.If the applicant or hearing aid dispenser is a business organization, the designated agent who:
  - a.Is a controlling person of the business organization,
  - b.Is a U.S. citizen or legal resident, and
  - c.Has an Arizona address.

### **History**

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Amended effective March 22, 1976 (Supp. 76-2). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

### **Research References & Practice Aids**

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#### **Hierarchy Notes:**

[A.A.C. Title 9, Ch. 16, Art. 3](#)

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## [A.A.C. § R9-16-303](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 3. Licensing Hearing Aid Dispensers**

### **R9-16-303. Examination Requirements**

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**A.** Within two years after the date an applicant receives the approval notification in [R9-16-304\(C\)\(1\)](#), or a hearing aid dispenser with a temporary license receives the approval in [R9-16-309\(C\)](#), the applicant or hearing aid dispenser with a temporary license shall take and obtain a passing score on the Department-designated:

1. Written hearing aid dispenser examination required [R9-16-304](#), and
2. Practical examination required in [R9-16-305](#).

**B.** An applicant approved to take the Department-designated practical examination according to [R9-16-304\(C\)\(1\)](#), the examination required in [R9-16-307\(E\)](#), or a hearing aid dispenser with a temporary license approved to take the Department-designated practical examination according to [R9-16-309\(F\)\(1\)](#) shall:

1. Arrive on the scheduled date and time of the examination,
2. Provide proof of identity by a government-issued photographic identification card that is provided by the applicant or hearing aid dispenser with a temporary license upon the request of the individual administering the examination, and
3. Exhibit ethical conduct during the examination process.

**C.** An applicant or hearing aid dispenser with a temporary license who does not comply with subsection (B)(1) or (B)(2) is ineligible to take the examination on the scheduled date and time.

**D.** An applicant or hearing aid dispenser with a temporary license taking the examination:

1. Required in [R9-16-307\(E\)](#), will receive:
  - a. A passing score if 75% or more of the responses are correct, as determined by the Department; or
  - b. A failing score if fewer than 75% of the responses are incorrect, as determined by the Department; and
2. Required in [R9-16-304\(C\)\(1\)](#) or [R9-16-309\(F\)\(1\)](#) will receive a passing score on the examination if the applicant or hearing aid dispenser with a temporary license demonstrates the proficiencies in [A.R.S. § 36-1924\(A\)\(4\)](#), as determined by the Department.

**E.** The Department shall notify an applicant or hearing aid dispenser with a temporary license that the applicant or hearing aid dispenser with a temporary license may apply for an initial hearing aid dispenser license when the applicant or hearing aid dispenser with a temporary license has received a passing score on both of the examinations in subsection (A).

### **History**

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## A.A.C. § R9-16-303

The Department of Health Services advises that this rule is preempted by Section 521(a) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 360K). See 21 CFR 808.53, effective November 10, 1980 (Supp. 80-6). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-304](#)

This document is current through Register 26, Issue 5, published January 31,2020.

**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 3. Licensing Hearing Aid Dispensers**

### **R9-16-304. Written Hearing Aid Dispenser Examination**

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**A.** An applicant applying for an approval to take the Department-designated written hearing aid dispenser examination shall submit to the Department:

**1.**An application in a format provided by the Department that contains:

- a.**The applicant's name, home address, telephone number, and e-mail address;
- b.**The applicant's Social Security number, as required under [A.R.S. §§ 25-320](#) and [25-502](#);
- c.**If applicable, the name of the applicant's employer and the employer's business address and business telephone number;
- d.**Whether the applicant has ever been convicted of a felony or a misdemeanor in this or another state or jurisdiction; and
- e.**If the applicant was convicted of a felony or misdemeanor:
  - i.**The date of the conviction,
  - ii.**The state or jurisdiction of the conviction,
  - iii.**An explanation of the crime of which the applicant was convicted, and
  - iv.**The disposition of the case;
- f.**Whether within the two years before the application date, a hearing aid dispenser license issued to the applicant was suspended or revoked;
- g.**Whether the applicant is currently ineligible to apply for a hearing aid dispenser license due to a prior revocation or suspension of the applicant's hearing aid dispenser license;
- h.**Whether the applicant agrees to allow the Department to submit supplemental requests for information under *R9-16-316*;
- i.**An attestation that the information submitted as part of the application is true and accurate; and
- j.**The applicant's signature and date of signature;

**2.**A copy of the applicant's:

- a.**U.S. passport, current or expired;
- b.**Birth certificate;
- c.**Naturalization documents; or
- d.**Documentation of legal resident alien status;

**3.**Documentation that the applicant:

- a.**Received a high school diploma from an accredited high school;
- b.**Passed the general education development tests;

## A.A.C. § R9-16-304

- c. Completed an associate degree or higher from an accredited college or university; or
  - d. Continuously engaged in the practice of fitting and dispensing hearing aids during the three years before August 11, 1970;
4. If the applicant was issued a hearing aid dispenser license in another state or jurisdiction, where the applicant was issued a hearing aid dispenser license; and
5. A nonrefundable \$100 application fee.
- B.** The Department shall review an application for an approval to take the Department-designated written hearing aid examination according to *R9-16-316* and Table 3.1.
- C.** Within five calendar days after the Department receives the applicant's Department-designated written hearing aid dispenser examination results, the Department shall provide written notification to the applicant of:
- 1. A passing score that includes approval to take the Department-designated practical examination in [R9-16-305](#); or
  - 2. A failing score that includes, as applicable, approval to retake the Department-designated written hearing aid dispenser examination.

## History

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Amended effective March 22, 1976 (Supp. 76-2). The Department of Health Services advises that this rule is preempted by Section 521(a) of the federal Food, Drug and Cosmetic Act (21 U.S.C. 360K). See 21 CFR 808.53, effective November 10, 1980 (Supp. 80-6). Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-305](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 3. Licensing Hearing Aid Dispensers**

### **R9-16-305. Practical Examination**

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**A.**After an applicant takes the Department-designated practical examination required in [R9-16-303\(A\)](#), the Department shall provide written notification to the applicant within five calendar days after the Department receives the applicant's examination results whether the applicant received:

- 1.A passing score; or
- 2.A failing score and, as applicable, approval to retake the Department-designated practical examination.

**B.**The Department shall administer the Department-designated practical exam that complies with [A.R.S. § 36-1924\(A\)\(4\)](#):

- 1.In October each calendar year, and
- 2.According to [A.R.S. § 36-1923](#).

### **History**

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Section repealed, new Section adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-306](#)

This document is current through Register 26, Issue 5, published January 31,2020.

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### **R9-16-306. Application for an Initial License by Examination**

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**A.** Within six months after receiving the written notice in [R9-16-303\(E\)](#), an applicant for an initial license by examination shall submit to the Department:

1. An application in a format provided by the Department that contains:

- a. The applicant's name, home address, telephone number, and e-mail address;
- b. An attestation that the information submitted as part of the application for approval to take the Department-designated written hearing aid dispenser examination required in [R9-16-304](#) is currently true and accurate; and
- c. The applicant's signature and date signed; and

2. A license fee of \$200.

**B.** The Department shall review an application for an initial hearing aid dispenser license by examination according to [R9-16-316](#) and Table 3.1.

**C.** If the Department does not issue an initial hearing aid dispenser license by examination to an applicant, the Department shall return the license fee to the applicant.

**D.** An initial hearing aid dispenser license is valid for two years from the date of issue.

### **History**

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Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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#### **Hierarchy Notes:**

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## [A.A.C. § R9-16-307](#)

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### **R9-16-307. Application for an Initial License by Reciprocity**

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**A.**An applicant for an initial license by reciprocity shall submit to the Department:

**1.**An application in a format provided by the Department that contains:

- a.**The information required in [R9-16-304\(A\)\(1\)\(a\)](#) through (A)(1)(j),
- b.**The name of each state that issued the applicant a current hearing aid dispenser license,
- c.**The license number of each current hearing aid dispenser license, and
- d.**The date each current hearing aid dispenser license was issued;

**2.**The documents required [R9-16-304\(A\)\(2\)](#) through (A)(5);

**3.**For each state named in subsection (A)(1)(b):

- a.**A statement, on the letterhead of the state licensing entity that issued the hearing aid dispenser license and signed by an official of the state licensing entity, that the applicant holds a current hearing aid dispenser license in good standing;
- b.**A copy of the written and practical portions of the Department-designated hearing aid dispenser examination taken by the applicant or a detailed description of each portion of the examination;
- c.**The state licensing entity's statement of:
  - i.**The applicant's score on each section of the hearing aid dispenser examination taken by the applicant,
  - ii.**The minimum passing score for each section of the hearing aid dispenser examination taken by the applicant, and
  - iii.**The minimum passing score for the hearing aid dispenser examination taken by the applicant;
- d.**A copy of the applicant's current license;
- e.**An attestation that the information submitted as part of the application for an initial license by reciprocity is true and accurate; and
- f.**The applicant's signature and date of signature; and

**4.**A \$200 license fee.

**B.**Based on the information submitted under subsections (A)(1) through (A)(3), the Department shall determine whether:

**1.**The content of the examination taken by the applicant is substantially the same as the content of the Department's examinations in:

- a.**The Department-designated written hearing aid dispenser examination, and
- b.**The Department-designated practical examination;

## A.A.C. § R9-16-307

2.The applicant's scores on the examinations in (A)(3)(c) meet the requirements in [R9-16-303](#) for passing; and

3.The applicant complies with [A.R.S. §§ 36-1922](#) and [36-1923\(A\)](#), and this Article.

C.The Department shall review an application for an initial license by reciprocity according to [R9-16-316](#) and Table 3.1.

D.If the Department does not issue an initial license by reciprocity to an applicant, the Department shall return the license fee to the applicant.

E.If the Department issues an initial license by reciprocity to an applicant, the Department shall provide notification to the applicant that the applicant is approved to take and required to pass the examination identified in [A.R.S. § 36-1922](#) within six months after the initial license by reciprocity is issued.

F.After an applicant takes the examination in subsection (E), the Department shall provide written notification to the applicant within five calendar days after the Department receives the applicant's examination results whether the applicant received:

1.A passing score; or

2.A failing score and, as applicable, approval to retake the examination.

G.An initial license by reciprocity issued to an applicant is valid for two years from the date of issue.

## History

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Adopted effective June 25, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-308](#)

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### **R9-16-308. Application for an Initial License to a Business Organization**

---

**A.**An applicant that is a business organization shall submit to the Department:

**1.**An application for an initial hearing aid dispenser license in a format provided by the Department that contains:

- a.**The name of the business organization;
- b.**The business organization's Arizona business name, address, and telephone number;
- c.**The name, address, telephone number, and e-mail address of the individual authorized by the business organization to be the designated agent;
- d.**The name, business telephone number, and Arizona hearing aid dispenser license number of each hearing aid dispenser employed by the business organization in Arizona;
- e.**Whether the business organization or a hearing aid dispenser working for the business organization has had a hearing aid dispenser license suspended or revoked by any state within two years before the application date;
- f.**Whether the business organization or a hearing aid dispenser working for the business organization currently is not eligible for licensing in any state due to a suspension or revocation;
- g.**An attestation that information required as part of the application has been submitted and is true and accurate; and
- h.**The signature and date of signature from the designated agent;

**2.**A nonrefundable \$100 application fee; and

**3.**A \$200 license fee.

**B.**The Department shall review an application for an initial hearing aid dispenser license to a business organization according to *R9-16-316* and Table 3.1.

**C.**If the Department does not issue an initial hearing aid dispenser license to a business organization, the Department shall return the license fee in subsection (A)(3) to the applicant.

**D.**A business organization licensed according to this Section shall comply with [A.R.S. § 36-1910](#).

**E.**An initial license issued to a business organization according to this Section is valid for two years from the date of issue.

### **History**

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Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-309](#)

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### **R9-16-309. Application for a Temporary License**

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**A.**An applicant for a temporary license shall submit to the Department:

1.An application in a format provided by the Department that contains:

a.The information in [R9-16-304\(A\)\(1\)\(a\)](#) through (A)(5); and

b.The applicant's sponsor's:

i.Name,

ii.Business address,

iii.Business telephone number, and

iv.Arizona hearing aid dispenser license number;

2.A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to [A.R.S. § 36-1905](#); and

3.A \$100 license fee.

**B.**The Department shall review an application for a temporary license according to [R9-16-316](#) and Table 3.1.

**C.**If the Department issues a temporary license to the applicant, the Department shall also provide written notification to the applicant of approval to take the Department-designated written hearing aid dispenser examination within six months after the temporary license is issued.

**D.**If the Department does not issue an applicant a temporary license, the Department shall return the license fee in subsection (A)(3) to the applicant.

**E.**If a hearing aid dispenser with a temporary license takes and fails the Department-designated written hearing aid dispenser examination required in subsection (C), the temporary hearing aid dispenser may:

1.Renew the temporary license once according to [R9-16-311\(F\)](#), and

2.Take the Department-designated written hearing aid dispenser examination within the six months after renewal of the temporary license.

**F.**Within five calendar days after the Department receives an individual's Department-designated written hearing aid dispenser examination results, the Department shall provide written notification to the individual of:

1.A passing score that includes approval to take the Department-designated practical examination; or

2.A failing score that includes, as applicable, approval to retake the Department-designated written hearing aid dispenser examination.

**G.**A temporary license is no longer valid on the date the Department receives notice from the sponsor that the sponsor is terminating sponsorship.

**H.**A hearing aid dispenser whose temporary license is terminated according to subsection (G), shall:

## A.A.C. § R9-16-309

1. Not practice until issued a new license, and
2. May apply for an initial license as a hearing aid dispenser according to this Article or a temporary license according to this Section.

I. A temporary license is valid for 12 months from the date of issue.

## History

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Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## [A.A.C. § R9-16-310](#)

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### **R9-16-310. Sponsors**

---

**A.** A sponsor shall:

1. Provide to a hearing aid dispenser with a temporary license a minimum of 64 hours per month of on-site training and supervision that:
  - a. Consists of coordinating, directing, watching, inspecting, and evaluating the fitting and dispensing activities of the hearing aid dispenser with a temporary license; and
  - b. Directly relates to the type of training and education needed to pass the licensing examination required in [A.R.S. § 36-1924](#);
2. Maintain a record that:
  - a. Is signed by the hearing aid dispenser with a temporary license;
  - b. Has the date, time, and content of the training and supervision provided to the hearing aid dispenser with a temporary license, as required in subsection (A)(1); and
  - c. Is available for inspection by the Department for at least 12 months after the end of the sponsorship agreement; and
3. Not provide sponsorship to more than two hearing aid dispensers with temporary licenses, at one time.

**B.** When a sponsor terminates a sponsorship agreement with a hearing aid dispenser with a temporary license:

1. The sponsor shall:
  - a. Provide a written notice to the hearing aid dispenser with a temporary license indicating termination of the sponsorship agreement; and
  - b. Provide a copy of the written notice required in subsection (B)(1)(a), and documentation that the hearing aid dispenser with a temporary license received the written notice, to the Department; and
2. The hearing aid dispenser with a temporary license shall return the temporary license to the Department.

### **History**

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Adopted effective June 25, 1993 (Supp. 93-2). Section expired under A.R.S. § 41-1056(E) at 7 A.A.R. 5029, effective September 30, 2001 (Supp. 01-4). New Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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### **R9-16-311. License Renewal**

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A.A licensee, except for a hearing aid dispenser with a temporary license, shall submit a renewal application in a format provided by the Department that contains:

- 1.For an individual licensed as a hearing aid dispenser:
  - a.The applicant's name, home address, telephone number, and e-mail address;
  - b.The applicant's Social Security Number, as required under [A.R.S. §§ 25-320](#) and [25-502](#);
  - c.If applicable, the name of the applicant's employer and the employer's business address and business telephone number;
  - d.The applicant's license number and expiration date;
  - e.Since the hearing aid dispenser's previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state or jurisdiction;
  - f.If the applicant was convicted of a felony or misdemeanor involving moral turpitude:
    - 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;
  - g.Whether the applicant has had a license revoked or suspended by any state within the previous two years;
  - h.Whether the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension;
  - i.Whether any disciplinary action has been imposed by any state, territory or district in this country for an act upon the applicant's hearing aid dispenser license;
  - j.An attestation that information required as part of the application has been submitted and is true and accurate; and
  - k.The applicant's signature and date of signature;
- 2.In addition to the requirements in subsection (A)(1) an individual shall submit:
  - a.Documentation of 24 continuing education hours completed within the 24 months before the expiration date on the license, including:
    - i.The name of the organization providing the course;
    - ii.The date and location where the course was provided;
    - iii.The title of each course attended;

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- iv. A description of each course's content;
- v. Whether the course was taught in-person;
- vi. The name of the instructor;
- vii. The instructor's education, training, and experience background, if available; and
- viii. The number of continuing education hours earned for each course; and

b. A \$200 license renewal fee; or

3. For a business organization licensed as a hearing aid dispenser:

a. The information in subsection [R9-16-308\(A\)\(1\)](#), and

b. A \$200 license renewal fee.

**B.** A licensee, except for a hearing aid dispenser with a temporary license, who renews a license within 30 calendar days after the expiration date of the license, shall submit to the Department:

1. The information and renewal fee required in subsection (A), and

2. A \$25 late fee.

**C.** A renewal license issued to a licensee, except for a hearing aid dispenser with a temporary license, is valid for two years after the expiration date of the previous license issued by the Department.

**D.** If a licensee does not comply with subsections (A) or (B), the license is nonrenewable and:

1. The hearing aid dispenser may apply for a new license according to subsection (E), or

2. The business organization may apply for a new license according to [R9-16-308](#).

**E.** A licensee whose license is nonrenewable according to subsection (D)(1) and it is within one year after the expiration date of the hearing aid dispenser's license:

1. The applicant shall submit an application in a format provided by the Department that contains:

a. The information required in [R9-16-304\(A\)\(1\)](#) through (A)(4), and

b. Documentation of continuing education according to [R9-16-312](#); and

2. A nonrefundable \$100 application fee and a \$100 license fee.

**F.** If allowed in [R9-16-309\(E\)\(1\)](#), a hearing aid dispenser with a temporary license shall submit at least 30 calendar days before the expiration date on the license, a renewal application in a format provided by the Department that contains:

1. The information in [R9-16-304\(A\)\(1\)](#) through (A)(4);

2. The applicant's sponsor's:

a. Name,

b. Business address,

c. Business telephone number, and

d. Arizona hearing aid dispenser license number;

3. A statement signed by the sponsor that the sponsor is a licensed hearing aid dispenser who agrees to train, supervise, and be responsible for the applicant's hearing aid dispenser practice according to [A.R.S. § 36-1905](#); and

4. A \$100 license renewal fee.

**G.** A renewal license issued to a licensee according to subsection (F) is valid for one year after the expiration date of the previous license issued by the Department.

H.The Department shall review a renewal application according to *R9-16-316* and Table 3.1.

## History

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Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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### **R9-16-312. Continuing Education**

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**A.** Continuing education shall:

1. Directly relate to the practice of fitting and dispensing hearing aids;
2. Have educational objectives that exceed an introductory level of knowledge of fitting and dispensing hearing aids; and
3. Consist of courses that include advances within the last five years in:
  - a. Procedures in the selection and fitting of hearing aids,
  - b. Pre- and post-fitting management of clients,
  - c. Instrument circuitry and acoustic performance data,
  - d. Ear mold design and modification contributing to improved client performance,
  - e. Audiometric equipment or testing techniques that demonstrate an improved ability to identify and evaluate hearing loss,
  - f. Auditory rehabilitation,
  - g. Ethics,
  - h. Federal and state statutes or rules, or
  - i. Assistive listening devices.

**B.** A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (A):

1. Hearing Healthcare Providers of Arizona,
2. Arizona Speech-Language-Hearing Association,
3. American Speech-Language-Hearing Association,
4. International Hearing Society,
5. International Institute for Hearing Instrument Studies,
6. American Auditory Society,
7. American Academy of Audiology,
8. Academy of Doctors of Audiology,
9. Arizona Society of Otolaryngology-Head and Neck Surgery,
10. American Academy of Otolaryngology-Head and Neck Surgery, or
11. An organization determined by the Department to be consistent with an organization in subsection (B)(1) through (10).

C.A hearing aid dispenser shall comply with the continuing education requirements in [A.R.S. § 36-1904](#).

## History

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Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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### **R9-16-313. Responsibilities of a Hearing Aid Dispenser**

---

A.A hearing aid dispenser licensed according to subsections [R9-16-306](#) or [R9-16-307](#) shall:

1. Upon licensure, notify the Department in writing of the address where the hearing aid dispenser practices the fitting and dispensing of hearing aids;
2. Conspicuously post the license received according to subsections [R9-16-306](#) or [R9-16-307](#) in the hearing aid dispenser's office or place of business;
3. Except as specified in subsections (A)(4) or (A)(5), conduct audiometric tests before selecting a hearing aid for a client that provides detailed information about the client's hearing loss, including:
  - a. Type, degree, and configuration of hearing loss;
  - b. Ability, as measured by the percentage of words the client is able to repeat correctly, to discriminate speech; and
  - c. The client's most comfortable and uncomfortable loudness levels in decibels;
4. Have the option to conduct audiometric testing required in subsection (A)(3) before selling a client a hearing aid if the client provides to the dispenser the information required in subsection (A)(3) from a licensed professional and the information was:
  - a. Obtained within the previous 12 months for an adult, or
  - b. Within the previous six months for an individual under the age of 18;
5. Have the option to conduct audiometric testing required in subsection (A)(3) if the tests cannot be performed on the client due to:
  - a. The client's young age, or
  - b. A physical or mental disability;
6. Maintain documentation for three years from the date of receipt of the information, that supports the exclusion of specific audiometric tests according to subsections (A)(4) and (A)(5);
7. Evaluate the performance characteristics of the hearing aid as it functions on the client's ear for the purpose of assessing the degree of audibility provided by the device and benefit to the client;
8. Provide a bill of sale to a client according to [A.R.S. § 36-1909\(A\)](#) that contains:
  - a. Information required in [A.R.S. § 36-1909](#);
  - b. A complete description of:
    - i. Warranty information, and
    - ii. The conditions of any offer of a trial period with a money back guarantee or partial refund; and
  - c. The client's signature and date of signature; and

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**9.**Not:

- a.Practice without a license according to [A.R.S. § 36-1907](#),
- b.Commit unlawful acts according to [A.R.S. § 36-1936](#), or
- c.Commit actions described in [A.R.S. § 36-1934\(A\)](#).

**B.**The trial period described in subsection (A)(8)(b)(ii) shall not include any time that the hearing aid is in the possession of the hearing aid dispenser or the manufacturer of the hearing aid.

## History

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Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 3](#)

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## [A.A.C. § R9-16-314](#)

This document is current through Register 26, Issue 5, published January 31,2020.

**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 3. Licensing Hearing Aid Dispensers**

### **R9-16-314. Equipment and Records**

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**A.**A licensee shall maintain an audiometer that performs the audiometric tests as described in [R9-16-313](#) according to the manufacturer's specifications.

**B.**If a licensee uses equipment that requires calibration, the licensee shall ensure that:

- 1.The equipment is calibrated at least every 12 months and according to the American National Standard - Specifications for Audiometers, S3.6-2010, Standards Secretariat, c/o Acoustical Society of America, 1305 Walt Whitman Road, Suite 300, Melville, New York, 11747-4300, November 2, 2010, incorporated by reference and on file with the Department and the Office of the Secretary of State, with no future additions or amendments; and
- 2.A written record of the calibration is maintained in the same location as the calibrated equipment for at least 36 months after the date of the calibration.

**C.**A licensee shall maintain a record according to [A.R.S. § 32-3211](#) for each client with the following documents for at least 36 months after the date the licensee provided a service or dispensed a product while engaged in the practice of fitting and dispensing hearing aids:

- 1.The name, address, and telephone number of the individual to whom services are provided;
- 2.A written statement from a licensed physician that the client has medical clearance to use hearing aids or a medical waiver signed by the client who is 18 years of age or older;
- 3.For each audiometric test conducted for the client, the:
  - a.Audiometric test results by date and procedure used in evaluating hearing disorders or determining the need for dispensing a product or service,
  - b.Name of the individual who performed the audiometric tests, and
  - c.Signature of the individual who performed the audiometric tests;
- 4.A copy of the bill of sale required in [R9-16-313\(A\)\(8\)](#);
- 5.Documented verification of the effectiveness of the hearing aid required in [R9-16-313 \(A\)\(7\)](#); and
- 6.The contracts, agreements, warranties, trial periods, or other documents involving the client.

### **History**

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Adopted effective June 25, 1993 (Supp. 93-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

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## [A.A.C. § R9-16-315](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 3. Licensing Hearing Aid Dispensers**

### **R9-16-315. Disciplinary Actions**

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**A.**The Department may, as applicable:

- 1.Take an action under [A.R.S. § 36-1934](#),
- 2.Request an injunction under [A.R.S. § 36-1937](#), or
- 3.Assess a civil money penalty under [A.R.S. § 36-1939](#).

**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 the public health and safety,
- 4.The number of violations;
- 5.The number of clients affected by the violations,
- 6.The degree of harm to the consumer,
- 7.A pattern of noncompliance, and
- 8.Any mitigating or aggravating circumstances.

**C.**A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

**D.**The Department shall notify a licensee§ employer within five days after the Department initiates a disciplinary action against a licensee.

### **History**

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New Section made by final rulemaking at 8 A.A.R. 2688, effective June 7, 2002 (Supp. 02-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

### **Research References & Practice Aids**

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**Hierarchy Notes:**

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## [A.A.C. § R9-16-315 Table 1](#)

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### **Table 1. Renumbered**

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### **History**

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Table 1 made by final rulemaking at 8 A.A.R. 2688, effective June 7, 2002 (Supp. 02-2). Table 1 renumbered to Table 3.1 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

### **Research References & Practice Aids**

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#### **Hierarchy Notes:**

[A.A.C. Title 9, Ch. 16, Art. 3](#)

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## [A.A.C. § R9-16-316](#)

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### **R9-16-316. Time-frames**

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**A.**The overall time-frame described in [A.R.S. § 41-1072](#) for each type of license or approval granted by the Department is specified in Table 3.1. The Department and an applicant may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25 percent of the overall time-frame.

**B.** The administrative completeness review time-frame described in [A.R.S. § 41-1072](#) for each type of license or approval granted by the Department is specified in Table 3.1.

**1.**The administrative completeness review time-frame begins:

**a.**For an applicant submitting an application for approval to take the Department-designated written hearing aid dispenser examination, when the Department receives the application required in [R9-16-304\(A\)](#);

**b.**For an applicant submitting an application for initial hearing aid dispenser license by examination, when the Department receives the application required in [R9-16-306](#);

**c.**For an applicant submitting an application for initial hearing aid dispenser license by reciprocity, when the Department receives the application required in [R9-16-307](#);

**d.**For a business organization submitting an application for an initial hearing aid dispenser license to a business organization, when the Department receives the application required in [R9-16-308](#);

**e.**For an applicant submitting an application for a temporary license, when the Department receives the application required in [R9-16-309](#);

**f.**For a licensed hearing aid dispenser applying to renew a hearing aid dispenser license, when the Department receives the application required in [R9-16-311](#);

**g.**For a business organization applying to renew a business organization hearing aid dispenser license, when the Department receives the application required in [R9-16-311](#); and

**h.**For a temporary hearing aid dispenser applying to renew a temporary license, when the Department receives the application required in [R9-16-311](#).

**2.**If an application is incomplete, the Department shall provide a notice of deficiencies to the applicant or licensee describing the missing documents or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the documentation or information listed in the notice of deficiencies. An applicant or licensee shall submit to the Department the documentation or information listed in the notice of deficiencies within the time specified in Table 3.1 for responding to a notice of deficiencies.

**3.**If the applicant or licensee submits the documentation or information listed in the notice of deficiencies within the time specified in Table 3.1, the Department shall provide a written notice of administrative completeness to the applicant of licensee.

## A.A.C. § R9-16-316

4.If the applicant or licensee does not submit the documentation or information listed in the notice of deficiencies within the time specified in Table 3.1, the Department shall consider the application withdrawn.

5.When an application is complete, the Department shall provide a notice of administrative completeness to the applicant or licensee.

6.If the Department issues a license or notice of approval during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

C.The substantive review time-frame described in [A.R.S. § 41-1072](#) is specified in Table 3.1 and begins on the date of the notice of administrative completeness.

1.If an application complies with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall issue a notice of approval to an applicant or a license to an applicant or licensee.

2.If an application does not comply with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall make one comprehensive written request for additional information, unless the applicant or licensee has agreed in writing to allow the Department to submit supplemental requests for information. The substantive review time-frame and the overall time-frame are suspended from the date that the Department sends a comprehensive written request for additional or a supplemental request for information until the date that the Department receives all of the information requested.

3.An applicant or licensee shall submit to the Department all of the information requested in a comprehensive written request for additional information or a supplemental request for information within the time specified in Table 3.1.

4.If the applicant or licensee does not submit the additional information within the time specified in Table 3.1 or the additional information submitted by the applicant or licensee does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall provide to the applicant or licensee a written notice of denial that complies with [A.R.S. § 41-1092.03\(A\)](#).

5.If the applicant or licensee submits the additional information within the time specified in Table 3.1 and the additional information submitted by the applicant or licensee demonstrates compliance with this Article and A.R.S. Title 36, Chapter 17, Articles 1 through 4, the Department shall issue a license to an applicant or licensee or a notice of approval to an applicant.

## History

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New Section made by final rulemaking at 10 A.A.R. 2063, effective July 3, 2004 (Supp. 04-2). Historical note corrected to reflect the rulemaking action on file and effective with the 04-2 supplement (Supp. 05-2). Section repealed; new Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 3](#)

A.A.C. § R9-16-316

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**A.A.C. § R9-16-316 Table 3.1**

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**Table 3.1. Time-frames (in calendar days)**

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## A.A.C. § R9-16-316 Table 3.1

Type of Approval	Statutory Authority	Overall Time-frame	Administrative			
Completeness Review Time-frame	Time to Respond to Notice of					
Deficiency	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request				
Approval to take the Department-designated Written Hearing Aid						
Dispenser Examination	<a href="#">A.R.S. §§ 36-1923, 36-1924</a>	60	30	60	30	30
Initial License by Examination	<a href="#">A.R.S. §§ 36-1904, 36-1923</a>	60	30	30	30	15
Initial License by Reciprocity	<a href="#">A.R.S. § 36-1922</a>	60	30	30	30	15
Initial License to a Business Organization	<a href="#">A.R.S. § 36-1910</a>	60	30	30	30	15
Temporary License	<a href="#">A.R.S. § 36-1926</a>	60	30	30	30	15
Renewal of a Hearing Aid Dispenser	<a href="#">A.R.S. § 36-</a>	60	30	30	30	15

A.A.C. § R9-16-316 Table 3.1

License	<a href="#">1904</a>					
Renewal of a						
Business Organization License	<a href="#">A.R.S. § 36-1910</a>	60	30	30	30	15
Renewal of a						
Temporary License	<a href="#">A.R.S. § 36-1926</a>	60	30	30	30	15

## History

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Table 3.1 renumbered from Table 1 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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## [A.A.C. § R9-16-317](#)

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### **R9-16-317. Change Affecting a License or a Licensee; Request for Duplicate License**

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**A.**A licensee shall submit a written notice to the Department in writing within 30 calendar days after the effective date of a change in:

- 1.The licensee's home address or e-mail address, including the new home address or e-mail address;
- 2.The licensee's name, including a copy of one of the following with the licensee's new name:
  - a.Marriage certificate,
  - b.Divorce decree, or
  - c.Other legal document establishing the licensee's new name; or
- 3.The place or places where the licensee engages in the practice of hearing aid dispensing, including the address or addresses of the place or places where the licensee engages in the practice of hearing aid dispensing.

**B.**A licensee may obtain a duplicate license by submitting to the Department a request for a duplicate license in a format provided by the Department that includes:

- 1.The licensee's name and address,
- 2.The licensee's license number and expiration date,
- 3.The licensee's signature and date of signature, and
- 4.A \$25 duplicate license fee

### **History**

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New Section made by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

### **Research References & Practice Aids**

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**Hierarchy Notes:**

[A.A.C. Title 9, Ch. 16, Art. 3](#)

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## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

### 36-104. Powers and duties

This section is not to be construed as a statement of the department's organization. This section is intended to be a statement of powers and duties in addition to the powers and duties granted by section 36-103. The director shall:

1. Administer the following services:

(a) Administrative services, which shall include at a minimum the functions of accounting, personnel, standards certification, electronic data processing, vital statistics and the development, operation and maintenance of buildings and grounds used by the department.

(b) Public health support services, which shall include at a minimum:

(i) Consumer health protection programs, consistent with paragraph 25 of this section, that include at least the functions of community water supplies, general sanitation, vector control and food and drugs.

(ii) Epidemiology and disease control programs that include at least the functions of chronic disease, accident and injury control, communicable diseases, tuberculosis, venereal disease and others.

(iii) Laboratory services programs.

(iv) Health education and training programs.

(v) Disposition of human bodies programs.

(c) Community health services, which shall include at a minimum:

(i) Medical services programs that include at least the functions of maternal and child health, preschool health screening, family planning, public health nursing, premature and newborn program, immunizations, nutrition, dental care prevention and migrant health.

(ii) Dependency health care services programs that include at least the functions of need determination, availability of health resources to medically dependent individuals, quality control, utilization control and industry monitoring.

(iii) Children with physical disabilities services programs.

(iv) Programs for the prevention and early detection of an intellectual disability.

(d) Program planning, which shall include at least the following:

(i) An organizational unit for comprehensive health planning programs.

(ii) Program coordination, evaluation and development.

(iii) Need determination programs.

(iv) Health information programs.

2. Include and administer, within the office of the director, staff services, which shall include at a minimum budget preparation, public information, appeals, hearings, legislative and federal government liaison, grant development and management and departmental and interagency coordination.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

3. Make rules for the organization and proper and efficient operation of the department.
4. Determine when a health care emergency or medical emergency situation exists or occurs within this state that cannot be satisfactorily controlled, corrected or treated by the health care delivery systems and facilities available. When such a situation is determined to exist, the director shall immediately report that situation to the legislature and the governor. The report shall include information on the scope of the emergency, recommendations for solution of the emergency and estimates of costs involved.
5. Provide a system of unified and coordinated health services and programs between this state and county governmental health units at all levels of government.
6. Formulate policies, plans and programs to effectuate the missions and purposes of the department.
7. Make contracts and incur obligations within the general scope of the department's activities and operations subject to the availability of monies.
8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.
9. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of the department's duties subject to the departmental rules and regulations on the confidentiality of information.
10. Establish and maintain separate financial accounts as required by federal law or regulations.
11. Advise with and make recommendations to the governor and the legislature on all matters concerning the department's objectives.
12. Take appropriate steps to reduce or contain costs in the field of health services.
13. Encourage and assist in the adoption of practical methods of improving systems of comprehensive planning, of program planning, of priority setting and of allocating resources.
14. Encourage an effective use of available federal resources in this state.
15. Research, recommend, advise and assist in the establishment of community or area health facilities, both public and private, and encourage the integration of planning, services and programs for the development of the state's health delivery capability.
16. Promote the effective use of health manpower and health facilities that provide health care for the citizens of this state.
17. Take appropriate steps to provide health care services to the medically dependent citizens of this state.
18. Certify training on the nature of sudden infant death syndrome, which shall include information on the investigation and handling of cases involving sudden and unexplained infant death for use by law enforcement officers as part of their basic training requirement.
19. Adopt protocols on the manner in which an autopsy shall be conducted under section 11-597, subsection D in cases of sudden and unexplained infant death.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

20. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

21. Administer the federal family violence prevention and services act grants, and the department is designated as this state's recipient of federal family violence prevention and services act grants.

22. Accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education. The department shall disburse these monies to local prosecutorial or law enforcement agencies with existing programs, faith-based organizations and nonprofit entities that are qualified under section 501(c)(3) of the United States internal revenue code, including nonprofit entities providing services to women with a history of dual diagnosis disorders, and that provide educational programs on the repercussions of methamphetamine use. State general fund monies shall not be spent for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are not lapsing and do not revert to the state general fund at the close of the fiscal year.

23. Identify successful methamphetamine prevention programs in other states that may be implemented in this state.

24. Pursuant to chapter 13, article 8 of this title, coordinate all public health and risk assessment issues associated with a chemical or other toxic fire event if a request for the event is received from the incident commander, the emergency response commission or the department of public safety and if funding is available. Coordination of public health issues shall include general environmental health consultation and risk assessment services consistent with chapter 13, article 8 of this title and, in consultation with the Arizona poison control system, informing the public as to potential public health risks from the environmental exposure. Pursuant to chapter 13, article 8 of this title, the department of health services shall also prepare a report, in consultation with appropriate state, federal and local governmental agencies, that evaluates the public health risks from the environmental exposure. The department of health services' report shall include any department of environmental quality report and map of smoke dispersion from the fire, the results of any environmental samples taken by the department of environmental quality and the toxicological implications and public health risks of the environmental exposure. The department of health services shall consult with the Arizona poison control system regarding toxicology issues and shall prepare and produce its report for the public as soon as practicable after the event. The department of health services shall not use any monies pursuant to section 49-282, subsection E to implement this paragraph.

25. Consult, cooperate, collaborate and, if necessary, enter into interagency agreements and memoranda of understanding with the Arizona department of agriculture concerning its administration, pursuant to title 3, chapter 3, article 4.1, of this state's authority under the United States food and drug administration produce safety rule (21 Code of Federal Regulations part 112) and any other federal produce safety

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

regulation, order or guideline or other requirement adopted pursuant to the FDA food safety modernization act (P.L. 111-353; 21 United States Code sections 2201 through 2252).

26. Adopt rules pursuant to title 32, chapter 32, article 5 prescribing the designated database information to be collected by health profession regulatory boards for the health professionals workforce database.

### **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.

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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.

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(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.

(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.

21. License and regulate the health and safety of group homes for persons with developmental disabilities. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end-stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

### **36-136. Powers and duties of director; compensation of personnel; rules; definitions**

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.
2. Perform all duties necessary to carry out the functions and responsibilities of the department.
3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.
4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

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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.

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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.

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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

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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

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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

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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.

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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.

### **Article 1 – Administration**

#### **36-1901. Definitions**

In this chapter, unless the context otherwise requires:

1. "Accredited program" means a program leading to the award of a degree in audiology that is accredited by an organization recognized for that purpose by the United States department of education.
2. "Approved training program" means a postsecondary speech-language pathology assistant training program that is approved by the director.
3. "Assistive listening device or system" means an amplification system that is specifically designed to improve the signal-to-noise ratio for the listener who is hearing impaired, reduce interference from noise in the background and enhance hearing levels at a distance by picking up sound from as close to the source as possible and sending it directly to the ear of the listener, excluding hearing aids.
4. "Audiologist" means a person who engages in the practice of audiology and who meets the requirements prescribed in this chapter.
5. "Audiology" means the nonmedical and nonsurgical application of principles, methods and procedures of measurement, testing, evaluation and prediction that are related to hearing, its disorders and related communication impairments for the purpose of nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions.
6. "Clinical interaction" means a fieldwork practicum in speech-language pathology that is supervised by a licensed speech-language pathologist.
7. "Department" means the department of health services.
8. "Direct supervision" means the on-site, in-view observation and guidance of a speech-language pathology assistant by a licensed speech-language pathologist while the speech-language pathology assistant performs an assigned clinical activity.
9. "Director" means the director of the department.
10. "Disorders of communication" means an organic or nonorganic condition that impedes the normal process of human communication and includes disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition and communications and oral, pharyngeal and laryngeal sensorimotor competencies.
11. "Disorders of hearing" means an organic or nonorganic condition, whether peripheral or central, that impedes the normal process of human communication and includes disorders of auditory sensitivity, acuity, function or processing.
12. "Hearing aid" means any wearable instrument or device designed for or represented as aiding or improving human hearing or as aiding, improving or compensating for defective human hearing,

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and any parts, attachments or accessories of the instrument or device, including ear molds, but excluding batteries and cords.

13. "Hearing aid dispenser" means any person who engages in the practice of fitting and dispensing hearing aids.
14. "Indirect supervision" means supervisory activities, other than direct supervision that are performed by a licensed speech-language pathologist and that may include consultation, record review and review and evaluation of audiotaped or videotaped sessions.
15. "Letter of concern" means an advisory letter to notify a licensee that, while there is insufficient evidence to support disciplinary action, the director believes the licensee should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the director may result in action against the licensee.
16. "License" means a license issued by the director under this chapter and includes a temporary license.
17. "Nonmedical diagnosing" means the art or act of identifying a communication disorder from its signs and symptoms. Nonmedical diagnosing does not include diagnosing a medical disease.
18. "Practice of audiology" means:
  - (a) Rendering or offering to render to a person or persons who have or who are suspected of having disorders of hearing any service in audiology including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research.
  - (b) Participating in hearing conservation, hearing aid and assistive listening device evaluation and hearing aid prescription preparation, fitting, dispensing and orientation.
  - (c) Screening, identifying, assessing, nonmedical diagnosing, preventing and rehabilitating peripheral and central auditory system dysfunctions.
  - (d) Providing and interpreting behavioral and physiological measurements of auditory and vestibular functions.
  - (e) Selecting, fitting and dispensing assistive listening and alerting devices and other systems and providing training in their use.
  - (f) Providing aural rehabilitation and related counseling services to hearing impaired persons and their families.
  - (g) Screening speech-language and other factors that affect communication function in order to conduct an audiologic evaluation and an initial identification of persons with other communications disorders and making the appropriate referral.
  - (h) Planning, directing, conducting or supervising services.
19. "Practice of fitting and dispensing hearing aids" means the measurement of human hearing by means of an audiometer or by any other means, solely for the purpose of making selections or adaptations of hearing aids, and the fitting, sale and servicing of hearing aids, including assistive listening devices and the making of impressions for ear molds and includes identification, instruction, consultation, rehabilitation and hearing conservation as these relate only to hearing

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aids and related devices and, at the request of a physician or another licensed health care professional, the making of audiograms for the professional's use in consultation with the hearing impaired. The practice of fitting and dispensing hearing aids does not include formal auditory training programs, lip reading and speech conservation.

20. "Practice of speech-language pathology" means:
- (a) Rendering or offering to render to an individual or groups of individuals who have or are suspected of having disorders of communication service in speech-language pathology including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research.
  - (b) Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating disorders of speech and language.
  - (c) Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating disorders of oral-pharyngeal functions and related disorders.
  - (d) Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating cognitive and communication disorders.
  - (e) Assessing, selecting and developing augmentative and alternative communication systems and providing training in the use of these systems and assistive listening devices.
  - (f) Providing aural rehabilitation and related counseling services to hearing impaired persons and their families.
  - (g) Enhancing speech-language proficiency and communication effectiveness.
  - (h) Screening hearing and other factors for speech-language evaluation and initially identifying persons with other communication disorders and making the appropriate referral.
21. "Regular license" means each type of license issued by the director, except a temporary license.
22. "Sell" or "sale" means a transfer of title or of the right to use by lease, bailment or any other contract, but does not include transfers at wholesale to distributors or dealers.
23. "Speech-language pathology" means the nonmedical and nonsurgical application of principles, methods and procedures of assessment, testing, evaluation and prediction related to speech and language and its disorders and related communication impairments for the nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions.
24. "Speech-language pathology assistant" means a person who provides services prescribed in section 36-1940.04 and under the direction and supervision of a speech-language pathologist licensed pursuant to this chapter.
25. "Sponsor" means a person who is licensed pursuant to this chapter and who agrees to train or directly supervise a temporary licensee in the same field of practice.
26. "Temporary licensee" means a person who is licensed under this chapter for a specified period of time under the sponsorship of a person licensed pursuant to this chapter.
27. "Unprofessional conduct" means:

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- (a) Obtaining any fee or making any sale by fraud or misrepresentation.
- (b) Employing directly or indirectly any suspended or unlicensed person to perform any work covered by this chapter.
- (c) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation, however disseminated or published, that is misleading, deceiving, improbable or untruthful.
- (d) Advertising for sale a particular model, type or kind of product when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind if the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.
- (e) Representing that the professional services or advice of a physician will be used or made available in the selling, fitting, adjustment, maintenance or repair of hearing aids if this is not true, or using the words "doctor", "clinic", "clinical" or like words, abbreviations or symbols while failing to affix the word, term or initials "audiology", "audiologic", "audiologist", "doctor of audiology", "Au.D.", "Ph.D." or "Sc.D.".
- (f) Defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts or questionable credit standing or by other false representations, or falsely disparaging the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies or services.
- (g) Displaying competitive products in the licensee's show window, shop or advertising in such manner as to falsely disparage such products.
- (h) Representing falsely that competitors are unreliable.
- (i) Quoting prices of competitive products without disclosing that they are not the current prices, or showing, demonstrating or representing competitive models as being current models when they are not current models.
- (j) Imitating or simulating the trademarks, trade names, brands or labels of competitors with the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers.
- (k) Using in the licensee's advertising the name, model name or trademark of a particular manufacturer of hearing aids in such a manner as to imply a relationship with the manufacturer that does not exist, or otherwise to mislead or deceive purchasers or prospective purchasers.
- (l) Using any trade name, corporate name, trademark or other trade designation that has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the name, nature or origin of any product of the industry, or of any material used in the product, or that is false, deceptive or misleading in any other material respect.
- (m) Obtaining information concerning the business of a competitor by bribery of an employee or agent of that competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means.

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- (n) Giving directly or indirectly, offering to give, or permitting or causing to be given money or anything of value, except miscellaneous advertising items of nominal value, to any person who advises another in a professional capacity as an inducement to influence that person or have that person influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser, or to influence persons to refrain from dealing in the products of competitors.
- (o) Sharing any profits or sharing any percentage of a licensee's income with any person who advises another in a professional capacity as an inducement to influence that person or have that person influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser or to dissuade persons from dealing in products of competitors.
- (p) Failing to comply with existing federal regulations regarding the fitting and dispensing of a hearing aid.
- (q) Conviction of a felony or a misdemeanor that involves moral turpitude.
- (r) Fraudulently obtaining or attempting to obtain a license or a temporary license for the applicant, the licensee or another person.
- (s) Aiding or abetting unlicensed practice.
- (t) Wilfully making or filing a false audiology, speech-language pathology or hearing aid dispenser evaluation.
- (u) The use of narcotics, alcohol or drugs to the extent that the performance of professional duties is impaired.
- (v) Betraying a professional confidence.
- (w) Any conduct, practice or condition that impairs the ability of the licensee to safely and competently engage in the practice of audiology, speech-language pathology or hearing aid dispensing.
- (x) Providing services or promoting the sale of devices, appliances or products to a person who cannot reasonably be expected to benefit from these services, devices, appliances or products.
- (y) Being disciplined by a licensing or disciplinary authority of any state, territory or district of this country for an act that is grounds for disciplinary action under this chapter.
- (z) Violating any provision of this chapter or failing to comply with rules adopted pursuant to this chapter.
- (aa) Failing to refer an individual for medical evaluation if a condition exists that is amenable to surgical or medical intervention prescribed by the advisory committee and consistent with federal regulations.
- (bb) Practicing in a field or area within that licensee's defined scope of practice in which the licensee has not either been tested, taken a course leading to a degree, received supervised training, taken a continuing education course or had adequate prior experience.

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(cc) Failing to affix the word, term or initials "audiology", "audiologic", "audiologist", "doctor of audiology", "Au.D.", "Ph.D." or "Sc.D." in any sign, written communication or advertising media in which the term "doctor" or the abbreviation "Dr." is used in relation to the audiologist holding a doctoral degree.

### **36-1902. Powers and duties of the director; advisory committee; examining committee**

#### A. The director shall:

1. Appoint an advisory committee to collaborate with and assist the director and to perform duties as prescribed by this chapter. The director shall inform the advisory committee regarding all disciplinary actions.
2. Supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for a hearing aid dispenser's license.
3. Designate the time and place for holding examinations for a hearing aid dispenser's license.
4. License persons who apply for and pass the examination for a license, and possess all other qualifications required for the practice of fitting and dispensing hearing aids, the practice of audiology and the practice of speech-language pathology.
5. License persons who apply for a license and possess all other qualifications required for licensure as a speech-language pathology assistant.
6. Authorize all disbursements necessary to carry out this chapter.
7. Ensure the public's health and safety by adopting and enforcing qualification standards for licensees and applicants for licensure under this chapter.

#### B. The director may:

1. Purchase and maintain, or rent, equipment and facilities necessary to carry out the examination of applicants for a license.
2. Issue and renew a license.
3. Deny, suspend, revoke or refuse renewal of a license or file a letter of concern, issue a decree of censure, prescribe probation, impose a civil penalty or restrict or limit the practice of a licensee pursuant to this chapter.
4. Appoint an examining committee to assist in the conduct of the examination of applicants for a hearing aid dispenser's license.
5. Make and publish rules that are not inconsistent with the laws of this state and that are necessary to carry out this chapter.
6. Require the periodic inspection of testing equipment and facilities of persons engaging in the practice of fitting and dispensing hearing aids, audiology and speech-language pathology.
7. Require a licensee to produce customer records of patients involved in complaints on file with the department.

#### C. The advisory committee appointed pursuant to subsection A, paragraph 1 consists of the director, two physicians licensed under title 32, chapter 13 or 17, one of whom is a specialist in otolaryngology,

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two licensed audiologists, one of whom dispenses hearing aids, two licensed speech-language pathologists, two public members, one of whom is hearing impaired, one member of the Arizona commission for the deaf and the hard of hearing who is not licensed pursuant to this chapter and two licensed hearing aid dispensers who are not licensed to practice audiology. Committee members who are licensed under this chapter shall have at least five years' experience immediately preceding the appointment in their field of practice in this state.

- D. The examining committee authorized pursuant to subsection B, paragraph 4 consists of one otolaryngologist, two licensed dispensing audiologists and two licensed hearing aid dispensers. Committee members who are licensed under this chapter shall have at least five years' experience immediately preceding the appointment in their field of practice in this state. The findings of the examining committee shall be advisory to the director.
- E. The director shall verify that the audiology licensee has passed a nationally recognized examination approved by the director.
- F. The director shall verify that the speech-language pathology licensee has passed a nationally recognized examination approved by the director.
- G. The director may recognize a nationally recognized speech-language hearing association or audiology association examination, or both, as an approved examination.
- H. The advisory committee shall provide recommendations to the director in the following areas, on which the director shall act within a reasonable period of time:
  - 1. Issuance and renewal of a license.
  - 2. Prescribing disciplinary procedures.
  - 3. Appointment of an examining committee to assist in the conduct of the examination of applicants for a hearing aid dispenser's license.
  - 4. Adopting rules that are not inconsistent with the laws of this state and that are necessary to carry out this chapter.
  - 5. Requiring the periodic inspection of testing equipment and facilities of persons engaging in the practice of fitting and dispensing hearing aids, audiology and speech-language pathology.
  - 6. Requiring a licensee to produce customer records of patients involved in complaints on file with the department of health services.

### **36-1903. Deposit of monies; hearing and speech professionals fund; exemption**

- A. All monies received by the director for any purpose pursuant to this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in a hearing and speech professionals fund established in the state treasury by the director, except monies collected from civil penalties imposed pursuant to this chapter shall be deposited in the state general fund. Monies in the fund shall be administered by the director for the purposes of this chapter.
- B. Monies in the fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

### **36-1904. Issuance of license; renewal of license; continuing education; military members**

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- A. The director shall issue a regular license to each applicant who meets the requirements of this chapter. A regular license is valid for one year.
- B. A licensee shall renew a regular license annually on payment of the renewal fee prescribed in section 36-1908. There is a thirty day grace period after the expiration of a regular license. During this period the licensee may renew a regular license on payment of a late fee in addition to the renewal fee.
- C. When renewing a regular license as a hearing aid dispenser, the licensee shall provide proof of having completed at least twelve hours of continuing education within the prior twelve months. Courses sponsored by a single manufacturer of hearing aids may not satisfy more than four hours of continuing education within the prior twelve months. Courses on topics that provide a hearing aid dispenser an opportunity to stay current on business or client service practices or trends in the profession or that contribute to the professional or business competence of a hearing aid dispenser may qualify for up to one-third of the annual continuing education requirement.
- D. When renewing a regular license in audiology or in speech-language pathology, the licensee shall provide proof of having completed at least ten hours of continuing education within the prior twelve months. Courses sponsored by a single manufacturer of hearing aids may not satisfy more than four hours of continuing education within the prior twelve months for persons with a license in audiology.
- E. The director by rule shall provide standards for continuing education courses required by this section.
- F. The director may refuse to renew a regular license for any cause provided in section 36-1934.
- G. A person who does not renew a regular license as prescribed by this section shall apply for a new license pursuant to the requirements of this chapter. If an application is received by the director within one year of the expiration date of the license, the applicant is not required to take an examination.
- H. A person who reapplies for a regular license issued pursuant to this chapter must provide proof of completion of the continuing education hours prescribed by subsection C or D of this section within the previous twelve months before the date of reapplication.
- I. A license issued pursuant to this chapter to any member of the Arizona national guard or the United States armed forces reserves shall not expire while the member is serving on federal active duty and shall be extended one hundred eighty days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the director of the federal active duty status of the member. A license issued pursuant to this chapter to any member serving in the regular component of the United States armed forces shall be extended one hundred eighty days from the date of expiration, provided that the member, or the legal representative of the member, notifies the director of the federal active duty status of the member. If the license is renewed during the applicable extended time period after the member returns from federal active duty, the member is responsible only for normal fees and activities relating to renewal of the license and shall not be charged any additional costs such as late fees or delinquency fees. The member, or the legal representative of the member, shall present to the director a copy of the member's official military orders, a redacted military identification card or a written verification from the member's commanding officer before the end of the applicable extended time period in order to qualify for the extension.

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- J. A license issued pursuant to this chapter to any member of the Arizona national guard, the United States armed forces reserves or the regular component of the United States armed forces shall not expire and shall be extended one hundred eighty days from the date the military member is able to perform activities necessary under the license if the member both:
1. Is released from active duty service.
  2. Suffers an injury as a result of active duty service that temporarily prevents the member from being able to perform activities necessary under the license.

### **36-1905. Sponsors; duties**

- A. A sponsor shall directly train and supervise a temporary licensee. The director shall prescribe by rule a reasonable number of hours of training and supervision required. A sponsor may not sponsor more than two temporary licensees at one time.
- B. A sponsor and the temporary licensee are equally liable for violations of this chapter and rules adopted pursuant to this chapter that are committed by the temporary licensee.
- C. A sponsor who violates this section is subject to disciplinary action as prescribed pursuant to section 36-1934.

### **36-1906. Registering place of business with director**

- A. A person who holds a license shall notify the director in writing of the address of the place or places where the person engages in the practice of fitting and dispensing hearing aids, audiology or speech-language pathology and any change of address.
- B. The director shall keep a record of the places of practice of persons who hold licenses. Any notice required to be given by the director to a person who holds a license may be given by mailing it to that person at the address given by that person to the director.

### **36-1907. Practicing without a license; prohibition**

- A. A person shall not engage in the practice of fitting and dispensing hearing aids, audiology or speech-language pathology or display a sign or in any other way advertise or claim to be a hearing aid dispenser, an audiologist or a speech-language pathologist unless the person holds an active license in good standing issued by the director as provided in this chapter.
- B. A person shall not engage in performing the duties of a speech-language pathology assistant or claim to be a speech-language pathology assistant unless the person holds an active license in good standing issued by the director as provided by this chapter.
- C. A licensee shall conspicuously post a license issued pursuant to this chapter in the licensee's office or place of business.

### **36-1908. Fees**

The director shall prescribe and collect fees from persons who are regulated under this chapter for the following:

1. An original application for a regular or temporary license.

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2. An original issuance of a regular or temporary license.
3. An original application for a regular or temporary license if an examination pursuant to section 36-1924 is required.
4. A renewal of a regular or temporary license.
5. An issuance of a duplicate regular or temporary license.
6. A late fee.

### **36-1909. Bill of sale; requirements**

- A. A hearing aid dispenser or dispensing audiologist shall deliver a bill of sale to each person supplied with a hearing aid by the hearing aid dispenser or the dispensing audiologist or at that person's order or direction.
- B. A bill of sale shall contain the hearing aid dispenser's or the dispensing audiologist's signature and shall show the address of that person's regular place of practice and the number of that person's license, a description of the make and model of the hearing aid and the amount charged. The bill of sale shall also state the serial number and the condition of the hearing aid as to whether it is new, used or rebuilt.
- C. A bill of sale shall contain language that verifies that the client has been informed about audio switch technology, including benefits such as increased access to telephones and assistive listening devices. If the hearing device purchased by the client has audio switch technology, the client shall be informed of the proper use of the technology. The client shall be informed that an audio switch is also referred to as a telecoil, t-coil or t-switch.
- D. A bill of sale shall contain language that informs the client about the Arizona telecommunications equipment distribution program established by section 36-1947 that provides assistive telecommunications devices to residents of this state who have hearing loss.

### **36-1910. Application of chapter to corporations and other organizations; exemptions**

- A. Except as provided in subsection B of this section and to the extent practicable, this chapter applies to corporations, partnerships, trusts, associations or like organizations.
- B. Corporations, partnerships, trusts, associations or like organizations that are fitting and dispensing hearing aids are exempt from the qualification and examination requirements of sections 36-1923 and 36-1924, provided they pay the license fee prescribed in section 36-1908 and employ only licensed persons in the over-the-counter or other in-person fitting and dispensing of hearing aids.

## **Article 2 – Hearing Aid Dispensers**

### **36-1921. Persons not affected by chapter**

This chapter does not:

1. Apply to a person while engaged in the practice of recommending hearing aids if such practice is part of the academic curriculum of an accredited institution of higher education or part of a

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program conducted by a public or charitable institution, or a nonprofit organization which is primarily supported by voluntary contributions unless they sell hearing aids.

2. Apply to any person engaging in the practice of measuring human hearing for the purpose of selection of hearing aids provided that the person or the organization that employs that person does not sell hearing aids or hearing aid accessories.
3. Prevent a health care professional who is licensed or certified under title 32 from acting within the scope of that person's license or certificate.
4. Apply to a person who is credentialed by this state as a teacher of the deaf from acting within the scope of those credentials.
5. Apply to a student, intern or trainee pursuing a course of study in audiology or speech-language pathology in a nationally or regionally accredited institution of higher education or training institution if all of the following are true:
  - (a) The activities are part of a planned course of study at that institution.
  - (b) The person is designated by a title that clearly indicates the status appropriate to the person's level of education.
  - (c) The person works under the supervision of a person who is licensed in this state as an audiologist or a speech-language pathologist.
  - (d) Before a person receives services from a student or a temporary licensee, the supervising licensee provides written notification of this fact to the patient.
6. Apply to any person certified by the department of health services for the school hearing screening program.

### **36-1922. Reciprocity**

- A. The director may issue a license to a person who is currently licensed in another state or jurisdiction that the director determines meets the minimum licensure requirements of this chapter. The person shall apply for licensure and pay all applicable fees as prescribed by this chapter and shall pass an examination approved by the director in jurisprudence and ethics related to this chapter within six months after initial licensure. The director shall offer the examination at least four times each calendar year.
- B. The applicant shall provide information the director determines is necessary to investigate the status of the applicant's current license.

### **36-1923. Hearing aid dispensers; licensure; requirements**

- A. An applicant for a hearing aid dispenser license shall pay to the director a nonrefundable application fee and shall show to the satisfaction of the director that he:
  1. Is a person of good moral character.
  2. Has an education equivalent to a four-year course in an accredited high school or has continuously engaged in the practice of fitting and dispensing hearing aids during the three years preceding August 11, 1970.

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3. Has not had his license revoked or suspended by a state within the past two years and is presently not ineligible for licensure in any state due to prior revocation or suspension.
- B. An applicant for a hearing aid dispenser license who is notified by the director that he has fulfilled the requirements of subsection A shall appear at a time, place and before persons the director designates, to be examined by written and practical tests in order to demonstrate that he is qualified to practice the fitting and dispensing of hearing aids.
- C. The director shall give at least one and not exceeding four examinations of the type described in this section in each calendar year as the volume of applications may make appropriate. A minimum of three months shall elapse following the last examination before another may be given.

### **36-1924. Examination for license**

- A. The examination provided for in this article shall consist of:
  1. A demonstration of minimal knowledge in the techniques of testing hearing and fitting and evaluating hearing aids.
  2. A knowledge of the medical and rehabilitation facilities, for children and adults with hearing disorders, in this state.
  3. A knowledge of the code of ethics contained in this chapter.
  4. Tests of knowledge in the following areas as they pertain to the fitting of hearing aids:
    - (a) Physics.
    - (b) The human hearing mechanism, including its functions and causes of its disorders.
    - (c) The function of hearing aids.
  5. Practical tests of proficiency in the techniques of taking ear mold impressions and measurement of hearing by pure tone audiometry, including the air, bone and masking methods, and speech audiometry and other skills as they pertain to the candidacy for, selection of and adaptation of hearing aids.
  6. A knowledge of rehabilitation and hearing conservation techniques as they relate only to hearing aids and related devices.
- B. The examination shall not be constructed to require knowledge or abilities inconsistent with the realistic services of a hearing aid dispenser or with the requirements of sound public health practices.
- C. To provide adequate tests of proficiency, the examination requirements provided in this section may be changed when deemed necessary due to technological advances.

### **36-1926. Temporary license; sponsorship; termination of sponsorship**

- A. An applicant who fulfills the requirements of section 36-1923 may apply to the director for a temporary license.
- B. On receiving an application as provided by subsection A of this section, accompanied by an application fee and proof of sponsorship, the director shall issue a temporary license. A temporary license allows the licensee to practice the fitting and dispensing of hearing aids for a period ending on the last day of the month following a scheduled examination.

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- C. An applicant shall provide proof to the satisfaction of the director that the applicant is or will be supervised and trained for fitting and dispensing activities by a sponsor licensed pursuant to this chapter.
- D. A sponsor may terminate sponsorship at any time and for any reason. The director shall not review the reasons for the termination. A temporary license terminates on the date that the director receives notice from the sponsor that the sponsor is terminating sponsorship. This notice shall be accompanied by documentation that the sponsor has notified the licensee of the termination. The director shall prescribe by rule how the sponsor shall document this notification of termination. A person whose license is terminated shall apply for a new temporary license as prescribed by this section and shall not practice until granted a license.
- E. A person shall either take the next examination that is given following issuance of a temporary license or renew the temporary license. If the person takes and fails the examination the person may renew the temporary license once. The person shall take the next examination following the issuance of the renewal license. If the person does not take the examination but renews the temporary license, the person shall take the next examination following issuance of renewal of the temporary license.
- F. The director shall not issue a renewal to a person who has renewed a temporary license and failed the examination.
- G. A temporary license expires on the last day of the month following the next scheduled examination.
- H. The director may revoke or suspend a temporary license in the same manner and for the same reasons as prescribed pursuant to section 36-1934.

### **Article 3 – Regulation of Hearing Aid Dispensers, Audiologists and Speech-Language**

#### **36-1934. Denial, revocation or suspension of license; hearings; alternative sanctions**

- A. The director may deny, revoke or suspend a license issued under this chapter for any of the following reasons:
  - 1. Conviction of a felony or misdemeanor involving moral turpitude. The record of the conviction or a certified copy from the clerk of the court where the conviction occurred or from the judge of that court is sufficient evidence of conviction.
  - 2. Securing a license under this chapter through fraud or deceit.
  - 3. Unprofessional conduct, or incompetence in the conduct of his practice.
  - 4. Using a false name or alias in the practice of his profession.
  - 5. Violating any of the provisions of this chapter.
  - 6. Failing to comply with existing federal regulations regarding the fitting and dispensing of a hearing aid.
- B. If the director determines pursuant to a hearing that grounds exist to revoke or suspend a license, the director may do so permanently or for a fixed period of time and may impose conditions as prescribed by rule.

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- C. The department may deny a license without holding a hearing. After receiving notification of the denial, the applicant may request a hearing to review the denial.
- D. The department shall conduct any hearing to revoke or suspend a license or impose a civil penalty under section 36-1939 pursuant to title 41, chapter 6, article 10.
- E. Instead of denying, revoking or suspending a license the director may file a letter of concern, issue a decree of censure, prescribe a period of probation or restrict or limit the practice of a licensee.
- F. The director shall promptly notify a licensee's employer if the director initiates a disciplinary action against the licensee.

### **36-1936. Unlawful acts**

A person may not:

1. Sell, barter, or offer to sell or barter, a license.
2. Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to engage in the practice of fitting and dispensing hearing aids.
3. Alter materially a license with fraudulent intent.
4. Use or attempt to use as a valid license one which has been purchased, fraudulently obtained, counterfeited or materially altered.
5. Wilfully make a false, material statement in an application or related document for a license or for renewal of a license.

### **36-1937. Injunctive relief**

The director may enforce any provision of this chapter by injunction or by any other appropriate proceeding. No such proceeding shall be barred by any proceeding had or pending pursuant to any other provisions of this chapter, or by the imposition of any fine or term of imprisonment pursuant thereto.

### **36-1938. Violation; classification**

Violation of any provision of this chapter is a class 3 misdemeanor.

### **36-1939. Civil penalties; enforcement**

- A. The director may impose a civil penalty of not more than five hundred dollars for a violation of this chapter or a rule adopted pursuant to this chapter.
- B. The attorney general and the county attorney may bring an action in the name of this state to enforce civil penalties imposed pursuant to this section. Actions shall be brought in the superior court in the county where the violation occurs.
- C. The director may impose penalties assessed pursuant to this section in addition to other penalties imposed pursuant to this chapter.
- D. All monies collected from civil penalties collected for violation of this chapter or a rule adopted pursuant to this chapter shall be deposited in the state general fund.

## **Article 4 – Audiology and Speech-Language Pathology**

**36-1940. Audiology; licensure requirements**

- A. A person who wishes to be licensed as an audiologist shall:
1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant has:
    - (a) A doctoral degree with an emphasis in audiology from a nationally or regionally accredited college or university in an accredited program consistent with the standards of this state's universities.
    - (b) Completed supervised clinical rotations in audiology from a nationally or regionally accredited college or university in an accredited program consistent with the standards of this state's universities.
  3. Pass an examination pursuant to section 36-1902, subsection G. The applicant must have completed the examination within three years before the date of application for licensure pursuant to this article.
  4. Be of good moral character.
  5. Not have had a license revoked or suspended by a state within the past two years and not be presently ineligible for licensure in any state because of a prior revocation or suspension.
- B. A person who has a doctoral degree in audiology and who wishes to be licensed as an audiologist to fit and dispense hearing aids shall:
1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant has:
    - (a) A doctoral degree with an emphasis in audiology from a nationally or regionally accredited college or university in a program consistent with the standards of this state's universities.
    - (b) Completed supervised clinical rotations in audiology from a nationally or regionally accredited college or a university in an accredited program that is consistent with the standards of this state's universities.
  3. Pass an examination pursuant to section 36-1902, subsection G. The applicant must have completed the examination within three years before the date of application for licensure pursuant to this article.
  4. Pass an examination approved by the director in jurisprudence and ethics related to this chapter within six months after initial licensure. The director shall offer the examination at least four times each calendar year.
  5. Be of good moral character.
  6. Not have had a license revoked or suspended by a state within the past two years and not be presently ineligible for licensure in any state because of a prior revocation or suspension.
- C. A person who wishes to be licensed as an audiologist to fit and dispense hearing aids and who was awarded a master's degree in audiology before December 31, 2007 must:

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1. Submit a nonrefundable application fee as prescribed pursuant to section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant meets the requirements prescribed in section 36-1940.02, subsection C for a waiver of the educational and clinical rotation requirements of this article.
  3. Pass an audiology examination pursuant to section 36-1902, subsection E. The applicant must have completed the examination within three years before the date of application for licensure pursuant to this article unless the applicant is currently practicing audiology and meets the audiology examination waiver requirements of section 36-1940.02, subsection D.
  4. Pass the hearing aid dispenser's examination pursuant to section 36-1924.
  5. Be of good moral character.
  6. Not have had a license to practice as an audiologist or hearing aid dispenser revoked or suspended by another state within the past two years and not currently be ineligible for licensure in any state because of a prior revocation or suspension.
- D. The director shall adopt rules prescribing criteria for approved postgraduate professional experience.

**36-1940.01. Speech-language pathologist; licensure requirements**

- A. A person who wishes to be licensed as a speech-language pathologist shall:
1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant has:
    - (a) A master's degree in speech-language pathology or the equivalent from a nationally or regionally accredited college or university in a program consistent with the standards of this state's universities.
    - (b) Completed a supervised clinical practicum in speech-language pathology from a nationally or regionally accredited college or university in a program consistent with the standards of this state's universities.
    - (c) Completed postgraduate professional experience in the field of speech-language pathology approved by the director.
  3. Pass an examination pursuant to section 36-1902, subsection G.
  4. Be of good moral character.
  5. Not have had a license revoked or suspended by a state within the past two years and not be presently ineligible for licensure in any state because of a prior revocation or suspension.
- B. A person who wishes to be licensed as a speech-language pathologist whose practice is limited to providing services to pupils under the authority of a local education agency or state supported institution shall:
1. Submit a nonrefundable application fee as provided by section 36-1908.
  2. Submit proof of an employee or contractor relationship with a local education agency or a state supported institution.

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3. Hold a certificate in speech and language therapy awarded by the state board of education.

C. The director shall adopt rules prescribing criteria for approved postgraduate professional experience.

### **36-1940.02. Waiver of licensure and examination requirements**

A. The advisory committee appointed under section 36-1902 may recommend to the director a waiver of the educational requirements of sections 36-1940 and 36-1940.01 if an applicant submits proof satisfactory to the department that the applicant received professional education in another country equivalent to the education and practicum requirements of this article.

B. The department shall waive the examination requirements of section 36-1940.01 under either of the following conditions:

1. The applicant presents proof satisfactory to the department that the applicant is currently licensed in a state, district or territory of this country that has standards that are at least equivalent to those of this state.

2. The applicant holds a certificate of clinical competence in speech-language pathology from a nationally recognized speech-language hearing association approved by the department in the field for which the applicant is applying for licensure.

C. The department shall waive the education and clinical rotation requirements of section 36-1940 if an applicant submits proof satisfactory to the director that the applicant either:

1. Is currently licensed in a state that has standards that are at least equivalent to those of this state.

2. Has a master's degree in audiology that was awarded by an accredited program before December 31, 2007 and has completed postgraduate professional experience in audiology as approved by the director.

D. The department shall waive the audiology examination requirements of section 36-1940 if either:

1. The applicant presents proof satisfactory to the department that the applicant is currently licensed and practicing audiology in this state or in another state that has standards that are at least equivalent to those of this state.

2. The applicant presents proof satisfactory to the department that the applicant is currently practicing audiology under the authority and supervision of an agency of the United States government or of another board, agency or department of another state and holds a certificate in audiology from a recognized credentialing body approved by the director.

E. The department shall waive the hearing aid dispensing examination requirements of section 36-1940 if:

1. The applicant presents proof satisfactory to the department that the applicant holds a current license that includes dispensing and that is issued by another state that has standards that are at least equivalent to those of this state.

2. The applicant passes an examination approved by the director in jurisprudence and ethics related to this chapter within six months after initial licensure. The director shall offer the examination at least four times each calendar year.

### **36-1940.03. Temporary licenses**

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- A. The department shall issue a temporary license to a person who does not meet the professional experience requirement of section 36-1940.01 if the applicant meets the other requirements of that section and:
  - 1. Includes with the application a plan for meeting the postgraduate professional experience.
  - 2. Submits a fee prescribed by section 36-1908.
- B. A person may renew a temporary license only once.
- C. A person issued a temporary license shall practice only under the supervision of a person who is fully licensed by this state.

### **36-1940.04. Speech-language pathologist assistant; licensure requirements; scope of practice; supervision**

- A. A person who wishes to be licensed as a speech-language pathologist assistant shall:
  - 1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  - 2. Submit written evidence satisfactory to the director that the applicant has completed:
    - (a) An approved training program for speech-language pathology assistants or the equivalent from a nationally or regionally accredited college or university that consisted of a minimum of sixty semester credit hours of course work with the following curriculum content:
      - (i) Twenty to forty semester credit hours of general education.
      - (ii) Twenty to forty semester credit hours of speech-language pathology technical course work.
    - (b) A minimum of one hundred hours of clinical interaction that does not include observation, under the supervision of a licensed master's level speech-language pathologist.
  - 3. Be of good moral character.
  - 4. Not have had a license revoked or suspended by a state within the past two years and is not presently ineligible for licensure in any state because of a prior revocation or suspension.
- B. The director shall grant a waiver of the requirements for licensure as provided by subsection A of this section until September 1, 2007 to individuals who have performed the functions of a speech-language pathology assistant if the individual:
  - 1. Has completed a minimum of forty semester credit hours of speech-language pathology technical course work.
  - 2. Has satisfactorily completed a minimum of two years of experience as a speech-language pathology assistant under the supervision of a licensed master's level speech-language pathologist.
  - 3. Is of good moral character.
  - 4. Has not had a license revoked or suspended by a state within the past two years and is not presently ineligible for licensure in any state because of a prior revocation or suspension.
- C. A speech-language pathology assistant may do the following under the supervision of the licensed speech-language pathologist:
  - 1. Conduct speech and language screenings without interpretation, using screening protocols specified by the supervising speech-language pathologist.
  - 2. Provide direct treatment assistance, including feeding for nutritional purposes to patients, clients or students except for patients, clients or students with dysphagia, identified by the supervising speech-language pathologist by following written treatment plans, individualized education

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- programs, individual support plans or protocols developed by the supervising speech-language pathologist.
3. Document patient, client or student progress toward meeting established objectives as stated in the treatment plan, individual support plan or individualized education program without interpretation of the findings, and report this information to the supervising speech-language pathologist.
  4. Assist the speech-language pathologist in the collecting and tallying of data for assessment purposes, without interpretation of the data.
  5. Act as a second-language interpreter during assessments.
  6. Assist with informal documentation during an intervention session by collecting and tallying data as directed by the speech-language pathologist, preparing materials and assisting with other clerical duties as specified by the supervising speech-language pathologist.
  7. Schedule activities and prepare charts, records, graphs or other displays of data.
  8. Perform checks and maintenance of equipment.
  9. Participate with the speech-language pathologist in research projects, in-service training and public relations programs.
  10. Sign and initial treatment notes for review and co-signature by the supervising speech-language pathologist.
- D. A speech-language pathology assistant shall not:
1. Conduct swallowing screening, assessment and intervention protocols, including modified barium swallow studies.
  2. Administer standardized or nonstandardized diagnostic tests, formal or informal evaluations or interpret test results.
  3. Participate in parent conferences, case conferences or any interdisciplinary team meeting without the presence of the supervising speech-language pathologist, except for individualized education program or individual support plan meetings if the licensed speech pathologist has been excused by the individualized education program team or the individual support plan team.
  4. Write, develop or modify a patient's, client's or student's treatment plan, individual support plan or individualized education program in any way.
  5. Provide intervention for patients, clients or students without following the treatment plan, individual support plan or individualized education program prepared by the supervising speech-language pathologist.
  6. Sign any formal documents, including treatment plans, individual support plans, individualized education programs, reimbursement forms or reports.
  7. Select patients, clients or students for services.
  8. Discharge patients, clients or students from services.
  9. Unless required by law, disclose clinical or confidential information orally or in writing to anyone not designated by the speech-language pathologist.
  10. Make a referral for any additional service.
  11. Communicate with the patient, client or student or with family or others regarding any aspect of the patient, client or student status without the specific consent of the supervising speech-language pathologist.
  12. Claim to be a speech-language pathologist.
  13. Write a formal screening, diagnostic, progress or discharge note.

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14. Perform any task without the express knowledge and approval of the supervising speech-language pathologist.
- E. All services provided by a speech-language pathology assistant shall be performed under the direction and supervision of a speech-language pathologist licensed pursuant to this chapter.
- F. A licensed speech-language pathologist who supervises or directs the services provided by a speech-language pathology assistant shall:
  1. Have at least two years of full-time professional experience as a licensed speech-language pathologist.
  2. Provide direction and supervision to not more than two full-time or three part-time speech-language pathology assistants at one time.
  3. Ensure that the amount and type of supervision and direction provided to a speech-language pathology assistant is consistent with the individual's skills and experience, the needs of the patient, client or student served, the setting in which services are provided and the tasks assigned and provide:
    - (a) A minimum of twenty per cent direct supervision and ten per cent indirect supervision of all of the time that a speech-language pathology assistant is providing services during the first ninety days of the person's employment.
    - (b) Subsequent to the first ninety days of a speech-language pathology assistant's employment, a minimum of ten per cent direct supervision and ten per cent indirect supervision of all of the time a speech-language pathologist assistant is providing service.
  4. Inform a patient, client or student when the services of a speech-language pathology assistant are being provided.
  5. Document all periods of direct and indirect supervision provided to a speech-language pathology assistant.
- G. If more than one speech-language pathologist provides supervision to a speech-language pathology assistant, one of the speech-language pathologists shall be designated as the primary supervisor who is responsible for coordinating any supervision provided by other speech-language pathologists.

STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

<b>Chapter 17</b>	<b>HEARING AID DISPENSERS, AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS</b>
<b>Article 1</b>	<b>Administration</b>
36-1901	Definitions
36-1902	Powers and duties of the director; advisory committee; examining committee
36-1903	Deposit of monies; hearing and speech professionals fund; exemption
36-1904	Issuance of license; renewal of license; continuing education; military members
36-1905	Sponsors; duties
36-1906	Registering place of business with director
36-1907	Practicing without a license; prohibition
36-1908	Fees
36-1909	Bill of sale; requirements
36-1910	Application of chapter to corporations and other organizations; exemptions
<b>Article 2</b>	<b>Hearing Aid Dispensers</b>
36-1921	Persons not affected by chapter
36-1922	Reciprocity
36-1923	Hearing aid dispensers; licensure; requirements
36-1924	Examination for license
36-1926	Temporary license; sponsorship; termination of sponsorship
<b>Article 3</b>	<b>Regulation of Hearing Aid Dispensers, Audiologists and Speech-Language Pathologists</b>
36-1934	Denial, revocation or suspension of license; hearings; alternative sanctions
36-1936	Unlawful acts
36-1937	Injunctive relief
36-1938	Violation; classification
36-1939	Civil penalties; enforcement
<b>Article 4</b>	<b>Audiology and Speech-Language Pathology</b>
36-1940	Audiology; licensure requirements
36-1940.01	Speech-language pathologist; licensure requirements
36-1940.02	Waiver of licensure and examination requirements
36-1940.03	Temporary licenses
36-1940.04	Speech-language pathologist assistant; licensure requirements; scope of practice; supervision

**D-3**

**DEPARTMENT OF HEALTH SERVICES (R20-0406)**

Title 9, Chapter 16, Article 5, Licensing Speech-Language Pathologist Assistants

**Amend:** R9-16-501, R9-16-502, R9-16-503, R9-16-504, R9-16-507

**Repeal:** R9-16-505, Table 5.1, R9-16-506

**New Section:** R9-16-505, R9-16-506, R9-16-508

**New Table:** Table 5.1



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - EXPEDITED RULEMAKING

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**MEETING DATE:** April 7, 2020

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

**FROM:** Council Staff

**DATE:** March 2, 2020

**SUBJECT: DEPARTMENT OF HEALTH SERVICES (R20-0406)**  
Title 9, Chapter 16, Article 5, Licensing Speech-Language Pathologist Assistants

**Amend:** R9-16-501, R9-16-502, R9-16-503, R9-16-504, R9-16-507

**Repeal:** R9-16-505, Table 5.1, R9-16-506

**New Section:** R9-16-505, R9-16-506, R9-16-508

**New Table:** Table 5.1

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### **Summary:**

This Notice of Final Expedited Rulemaking from the Department of Health Services (Department) seeks to amend, repeal and replace, and add rules in Title 9, Chapter 16, Article 5, relating to Licensing Speech-Language Pathologist Assistants. This expedited rulemaking seeks to implement a course of action that was proposed in the Department's recent Five Year Review Report (5YRR) for these rules, which the Council approved on July 2, 2019. The 5YRR stated that the rules could be improved to increase understandability by simplifying and clarifying some requirements, updating antiquated language and outdated citations and references, and making technical and grammatical changes. This expedited rulemaking also seeks to consolidate and clarify all fees and clarify reciprocity requirements.

The Department received an exemption from the rulemaking moratorium to conduct this expedited rulemaking on September 26, 2019.

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

Yes. The Department states that this expedited rulemaking implements a course of action proposed in a 5YRR pursuant to A.R.S. § 41-1027(A)(7). The Council approved the Department's 5YRR for these rules on July 2, 2019. In that report, the Department proposed to amend numerous rules to improve their clarity, conciseness, understandability, effectiveness, and consistency with other rules and statutes and submit a Notice of Final Expedited Rulemaking to the Council by December 31, 2019. This Notice of Final Expedited Rulemaking, which was submitted on February 14, 2020, seeks to make rule amendments as proposed in the 5YRR, repeal and replace rules, add a new rule, and add a new table. Therefore, this rulemaking meets the criteria for expedited rulemaking pursuant to A.R.S. § 41-1027(A)(7).

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

Yes. The Department cites both general and specific statutory authority for these rules.

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

No. This expedited rulemaking does not establish a new fee or fees, or contain a fee increase. However, this rulemaking does attempt to consolidate and clarify all existing fees, including: initial application, initial licensing, renewal licensing, renewal licensing late fee, and duplicate license fees into a new rule, R9-16-508 (Fees). The Director of the Department is authorized to prescribe and collect these fees pursuant to A.R.S. § 36-1908 (Fees).

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

The Department did not receive any comments in conducting this expedited rulemaking.

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

No. The Department made a minor change to correct a typographical error between the Notice of Proposed Expedited Rulemaking and the Notice of Final Expedited Rulemaking. This change does not result in rules that are "substantially different" pursuant to A.R.S. § 41-1025.

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

Not applicable. There is no corresponding federal law.

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

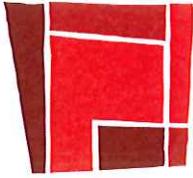
Yes. The Department indicates that it believes the license issued under these rules is a general permit because the license specifies the individual and the tasks/services the individual is licensed to provide, but a licensed individual is not limited to providing the tasks/services in any one location. Council staff finds that the license issued under these rules meets the definition of “general permit” in A.R.S. § 41-1001(11). The Department complies with A.R.S. § 41-1037.

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 in conducting this expedited rulemaking.

9. **Conclusion**

The Department is conducting this expedited rulemaking to implement a course of action proposed in its recent 5YRR for these rules, which the Council approved in July 2019. The rulemaking seeks to simplify and clarify requirements, update antiquated language and outdated citations and references, and make technical and grammatical changes. Council staff finds that these rules would be more clear, concise, understandable, and effective as a result. If the Council approves this expedited rulemaking, the rules would be immediately effective upon the Department filing its Certificate of Approval with the Secretary of State. Council staff recommends approval of this expedited rulemaking.



# ARIZONA DEPARTMENT OF HEALTH SERVICES

## POLICY & INTERGOVERNMENTAL AFFAIRS

February 14, 2020

**VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)**

Nicole Sorensen, 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 5 Expedited Rulemaking

Dear Ms. Sorensen:

1. The close of record date: January 31, 2020

2. Explanation of how the expedited rule meets the criteria in A.R.S. § 41-1027(A):

The rulemaking is consistent with A.R.S. § 41-1027(A) in that the rulemaking does not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated. In addition, the rulemaking implements, without material change, a course of action proposed in a five-year-review report approved by the Council pursuant to A.R.S. § 41-1056. Thus, the rulemaking complies with criteria for expedited rulemaking under A.R.S. § 41-1027(A)(7).

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 5, relates to a five-year-review report and the 9 A.A.C. 16, Article 5 five-year review report was approved by the Council on July 2, 2019.

The Department certifies 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.

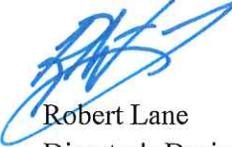
4. A list of all items enclosed:

a. Notice of Final Expedited Rulemaking, including the Preamble, Table of Contents, and text of the rule

b. Statutory authority

The Department's point of contact for questions about the rulemaking documents is Teresa Koehler at [Teresa.Koehler@azdhs.gov](mailto:Teresa.Koehler@azdhs.gov).

Sincerely,



Robert Lane  
Director's Designee

RL:tk

Enclosures

Douglas A. Ducey | Governor    Cara M. Christ, MD, MS | Director

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150 North 18th Avenue, Suite 500, Phoenix, AZ 85007-3247    P | 602-542-1025    F | 602-542-1062    W | [azhealth.gov](http://azhealth.gov)

*Health and Wellness for all Arizonans*

**NOTICE OF FINAL EXPEDITED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING**

**ARTICLE 5. LICENSING SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS**

**PREAMBLE**

- | <b><u>1.</u></b> | <b><u>Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|------------------|--|---------------------------------|
|                  | R9-16-501.   | Amend                           |
|                  | R9-16-502.   | Amend                           |
|                  | R9-16-503.   | Amend                           |
|                  | R9-16-504.   | Amend                           |
|                  | R9-16-505.   | Repeal                          |
|                  | R9-16-505.   | New Section                     |
|                  | Table 5.1.   | Repeal                          |
|                  | R9-16-506.   | Repeal                          |
|                  | R9-16-506.   | New Section                     |
|                  | Table 5.1.   | New Table                       |
|                  | R9-16-507.   | Amend                           |
|                  | R9-16-508.   | New Section                     |
- 2.** **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A)(18), and 36-136(G)  
Implementing statutes: A.R.S. §§ 36-1902(B)(5) and 36-1940.04
- 3.** **The effective date of the rules:**  
The rules are effective the day the Notice of Final Expedited Rulemaking is filed with the Office of the Secretary of State.
- 4.** **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed expedited rulemaking:**  
Notice of Rulemaking Docket Opening: 25 A.A.R. 3322, November 15, 2019  
Notice of Proposed Expedited Rulemaking: 26 A.A.R. 165, January 24, 2020
- 5.** **The agency’s contact person who can answer questions about the expedited rulemaking:**

Name: Thomas Salow, Branch Chief  
Address: Arizona Department of Health Services  
Division of Licensing Services  
150 N. 18th Ave., Suite 400  
Phoenix, AZ 85007  
Telephone: (602) 364-1935  
Fax: (602) 364-4808  
E-mail: [Thomas.Salow@azdhs.gov](mailto:Thomas.Salow@azdhs.gov)

or

Name: Stephanie Elzenga, Administrative Counsel  
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](mailto: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 expedited rulemaking:**

The five-year-review report (Report) for 9 A.A.C. 16, Article 5 was approved by the Governor's Regulatory Review Council on July 2, 2019. The Report indicated that the rules' effectiveness could be improved to increase understandability by simplifying and clarifying some requirements, updating antiquated language and outdated citations and references, and making technical and grammatical changes. The Report also stated a plan to amend the rules as identified in the Report. Changes include consolidating and clarifying all fees including: initial application, initial licensing, renewal licensing, renewal licensing late fee, and duplicate license. The changes also include clarifying reciprocity requirements. The changes do not increase a fee or the cost of regulatory compliance and do not reduce procedural rights of a regulated person. This rulemaking meets the criteria for expedited rulemaking and implements a course of action proposed in a five-year-review report specified in A.R.S. § 41-1027(A)(7). The Department believes amending these rules will eliminate confusion and reduce regulatory burden to affected persons. The Department received an exception from the rulemaking moratorium, established by Executive Order 2019-1, to amend the rules through expedited rulemaking on October 25, 2019.

**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 expedited rulemaking.

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

This final expedited rulemaking does not diminish a previous grant of authority of a political subdivision of this state.

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

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

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

Between the proposed expedited rulemaking and the final expedited rulemaking the Department made one change. In Table 5.1, the Department changed “A.R.S. §§ 36-1904 and 36-1904.04” to “A.R.S. §§ 36-1904 and 36-1940.04.”

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

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

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

There are no other matters prescribed by statute applicable specifically to the Department or this specific expedited 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 license issued to an individual is a general permit in that the license specifies the individual and the tasks/services the individual is authorized by licensure to provide, but a licensed individual is not limited to providing 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:**

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

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

No such analysis was submitted.

**13.** **Incorporations by reference and their location in the rules:**

None

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

The rule was not previously made as an emergency rule.

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES – OCCUPATIONAL LICENSING**

**ARTICLE 5. LICENSING SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS**

- R9-16-501. Definitions
- R9-16-502. ~~Application for an Initial License~~ Initial Application
- R9-16-503. License Renewal
- R9-16-504. Continuing Education
- R9-16-505. ~~Time frames~~ Enforcement
- Table 5.1. ~~Time frames (in calendar days)~~
- R9-16-506. ~~Disciplinary Actions~~ Time-frames
- Table 5.1. Time-frames (in calendar days)
- R9-16-507. Changes Affecting a License or a Licensee; Request for Duplicate License
- R9-16-508. Fees

**R9-16-501. Definitions**

In addition to the definitions in A.R.S. § 36-1901, the following definitions apply in this Article unless otherwise specified:

1. "Accredited" means approved by the:
  - a. ~~New England Association of Schools and Colleges~~ Commission of Higher Education,
  - b. Middle States Commission on Higher Education,
  - c. ~~North Central Association of Colleges and Schools~~ Higher Learning Commission,
  - d. Northwest Commission on Colleges and Universities,
  - e. Southern Association of Colleges and Schools Commission on Colleges, or
  - f. ~~Western Association of Schools and Colleges~~ WASC Senior College and University Commission.
2. "~~Applicant~~" means:
  - a. ~~An individual who submits a license application packet, or~~
  - b. ~~A person who submits a request for approval of a continuing education course.~~
2. "Applicant" means an individual who submits a license application and required documentation for approval to practice as a speech-language pathologist assistant.
3. "~~Application packet~~" means ~~the information, documents, and fees required by the Department to apply for a license.~~
- 4.3. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
5. "~~Client~~" means ~~an individual who receives speech language pathology services from a speech language pathologist assistant.~~
- 6.4. "Continuing education" means a course that provides instruction and training that is designed to develop or improve a licensee's professional competence in disciplines that directly relate to the licensee's scope of practice.
7. "~~Continuing education hour~~" means ~~50 to 60 minutes of continuous instruction.~~
- 8.5. "Course" means a workshop, seminar, lecture, conference, or class.
- 9.6. "Documentation" or "~~documented~~" means information in written, photographic, electronic, or other permanent form.

- ~~10.7.~~ "General education" means instruction that includes:
- a. Oral communication,
  - b. Written communication,
  - c. Mathematics,
  - d. Computer instruction,
  - e. Social sciences, and
  - f. Natural sciences.
- ~~11.8.~~ "Observation" means to witness:
- a. The provision of speech-language pathology services to a client, or
  - b. A demonstration of how to provide speech-language pathology services to a client.
- ~~12.9.~~ "Semester credit hour" means one earned academic unit of study completed, at an accredited college or university, by:
- a. Attending a 50 to 60 minute class session each calendar week for at least 16 weeks, or
  - b. Completing practical work for a course as determined by the accredited college or university.
- ~~13.10.~~ "Speech-language pathologist" means an individual who is licensed under A.R.S. § 36-1940.01.
- ~~14.11.~~ "Speech-language pathology technical course work" means a curriculum that provides knowledge to develop core skills and assume job responsibilities, including:
- a. Language acquisition,
  - b. Speech development,
  - c. Communication disorders,
  - d. Articulation and phonology, and
  - e. Intervention techniques for speech and language disorders.
- ~~15.12.~~ "Supervision" means instruction and monitoring provided by a licensed speech-language pathologist as required in A.R.S. § 36-1940.04(E) and (F) to an individual training to become a speech-language pathologist assistant ~~that includes:~~
- a. ~~On-site observation and guidance; and~~
  - b. ~~Activities, such as consultation, record review, and review and evaluation of an audiotaped or videotaped screening evaluation or clinical session.~~

**R9-16-502. ~~Application for an Initial License~~ Initial Application**

- A. An applicant for a ~~speech language pathologist assistant initial license licensure~~ shall submit to the Department ~~an application packet that includes:~~
1. An application in a ~~format provided by the Department~~ Department-provided format that contains:
    - a. The applicant's name, home address, telephone number, and e-mail address;
    - b. The applicant's Social Security number, as required under A.R.S. §§ 25-320 and 25-502;
    - c. If applicable, the name of the applicant's employer and the employer's business address and telephone number;
    - d. Whether the applicant has ever been convicted of a felony or of a misdemeanor ~~involving moral turpitude~~ in this state or another state;
    - e. If the applicant has been convicted of a felony or a misdemeanor ~~involving moral turpitude~~:
      - 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;
    - f. Whether the applicant has had a license revoked or suspended by any state ~~within the previous two years~~;
    - g. Whether the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension;
    - h. Whether the applicant agrees to allow the Department to submit supplemental requests for information under ~~R9-16-505~~ R9-16-506;
    - i. An attestation that the information submitted is true and accurate; and
    - j. The applicant's signature and date of signature;
  2. If applicable, a list of all states and countries in which the applicant is or has been licensed as a speech-language pathologist assistant;
  3. If a license for an applicant has been revoked or suspended by any state ~~within the previous two years~~, documentation that includes:
    - a. The date of the revocation or suspension,
    - b. The state or jurisdiction of the revocation or suspension, and
    - c. An explanation of the revocation or suspension;
  4. If the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension, documentation that includes:

- a. The date of the ineligibility for licensure,
  - b. The state or jurisdiction of the ineligibility for licensure, and
  - c. An explanation of the ineligibility for licensure;
5. ~~A copy of the applicant's:~~
- a. ~~U.S. passport, current or expired;~~
  - b. ~~Birth certificate;~~
  - c. ~~Naturalization documents; or~~
  - d. ~~Documentation of legal resident alien status;~~
- Documentation of the applicant's citizenship or alien status that complies with A.R.S. § 41-1080.
6. ~~An official transcript~~ A transcript or equivalent documentation issued to the applicant from an accredited college or university, showing completion of at least 60 semester credit hours of general education and speech-language pathology technical course work, ~~as required specified in A.R.S. § 36.1940.04(A); that requires:~~
- a. No less than 20 semester credit hours of general education, and
  - b. No less than 20 semester credit hours of speech-language pathology technical course work;
7. Documentation, signed by a licensed speech-language pathologist as required in A.R.S. § 36-1940.04 who provided supervision to the applicant, confirming the applicant's completion of at least 100 hours of clinical interaction that did not include observation; and
8. ~~A nonrefundable \$100 application fee; and~~ The application and licensing fees specified in R9-16-508.
9. ~~A \$200 license fee.~~

**B.** In addition to complying with subsection (A)(1) through (5), an applicant that may be eligible for licensure under A.R.S. § 36-1922 shall submit documentation to the Department that includes:

- 1. The name of each state that issued the applicant a current speech-language pathologist assistant, including:
  - a. The license number of each current speech-language pathologist assistant license, and
  - b. The date each current speech-language pathologist assistant license was issued;
- 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. For each state named in subsection (B)(1), 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 licensure is being requested;
  - b. Has met minimum education requirements according to A.R.S. § 36-1940.04;
  - 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.

**C.** A regular license is valid for two years from the date of issue.

**~~B.D.~~** The Department shall review the application ~~packet~~ and required documentation for an initial license to practice as a speech-language pathologist assistant according to ~~R9-16-505~~ R9-16-506 and Table 5.1.

**~~C.E.~~** If the Department does not issue an initial license to an applicant, the Department shall refund the license fee to the applicant.

**R9-16-503. License Renewal**

**A.** Before the expiration date of a speech-language pathologist assistant license, ~~an applicant a~~ licensee shall submit to the Department:

1. An application in a Department-provided format for renewal of a speech-language pathologist assistant license ~~in a format provided by the Department~~ that contains:
  - a. The ~~applicant's~~ licensee's name, home address, telephone number, and e-mail address;
  - b. ~~If applicable, the name of the applicant's employer and the employer's business address and telephone number;~~  
The licensee's current employment, if applicable, including:
    - i. The employer's name,
    - ii. The licensee's position,
    - iii. Dates of employment,
    - iv. The address of the employer,
    - v. The supervisor's name,
    - vi. The supervisor's e-mail address, and
    - vii. The supervisor's telephone number;

- c. If applicable, the name of the ~~applicant's~~ licensee's supervising speech-language pathologist;
  - d. The ~~applicant's~~ licensee's license number and date of expiration;
  - e. Since the previous license application, whether the ~~applicant~~ licensee has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
  - f. If the ~~applicant~~ licensee 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~~ licensee was convicted, and
    - iv. The disposition of the case;
  - g. Whether the licensee has had a license revoked or suspended by any state within the previous two years;
  - h. Whether the licensee is currently ineligible for licensure in any state because of a prior license revocation or suspension;
  - ~~g.i.~~ Whether the ~~applicant~~ licensee agrees to allow the Department to submit supplemental requests for information under ~~R9-16-505~~ R9-16-506;
  - j. An attestation that the licensee has completed continuing education required under A.R.S. 36-1904 and this Article and documentation of completion is available upon request;
  - ~~h.k.~~ An attestation that the information ~~submitted is true and accurate; and~~ required as part of the renewal application is true and accurate; and
  - ~~i.l.~~ The ~~applicant's~~ licensee's signature and date of signature;
2. If a license for a licensee has been revoked or suspended by any state within the previous that two years, documentation that includes:
- a. The date of the revocation or suspension,
  - b. The state or jurisdiction of the revocation or suspension, and
  - c. An explanation of the revocation or suspension;
3. If the licensee is currently ineligible for licensure in any state because of a prior license revocation or suspension, documentation that includes:
- a. The date of the ineligibility for licensure,
  - b. The state or jurisdiction of the ineligibility for licensure, and
  - c. An explanation of the ineligibility for licensure;

2. ~~In a Department provided format, documentation of continuing education as required in R9-16-504 and completed within 24 months before the expiration date on the license, including:~~
- a. ~~The name of the individual or organization providing the course;~~
  - b. ~~The date and location where the course was provided;~~
  - c. ~~The title of each course attended;~~
  - d. ~~A description of each course's content;~~
  - e. ~~The name of the instructor;~~
  - f. ~~The instructor's education, training, and experience background, if applicable;~~  
~~and~~
  - g. ~~The number of continuing education hours earned for each course; and~~

~~3.4. A \$200 license renewal fee. A renewal fee specified in R9-16-508.~~

- B.** According to A.R.S. § 36-1904, the Department shall allow a speech-language pathologist assistant to renew a license within 30 calendar days after the expiration date of the license by submitting to the Department:
- 1. The renewal application ~~packet, including documentation~~ required in subsection (A), and
  - 2. ~~A \$25 late fee. Fees specified in R9-16-508.~~
- C.** An individual who does not submit a renewal application ~~packet, documentation; and fees~~ required ~~according to~~ in subsection (A) or (B), shall reapply for an initial license according to R9-16-502.

**R9-16-504. Continuing Education**

- A.** ~~According to A.R.S. § 36-1904, a licensee shall complete at least 20 continuing education hours. Twenty-four months prior to submitting a renewal application, a licensee shall complete continuing education.~~
- B.** Continuing education shall:
- 1. Directly relate to the practice of speech-language pathology;
  - 2. Have educational objectives that exceed an introductory level of knowledge of speech-language pathology; and
  - 3. Consist of courses that include advances within the last five years in:
    - a. Practice of speech-language pathology,
    - b. Auditory rehabilitation,
    - c. Ethics, or
    - d. Federal and state statutes or rules.

**C.** A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):

1. Hearing Healthcare Providers of Arizona,
2. Arizona Speech-Language-Hearing Association,
3. American Speech-Language-Hearing Association,
4. International Hearing Society,
5. International Institute for Hearing Instrument Studies,
6. American Auditory Society,
7. American Academy of Audiology,
8. Academy of Doctors of Audiology,
9. ~~Arizona Society of Otolaryngology-Head and Neck Surgery~~ Arizona Medical Association,
10. American Academy of Otolaryngology-Head and Neck Surgery, or
11. An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).

**D.** ~~An applicant may request approval for a continuing education course by submitting the following to the Department:~~

- ~~1. The applicant's name, address, telephone number, and e-mail address, as applicable;~~
- ~~2. If a licensee, the licensee's license number;~~
- ~~3. The title of the continuing education course;~~
- ~~4. A brief description of the course;~~
- ~~5. The name, educational background, and teaching experience of the individual presenting the course, if available;~~
- ~~6. The educational objectives of the course; and~~
- ~~7. The date, time, and place of presentation of the course, if applicable.~~

**E.** ~~If an applicant submits the information in subsection (D), the Department shall review the request for approval for a continuing education course according to R9-16-505 and Table 5.1.~~

**F.** ~~The Department shall approve a continuing education course if the Department determines that the continuing education course:~~

- ~~1. Is designed to provide current developments, skills, procedures, or treatment in diagnostic and therapeutic procedures in speech language pathology;~~
- ~~2. Is developed and presented by individuals knowledgeable and experienced in the presented subject area; and~~
- ~~3. Contributes directly to the professional competence of a licensee.~~

~~G.D.~~ A speech-language pathologist assistant shall comply with the requirements in A.R.S. § 36-1904.

**R9-16-505. Time-frames**

~~A.~~ For each type of license or approval issued by the Department under this Article, Table 5.1 specifies the overall time frame described in A.R.S. § 41-1072(2).

- ~~1.~~ A regular license is valid for two years.
- ~~2.~~ An applicant and the Department may agree in writing to extend the substantive review time frame and the overall time frame.
- ~~3.~~ An extension of the substantive review time frame and the overall time frame may not exceed 25% of the overall time frame.

~~B.~~ For each type of license or approval issued by the Department under this Article, Table 5.1 specifies the administrative completeness review time frame described in A.R.S. § 41-1072(1).

- ~~1.~~ The administrative completeness review time frame begins on the date the Department receives:
  - ~~a.~~ An application packet required in R9-10-502 and R9-10-503, or
  - ~~b.~~ A request for continuing education course approval according to R9-10-504.
- ~~2.~~ Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time frame.
  - ~~a.~~ If a license application packet or request for continuing education course approval is not complete, the notice of deficiencies shall list each deficiency and the documents or information needed to complete the license application packet or request for continuing education course approval.
  - ~~b.~~ A notice of deficiencies suspends the administrative completeness review time frame and the overall time frame from the date of the notice until the date the Department receives the missing documents or information.
  - ~~e.~~ If the applicant does not submit to the Department all the information listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the application withdrawn.
- ~~3.~~ If the Department issues a license or approval during the administrative completeness review time frame, the Department shall not issue a separate written notice of administrative completeness.

~~C.~~ For each type of license or approval issued by the Department under this Article, Table 5.1 specifies the substantive review time frame described in A.R.S. § 41-1072(3), which begins on the date of the notice of administrative completeness.

1. ~~Within the substantive review time frame, the Department shall provide a written notice to the applicant that the Department issued or denied the license or continuing education course approval.~~
  2. ~~During the substantive review time frame:~~
    - 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 to allow one or more supplemental requests for additional information or documentation, the Department may make the number of supplemental requests agreed to between the Department and the applicant.~~
  3. ~~A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time frame and the overall time frame from the date of the request until the date the Department receives all the documents and information 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 information or documentation within 30 calendar days after the date of the request, the Department shall deny the license or approval.~~
- ~~D. An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.~~

**R9-16-505. Enforcement**

- A.** The Department may, as applicable:
1. Deny, revoke, or suspend an speech-language pathologist assistant license under A.R.S. § 36-1934;
  2. Request an injunction under A.R.S. § 36-1937; or
  3. Assess a civil money penalty under A.R.S. § 36-1939.
- 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 clients affected by the violations,
  6. The degree of harm to a client,

7. A pattern of noncompliance, and
8. Any mitigating or aggravating circumstances.

**Table 5.1. Time-frames (in calendar days)**

Type of Approval	Statutory Authority	Overall Time-Frame	Administrative Completeness Review Time-Frame	Time to Respond to Notice of Deficiency	Substantive Review Time-Frame	Time to Respond to Comprehensive Written Request
Initial License (R9-16-502)	A.R.S. §§ 36-1904 and 36-1904.04	60	30	30	30	30
Renewal License (R9-16-503)	A.R.S. § 36-1904	60	30	30	30	30
Continuing Education (R9-16-504)	A.R.S. § 36-1904	45	30	30	15	30

**R9-16-506. Disciplinary Actions**

**A.** The Department may, as applicable:

1. Deny, revoke, or suspend an speech language pathologist assistant license under A.R.S. § 36-1934;
2. Request an injunction under A.R.S. § 36-1937; or
3. Assess a civil money penalty under A.R.S. § 36-1939.

**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 clients affected by the violations,
6. The degree of harm to a client,
7. A pattern of noncompliance, and
8. Any mitigating or aggravating circumstances.

**C.** A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

**R9-16-506. Time-frames**

- A.** For each type of license issued by the Department under this Article, Table 5.1 specifies the overall time-frame described in A.R.S. § 41-1072(2).
1. An applicant or licensee and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
  2. The extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** For each type of license issued by the Department under this Article, Table 5.1 specifies the administrative completeness review time-frame described in A.R.S. § 41-1072(1).
1. The administrative completeness review time-frame begins on the date the Department receives an application and required documentation required in this Article.
  2. Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
    - a. If an application or required documentation is not complete, the notice of deficiencies shall list each deficiency and the information or documentation needed to complete the application.
    - b. A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing documents or information.
    - c. If the applicant does not submit to the Department all 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 withdrawn.
  3. If the Department issues a license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** For each type of license issued by the Department under this Article, Table 5.1 specifies the substantive review time-frame described in A.R.S. § 41-1072(3), which begins on the date of the notice of administrative completeness.
1. Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department issued or denied the license.
  2. During the substantive review time-frame:
    - 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 or documentation.
3. A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the documents and information 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 license.
- D.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

**Table 5.1 Time-frames (in calendar days)**

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-Frame</u>	<u>Administrative Completeness Review Time-Frame</u>	<u>Time to Respond to Notice of Deficiency</u>	<u>Substantive Review Time-Frame</u>	<u>Time to Respond to Comprehensive Written Request</u>
<u>Initial License (R9-16-502)</u>	<u>A.R.S. §§ 36-1904 and 36-1940.04</u>	<u>60</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>
<u>Renewal License (R9-16-503)</u>	<u>A.R.S. § 36-1904</u>	<u>60</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>

**R9-16-507. Changes Affecting a License or a Licensee; Request for a Duplicate License**

- A. A licensee shall submit a notice to the Department in writing within 30 calendar days after the effective date of a change in:
1. The licensee's home address or e-mail address, including the new home address or e-mail address;
  2. The licensee's name, including one of the following with the licensee's new name:
    - a. Marriage certificate,
    - b. Divorce decree, or
    - c. Other legal document establishing the licensee's new name; or
  3. The place or places, including address or addresses, where the licensee engages in the practice of speech-language pathology.

**B.** A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a ~~format provided by the Department~~ Department-provided format that contains:

1. The licensee's name and address,
2. The licensee's license number and expiration date,
3. The licensee's signature and date of signature, and
4. ~~A \$25 duplicate license fee.~~ A duplicate license fee specified in R9-16-508.

**R9-16-508.**     **Fees**

**A.**     An applicant shall submit to the Department the following fees:

1.     An initial nonrefundable application fee, \$100; and
2.     An initial license fee, \$200.

**B.**     An applicant shall submit to the Department a \$200 license fee for renewal.

**C.**     If an applicant submits a renewal license application specified in subsection (B) within 30 calendar days after the license expiration date, the applicant shall submit with the renewal license application a \$25 late fee.

**D.**     An applicant for initial licensure is not required to submit the applicable fee in subsection (A), if the applicant submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. § 41-1080.01.

**E.**     The fee for a duplicate license is \$25.

## [A.A.C. Title 9, Ch. 16, Art. 5](#)

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### **Article 5. Licensing Speech-Language Pathologist Assistants**

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Annotations

### **Notes**

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Article 5, consisting of Sections [R9-16-501 through R9-16-508](#) and Table 1, made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4).

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## [A.A.C. § R9-16-501](#)

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### **R9-16-501. Definitions**

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In addition to the definitions in [A.R.S. § 36-1901](#), the following definitions apply in this Article unless otherwise specified:

1. "Accredited" means approved by the:
  - a. New England Association of Schools and Colleges,
  - b. Middle States Commission on Higher Education,
  - c. North Central Association of Colleges and Schools,
  - d. Northwest Commission on Colleges and Universities,
  - e. Southern Association of Colleges and Schools, or
  - f. Western Association of Schools and Colleges.
2. "Applicant" means:
  - a. An individual who submits a license application packet, or
  - b. A person who submits a request for approval of a continuing education course.
3. "Application packet" means the information, documents, and fees required by the Department to apply for a license.
4. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
5. "Client" means an individual who receives speech-language pathology services from a speech-language pathologist assistant.
6. "Continuing education" means a course that provides instruction and training that is designed to develop or improve a licensee's professional competence in disciplines that directly relate to the licensee's scope of practice.
7. "Continuing education hour" means 50 to 60 minutes of continuous instruction.
8. "Course" means a workshop, seminar, lecture, conference, or class.
9. "Documentation" or "documented" means information in written, photographic, electronic, or other permanent form.
10. "General education" means instruction that includes:
  - a. Oral communication,
  - b. Written communication,

- c. Mathematics,
- d. Computer instruction,
- e. Social sciences, and
- f. Natural sciences.

11. "Observation" means to witness:

- a. The provision of speech-language pathology services to a client, or
- b. A demonstration of how to provide speech-language pathology services to a client.

12. "Semester credit hour" means one earned academic unit of study completed, at an accredited college or university, by:

- a. Attending a 50 to 60 minute class session each calendar week for at least 16 weeks, or
- b. Completing practical work for a course as determined by the accredited college or university.

13. "Speech-language pathologist" means an individual who is licensed under [A.R.S. § 36-1940.01](#).

14. "Speech-language pathology technical course work" means a curriculum that provides knowledge to develop core skills and assume job responsibilities, including:

- a. Language acquisition,
- b. Speech development,
- c. Communication disorders,
- d. Articulation and phonology, and
- e. Intervention techniques for speech and language disorders.

15. "Supervision" means instruction and monitoring provided by a licensed speech-language pathologist as required in [A.R.S. § 36-1940.04](#) to an individual training to become a speech-language pathologist assistant that includes:

- a. Onsite observation and guidance; and
- b. Activities, such as consultation, record review, and review and evaluation of an audiotaped or videotaped screening evaluation or clinical session.

## History

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New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 5](#)

A.A.C. § R9-16-501

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### **R9-16-502. Application for an Initial License**

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**A.** An applicant for a speech-language pathologist assistant initial license shall submit to the Department an application packet that includes:

**1.**An application in a format provided by the Department that contains:

**a.**The applicant's name, home address, telephone number, and e-mail address;

**b.**The applicant's Social Security number, as required under [A.R.S. §§ 25-320](#) and [25-502](#);

**c.**If applicable, the name of the applicant's employer and the employer's business address and telephone number;

**d.**Whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in this state or another state;

**e.**If the applicant has been convicted of a felony or a misdemeanor involving moral turpitude:

**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;

**f.**Whether the applicant has had a license revoked or suspended by any state within the previous two years;

**g.**Whether the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension;

**h.**Whether the applicant agrees to allow the Department to submit supplemental requests for information under *R9-16-505*;

**i.**An attestation that the information submitted is true and accurate; and

**j.**The applicant's signature and date of signature;

**2.**If applicable, a list of all states and countries in which the applicant is or has been licensed as a speech-language pathologist assistant;

**3.**If a license for an applicant has been revoked or suspended by any state within the previous two years, documentation that includes:

**a.**The date of the revocation or suspension,

**b.**The state or jurisdiction of the revocation or suspension, and

**c.**An explanation of the revocation or suspension;

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4.If the applicant is currently ineligible for licensure in any state because of a prior license revocation or suspension, documentation that includes:

- a.The date of the ineligibility for licensure,
- b.The state or jurisdiction of the ineligibility for licensure, and
- c.An explanation of the ineligibility for licensure;

5.A copy of the applicant's:

- a.U.S. passport, current or expired;
- b.Birth certificate;
- c.Naturalization documents; or
- d.Documentation of legal resident alien status;

6.An official transcript issued to the applicant from an accredited college or university, showing completion of at least 60 semester credit hours of general education and speech-language pathology technical course work, as required in A.R.S. § 36.1940.04(A);

7.Documentation, signed by a licensed speech-language pathologist as required in [A.R.S. § 36-1940.04](#) who provided supervision to the applicant, confirming the applicant's completion of at least 100 hours of clinical interaction that did not include observation;

8.A nonrefundable \$100 application fee; and

9.A \$200 license fee.

**B.**The Department shall review the application packet for an initial license to practice as a speech-language pathologist assistant according to *R9-16-505* and Table 5.1.

**C.**If the Department does not issue an initial license to an applicant, the Department shall refund the license fee to the applicant.

## History

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New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section [R9-16-502](#) repealed; new Section [R9-16-502](#) renumbered from [R9-16-503](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 5](#)

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## [A.A.C. § R9-16-503](#)

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### **R9-16-503. License Renewal**

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**A.** Before the expiration date of a speech-language pathologist assistant license, an applicant shall submit to the Department:

**1.** An application for renewal of a speech-language pathologist assistant license in a format provided by the Department that contains:

- a.** The applicant's name, home address, telephone number, and e-mail address;
- b.** If applicable, the name of the applicant's employer and the employer's business address and telephone number;
- c.** If applicable, the name of the applicant's supervising speech-language pathologist;
- d.** The applicant's license number and date of expiration;
- e.** Since the previous license application, whether the applicant has been convicted of a felony or a misdemeanor involving moral turpitude in this or another state;
- f.** 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;
- g.** Whether the applicant agrees to allow the Department to submit supplemental requests for information under *R9-16-505*;
- h.** An attestation that the information submitted is true and accurate; and
- i.** The applicant's signature and date of signature;

**2.** Documentation of continuing education as required in [R9-16-504](#) and completed within 24 months before the expiration date on the license, including:

- a.** The name of the individual or organization providing the course;
- b.** The date and location where the course was provided;
- c.** The title of each course attended;
- d.** A description of each course's content;
- e.** The name of the instructor;
- f.** The instructor's education, training, and experience background, if applicable; and
- g.** The number of continuing education hours earned for each course; and

## A.A.C. § R9-16-503

3.A \$200 license renewal fee.

B. According to [A.R.S. § 36-1904](#), the Department shall allow a speech-language pathologist assistant to renew a license within 30 calendar days after the expiration date of the license by submitting to the Department:

1.The renewal application packet required in subsection (A), and

2.A \$25 late fee.

C.An individual who does not submit a renewal application packet required according to subsection (A) or (B) shall reapply for an initial license according to [R9-16-502](#).

## History

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New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section [R9-16-503](#) renumbered to [R9-16-502](#); new Section [R9-16-503](#) renumbered from [R9-16-504](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

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### **R9-16-504. Continuing Education**

---

**A.**According to [A.R.S. § 36-1904](#), a licensee shall complete at least 20 continuing education hours.

**B.**Continuing education shall:

- 1.Directly relate to the practice of speech-language pathology;
- 2.Have educational objectives that exceed an introductory level of knowledge of speech-language pathology; and
- 3.Consist of courses that include advances within the last five years in:
  - a.Practice of speech-language pathology,
  - b.Auditory rehabilitation,
  - c.Ethics, or
  - d.Federal and state statutes or rules.

**C.**A continuing education course developed, endorsed, or sponsored by one of the following meets the requirements in subsection (B):

- 1.Hearing Healthcare Providers of Arizona,
- 2.Arizona Speech-Language-Hearing Association,
- 3.American Speech-Language-Hearing Association,
- 4.International Hearing Society,
- 5.International Institute for Hearing Instrument Studies,
- 6.American Auditory Society,
- 7.American Academy of Audiology,
- 8.Academy of Doctors of Audiology,
- 9.Arizona Society of Otolaryngology-Head and Neck Surgery,
- 10.American Academy of Otolaryngology-Head and Neck Surgery, or
- 11.An organization determined by the Department to be consistent with an organization in subsection (C)(1) through (10).

**D.** An applicant may request approval for a continuing education course by submitting the following to the Department:

- 1.The applicant's name, address, telephone number, and e-mail address, as applicable;
- 2.If a licensee, the licensee's license number;

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- 3.The title of the continuing education course;
- 4.A brief description of the course;
- 5.The name, educational background, and teaching experience of the individual presenting the course, if available;
- 6.The educational objectives of the course; and
- 7.The date, time, and place of presentation of the course, if applicable.

E. If an applicant submits the information in subsection (D), the Department shall review the request for approval for a continuing education course according to *R9-16-505* and Table 5.1.

F.The Department shall approve a continuing education course if the Department determines that the continuing education course:

- 1.Is designed to provide current developments, skills, procedures, or treatment in diagnostic and therapeutic procedures in speech-language pathology;
- 2.Is developed and presented by individuals knowledgeable and experienced in the presented subject area; and
- 3.Contributes directly to the professional competence of a licensee.

G.A speech-language pathologist assistant shall comply with the requirements in [A.R.S. § 36-1904](#).

## History

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New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section [R9-16-504](#) renumbered to [R9-16-503](#); new Section [R9-16-504](#) renumbered from [R9-16-506](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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### Hierarchy Notes:

[A.A.C. Title 9, Ch. 16, Art. 5](#)

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## [A.A.C. § R9-16-505](#)

This document is current through Register 26, Issue 5, published January 31,2020.

**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 5. Licensing Speech-Language Pathologist Assistants**

### **R9-16-505. Time-frames**

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**A.**For each type of license or approval issued by the Department under this Article, Table 5.1 specifies the overall time-frame described in [A.R.S. § 41-1072\(2\)](#).

- 1.A regular license is valid for two years.
- 2.An applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame.
- 3.An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.

**B.**For each type of license or approval issued by the Department under this Article, Table 5.1 specifies the administrative completeness review time-frame described in [A.R.S. § 41-1072\(1\)](#).

- 1.The administrative completeness review time-frame begins on the date the Department receives:
  - a.An application packet required in [R9-10-502](#) and [R9-10-503](#), or
  - b.A request for continuing education course approval according to [R9-10-504](#).
- 2.Except as provided in subsection (B)(3), the Department shall provide a written notice of administrative completeness or a notice of deficiencies to an applicant within the administrative completeness review time-frame.
  - a.If a license application packet or request for continuing education course approval is not complete, the notice of deficiencies shall list each deficiency and the documents or information needed to complete the license application packet or request for continuing education course approval.
  - b.A notice of deficiencies suspends the administrative completeness review time-frame and the overall time-frame from the date of the notice until the date the Department receives the missing documents or information.
  - c.If the applicant does not submit to the Department all the documents and information listed in the notice of deficiencies within 30 calendar days after the date of the notice of deficiencies, the Department shall consider the license application packet or request for continuing education course approval withdrawn.
- 3.If the Department issues a license or approval during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

**C.**For each type of license or approval issued by the Department under this Article, Table 5.1 specifies the substantive review time-frame described in [A.R.S. § 41-1072\(3\)](#), which begins on the date of the notice of administrative completeness.

- 1.Within the substantive review time-frame, the Department shall provide a written notice to the applicant that the Department issued or denied the license or continuing education course approval.

**2.** During the substantive review time-frame:

**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 to allow one or more supplemental requests for additional information or documentation, the Department may make the number of supplemental requests agreed to between the Department and the applicant.

**3.** A comprehensive written request or a supplemental request for additional information or documentation suspends the substantive review time-frame and the overall time-frame from the date of the request until the date the Department receives all the documents and information 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 information or documentation within 30 calendar days after the date of the request, the Department shall deny the license or approval.

**D.** An applicant who is denied a license may appeal the denial according to A.R.S. Title 41, Chapter 6, Article 10.

## History

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New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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## [A.A.C. § R9-16-505 Table 1](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 5. Licensing Speech-Language Pathologist Assistants**

### **Table 1. Renumbered**

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#### **History**

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New Table 1 made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Table 1 renumbered to Table 5.1 by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

#### **Research References & Practice Aids**

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##### **Hierarchy Notes:**

[A.A.C. Title 9, Ch. 16, Art. 5](#)

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**A.A.C. § R9-16-505 Table 5.1**

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 5. Licensing Speech-Language Pathologist Assistants**

**Table 5.1. Time-frames (in calendar days)**

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A.A.C. § R9-16-505 Table 5.1

Type of Approval Authority	Statutory Authority	Overall Authority	Administrative	Time-Frame	Completeness	Review Time-Frame	Time to Respond to Notice of Deficiency	Substantive Review Time-Frame	Time to Respond to
Initial License	( <a href="#">R9-16-502</a> )	<a href="#">A.R.S. §§ 36-1904</a> and 36-1904.04	60	30	30	30	30	30	30
Renewal License	( <a href="#">R9-16-503</a> )	<a href="#">A.R.S. § 36-1904</a>	60	30	30	30	30	30	30
Continuing Education	( <a href="#">R9-16-504</a> )	<a href="#">A.R.S. § 36-1904</a>	45	30	30	15	30	30	30

## History

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Table 5.1 renumbered from Table 1 and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

## Research References & Practice Aids

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## [A.A.C. § R9-16-506](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 5. Licensing Speech-Language Pathologist Assistants**

### **R9-16-506. Disciplinary Actions**

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A. The Department may, as applicable:

1. Deny, revoke, or suspend a speech-language pathologist assistant license under [A.R.S. § 36-1934](#);
2. Request an injunction under [A.R.S. § 36-1937](#); or
3. Assess a civil money penalty under [A.R.S. § 36-1939](#).

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 clients affected by the violations,
6. The degree of harm to a client,
7. A pattern of noncompliance, and
8. Any mitigating or aggravating circumstances.

C. A licensee may appeal a disciplinary action taken by the Department according to A.R.S. Title 41, Chapter 6, Article 10.

### **History**

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New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section [R9-16-506](#) renumbered to [R9-16-504](#); new Section [R9-16-506](#) renumbered from [R9-16-507](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

### **Research References & Practice Aids**

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Hierarchy Notes:

A.A.C. § R9-16-506

[A.A.C. Title 9, Ch. 16, Art. 5](#)

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## [A.A.C. § R9-16-507](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 5. Licensing Speech-Language Pathologist Assistants**

### **R9-16-507. Changes Affecting a License or a Licensee; Request for a Duplicate License**

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A.A licensee shall submit a notice to the Department in writing within 30 calendar days after the effective date of a change in:

- 1.The licensee's home address or e-mail address, including the new home address or e-mail address;
- 2.The licensee's name, including one of the following with the licensee's new name:
  - a.Marriage certificate,
  - b.Divorce decree, or
  - c.Other legal document establishing the licensee's new name; or
- 3.The place or places, including address or addresses, where the licensee engages in the practice of speech-language pathology.

B. A licensee may obtain a duplicate license by submitting to the Department a written request for a duplicate license in a format provided by the Department that contains:

- 1.The licensee's name and address,
- 2.The licensee's license number and expiration date,
- 3.The licensee's signature and date of signature, and
- 4.A \$25 duplicate license fee.

### **History**

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New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). Section [R9-16-507](#) renumbered to [R9-16-506](#); new Section [R9-16-507](#) renumbered from [R9-16-508](#) and amended by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

Annotations

### **Research References & Practice Aids**

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Hierarchy Notes:

A.A.C. § R9-16-507

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## [A.A.C. § R9-16-508](#)

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**Arizona Administrative Code > Title 9. Health Services > Chapter 16. Department of Health Services: Occupational Licensing > Article 5. Licensing Speech-Language Pathologist Assistants**

### **R9-16-508. Renumbered**

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### **History**

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New Section made by final rulemaking at 15 A.A.R. 2132, effective January 30, 2010 (Supp. 09-4). [R9-16-508](#) renumbered to [R9-16-507](#) by exempt rulemaking at 20 A.A.R. 1998, effective July 1, 2014 (Supp. 14-2)

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## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

### 36-104. Powers and duties

This section is not to be construed as a statement of the department's organization. This section is intended to be a statement of powers and duties in addition to the powers and duties granted by section 36-103. The director shall:

1. Administer the following services:

(a) Administrative services, which shall include at a minimum the functions of accounting, personnel, standards certification, electronic data processing, vital statistics and the development, operation and maintenance of buildings and grounds used by the department.

(b) Public health support services, which shall include at a minimum:

(i) Consumer health protection programs, consistent with paragraph 25 of this section, that include at least the functions of community water supplies, general sanitation, vector control and food and drugs.

(ii) Epidemiology and disease control programs that include at least the functions of chronic disease, accident and injury control, communicable diseases, tuberculosis, venereal disease and others.

(iii) Laboratory services programs.

(iv) Health education and training programs.

(v) Disposition of human bodies programs.

(c) Community health services, which shall include at a minimum:

(i) Medical services programs that include at least the functions of maternal and child health, preschool health screening, family planning, public health nursing, premature and newborn program, immunizations, nutrition, dental care prevention and migrant health.

(ii) Dependency health care services programs that include at least the functions of need determination, availability of health resources to medically dependent individuals, quality control, utilization control and industry monitoring.

(iii) Children with physical disabilities services programs.

(iv) Programs for the prevention and early detection of an intellectual disability.

(d) Program planning, which shall include at least the following:

(i) An organizational unit for comprehensive health planning programs.

(ii) Program coordination, evaluation and development.

(iii) Need determination programs.

(iv) Health information programs.

2. Include and administer, within the office of the director, staff services, which shall include at a minimum budget preparation, public information, appeals, hearings, legislative and federal government liaison, grant development and management and departmental and interagency coordination.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

3. Make rules for the organization and proper and efficient operation of the department.
4. Determine when a health care emergency or medical emergency situation exists or occurs within this state that cannot be satisfactorily controlled, corrected or treated by the health care delivery systems and facilities available. When such a situation is determined to exist, the director shall immediately report that situation to the legislature and the governor. The report shall include information on the scope of the emergency, recommendations for solution of the emergency and estimates of costs involved.
5. Provide a system of unified and coordinated health services and programs between this state and county governmental health units at all levels of government.
6. Formulate policies, plans and programs to effectuate the missions and purposes of the department.
7. Make contracts and incur obligations within the general scope of the department's activities and operations subject to the availability of monies.
8. Be designated as the single state agency for the purposes of administering and in furtherance of each federally supported state plan.
9. Provide information and advice on request by local, state and federal agencies and by private citizens, business enterprises and community organizations on matters within the scope of the department's duties subject to the departmental rules and regulations on the confidentiality of information.
10. Establish and maintain separate financial accounts as required by federal law or regulations.
11. Advise with and make recommendations to the governor and the legislature on all matters concerning the department's objectives.
12. Take appropriate steps to reduce or contain costs in the field of health services.
13. Encourage and assist in the adoption of practical methods of improving systems of comprehensive planning, of program planning, of priority setting and of allocating resources.
14. Encourage an effective use of available federal resources in this state.
15. Research, recommend, advise and assist in the establishment of community or area health facilities, both public and private, and encourage the integration of planning, services and programs for the development of the state's health delivery capability.
16. Promote the effective use of health manpower and health facilities that provide health care for the citizens of this state.
17. Take appropriate steps to provide health care services to the medically dependent citizens of this state.
18. Certify training on the nature of sudden infant death syndrome, which shall include information on the investigation and handling of cases involving sudden and unexplained infant death for use by law enforcement officers as part of their basic training requirement.
19. Adopt protocols on the manner in which an autopsy shall be conducted under section 11-597, subsection D in cases of sudden and unexplained infant death.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

20. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

21. Administer the federal family violence prevention and services act grants, and the department is designated as this state's recipient of federal family violence prevention and services act grants.

22. Accept and spend private grants of monies, gifts and devises for the purposes of methamphetamine education. The department shall disburse these monies to local prosecutorial or law enforcement agencies with existing programs, faith-based organizations and nonprofit entities that are qualified under section 501(c)(3) of the United States internal revenue code, including nonprofit entities providing services to women with a history of dual diagnosis disorders, and that provide educational programs on the repercussions of methamphetamine use. State general fund monies shall not be spent for the purposes of this paragraph. If the director does not receive sufficient monies from private sources to carry out the purposes of this paragraph, the director shall not provide the educational programs prescribed in this paragraph. Grant monies received pursuant to this paragraph are not lapsing and do not revert to the state general fund at the close of the fiscal year.

23. Identify successful methamphetamine prevention programs in other states that may be implemented in this state.

24. Pursuant to chapter 13, article 8 of this title, coordinate all public health and risk assessment issues associated with a chemical or other toxic fire event if a request for the event is received from the incident commander, the emergency response commission or the department of public safety and if funding is available. Coordination of public health issues shall include general environmental health consultation and risk assessment services consistent with chapter 13, article 8 of this title and, in consultation with the Arizona poison control system, informing the public as to potential public health risks from the environmental exposure. Pursuant to chapter 13, article 8 of this title, the department of health services shall also prepare a report, in consultation with appropriate state, federal and local governmental agencies, that evaluates the public health risks from the environmental exposure. The department of health services' report shall include any department of environmental quality report and map of smoke dispersion from the fire, the results of any environmental samples taken by the department of environmental quality and the toxicological implications and public health risks of the environmental exposure. The department of health services shall consult with the Arizona poison control system regarding toxicology issues and shall prepare and produce its report for the public as soon as practicable after the event. The department of health services shall not use any monies pursuant to section 49-282, subsection E to implement this paragraph.

25. Consult, cooperate, collaborate and, if necessary, enter into interagency agreements and memoranda of understanding with the Arizona department of agriculture concerning its administration, pursuant to title 3, chapter 3, article 4.1, of this state's authority under the United States food and drug administration produce safety rule (21 Code of Federal Regulations part 112) and any other federal produce safety

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

regulation, order or guideline or other requirement adopted pursuant to the FDA food safety modernization act (P.L. 111-353; 21 United States Code sections 2201 through 2252).

26. Adopt rules pursuant to title 32, chapter 32, article 5 prescribing the designated database information to be collected by health profession regulatory boards for the health professionals workforce database.

### **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.

STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

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.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

(d) Perinatal consultation, including transportation of the pregnant woman to a perinatal care center when medically indicated.

(e) Perinatal education oriented toward professionals and consumers, focusing on early detection and adequate intervention to avert premature labor and delivery.

21. License and regulate the health and safety of group homes for persons with developmental disabilities. The department shall issue a license to an accredited facility for a period of the accreditation, except that no licensing period shall be longer than three years. The department is authorized to conduct an inspection of an accredited facility to ensure that the facility meets health and safety licensure standards. The results of the accreditation survey shall be public information. A copy of the final accreditation report shall be filed with the department of health services. For the purposes of this paragraph, "accredited" means accredited by a nationally recognized accreditation organization.

B. The department may accept from the state or federal government, or any agency of the state or federal government, and from private donors, trusts, foundations or eleemosynary corporations or organizations grants or donations for or in aid of the construction or maintenance of any program, project, research or facility authorized by this title, or in aid of the extension or enforcement of any program, project or facility authorized, regulated or prohibited by this title, and enter into contracts with the federal government, or an agency of the federal government, and with private donors, trusts, foundations or eleemosynary corporations or organizations, to carry out such purposes. All monies made available under this section are special project grants. The department may also expend these monies to further applicable scientific research within this state.

C. The department, in establishing fees authorized by this section, shall comply with title 41, chapter 6. The department shall not set a fee at more than the department's cost of providing the service for which the fee is charged. State agencies are exempt from all fees imposed pursuant to this section.

D. The department may enter into contracts with organizations that perform nonrenal organ transplant operations and organizations that primarily assist in the management of end-stage renal disease and related problems to provide, as payors of last resort, prescription medications necessary to supplement treatment and transportation to and from treatment facilities. The contracts may provide for department payment of administrative costs it specifically authorizes.

### **36-136. Powers and duties of director; compensation of personnel; rules; definitions**

A. The director shall:

1. Be the executive officer of the department of health services and the state registrar of vital statistics but shall not receive compensation for services as registrar.
2. Perform all duties necessary to carry out the functions and responsibilities of the department.
3. Prescribe the organization of the department. The director shall appoint or remove personnel as necessary for the efficient work of the department and shall prescribe the duties of all personnel. The director may abolish any office or position in the department that the director believes is unnecessary.
4. Administer and enforce the laws relating to health and sanitation and the rules of the department.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

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.

## STATUTORY AUTHORITIES FOR 9 A.A.C. 16, ARTICLES 2, 3, and 5

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.

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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

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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

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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

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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.

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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.

### **Article 1 – Administration**

#### **36-1901. Definitions**

In this chapter, unless the context otherwise requires:

1. "Accredited program" means a program leading to the award of a degree in audiology that is accredited by an organization recognized for that purpose by the United States department of education.
2. "Approved training program" means a postsecondary speech-language pathology assistant training program that is approved by the director.
3. "Assistive listening device or system" means an amplification system that is specifically designed to improve the signal-to-noise ratio for the listener who is hearing impaired, reduce interference from noise in the background and enhance hearing levels at a distance by picking up sound from as close to the source as possible and sending it directly to the ear of the listener, excluding hearing aids.
4. "Audiologist" means a person who engages in the practice of audiology and who meets the requirements prescribed in this chapter.
5. "Audiology" means the nonmedical and nonsurgical application of principles, methods and procedures of measurement, testing, evaluation and prediction that are related to hearing, its disorders and related communication impairments for the purpose of nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions.
6. "Clinical interaction" means a fieldwork practicum in speech-language pathology that is supervised by a licensed speech-language pathologist.
7. "Department" means the department of health services.
8. "Direct supervision" means the on-site, in-view observation and guidance of a speech-language pathology assistant by a licensed speech-language pathologist while the speech-language pathology assistant performs an assigned clinical activity.
9. "Director" means the director of the department.
10. "Disorders of communication" means an organic or nonorganic condition that impedes the normal process of human communication and includes disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition and communications and oral, pharyngeal and laryngeal sensorimotor competencies.
11. "Disorders of hearing" means an organic or nonorganic condition, whether peripheral or central, that impedes the normal process of human communication and includes disorders of auditory sensitivity, acuity, function or processing.
12. "Hearing aid" means any wearable instrument or device designed for or represented as aiding or improving human hearing or as aiding, improving or compensating for defective human hearing,

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and any parts, attachments or accessories of the instrument or device, including ear molds, but excluding batteries and cords.

13. "Hearing aid dispenser" means any person who engages in the practice of fitting and dispensing hearing aids.
14. "Indirect supervision" means supervisory activities, other than direct supervision that are performed by a licensed speech-language pathologist and that may include consultation, record review and review and evaluation of audiotaped or videotaped sessions.
15. "Letter of concern" means an advisory letter to notify a licensee that, while there is insufficient evidence to support disciplinary action, the director believes the licensee should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the director may result in action against the licensee.
16. "License" means a license issued by the director under this chapter and includes a temporary license.
17. "Nonmedical diagnosing" means the art or act of identifying a communication disorder from its signs and symptoms. Nonmedical diagnosing does not include diagnosing a medical disease.
18. "Practice of audiology" means:
  - (a) Rendering or offering to render to a person or persons who have or who are suspected of having disorders of hearing any service in audiology including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research.
  - (b) Participating in hearing conservation, hearing aid and assistive listening device evaluation and hearing aid prescription preparation, fitting, dispensing and orientation.
  - (c) Screening, identifying, assessing, nonmedical diagnosing, preventing and rehabilitating peripheral and central auditory system dysfunctions.
  - (d) Providing and interpreting behavioral and physiological measurements of auditory and vestibular functions.
  - (e) Selecting, fitting and dispensing assistive listening and alerting devices and other systems and providing training in their use.
  - (f) Providing aural rehabilitation and related counseling services to hearing impaired persons and their families.
  - (g) Screening speech-language and other factors that affect communication function in order to conduct an audiologic evaluation and an initial identification of persons with other communications disorders and making the appropriate referral.
  - (h) Planning, directing, conducting or supervising services.
19. "Practice of fitting and dispensing hearing aids" means the measurement of human hearing by means of an audiometer or by any other means, solely for the purpose of making selections or adaptations of hearing aids, and the fitting, sale and servicing of hearing aids, including assistive listening devices and the making of impressions for ear molds and includes identification, instruction, consultation, rehabilitation and hearing conservation as these relate only to hearing

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aids and related devices and, at the request of a physician or another licensed health care professional, the making of audiograms for the professional's use in consultation with the hearing impaired. The practice of fitting and dispensing hearing aids does not include formal auditory training programs, lip reading and speech conservation.

20. "Practice of speech-language pathology" means:
- (a) Rendering or offering to render to an individual or groups of individuals who have or are suspected of having disorders of communication service in speech-language pathology including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research.
  - (b) Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating disorders of speech and language.
  - (c) Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating disorders of oral-pharyngeal functions and related disorders.
  - (d) Screening, identifying, assessing, interpreting, nonmedical diagnosing and rehabilitating cognitive and communication disorders.
  - (e) Assessing, selecting and developing augmentative and alternative communication systems and providing training in the use of these systems and assistive listening devices.
  - (f) Providing aural rehabilitation and related counseling services to hearing impaired persons and their families.
  - (g) Enhancing speech-language proficiency and communication effectiveness.
  - (h) Screening hearing and other factors for speech-language evaluation and initially identifying persons with other communication disorders and making the appropriate referral.
21. "Regular license" means each type of license issued by the director, except a temporary license.
22. "Sell" or "sale" means a transfer of title or of the right to use by lease, bailment or any other contract, but does not include transfers at wholesale to distributors or dealers.
23. "Speech-language pathology" means the nonmedical and nonsurgical application of principles, methods and procedures of assessment, testing, evaluation and prediction related to speech and language and its disorders and related communication impairments for the nonmedical diagnosis, prevention, amelioration or modification of these disorders and conditions.
24. "Speech-language pathology assistant" means a person who provides services prescribed in section 36-1940.04 and under the direction and supervision of a speech-language pathologist licensed pursuant to this chapter.
25. "Sponsor" means a person who is licensed pursuant to this chapter and who agrees to train or directly supervise a temporary licensee in the same field of practice.
26. "Temporary licensee" means a person who is licensed under this chapter for a specified period of time under the sponsorship of a person licensed pursuant to this chapter.
27. "Unprofessional conduct" means:

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- (a) Obtaining any fee or making any sale by fraud or misrepresentation.
- (b) Employing directly or indirectly any suspended or unlicensed person to perform any work covered by this chapter.
- (c) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation, however disseminated or published, that is misleading, deceiving, improbable or untruthful.
- (d) Advertising for sale a particular model, type or kind of product when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind if the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.
- (e) Representing that the professional services or advice of a physician will be used or made available in the selling, fitting, adjustment, maintenance or repair of hearing aids if this is not true, or using the words "doctor", "clinic", "clinical" or like words, abbreviations or symbols while failing to affix the word, term or initials "audiology", "audiologic", "audiologist", "doctor of audiology", "Au.D.", "Ph.D." or "Sc.D.".
- (f) Defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts or questionable credit standing or by other false representations, or falsely disparaging the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies or services.
- (g) Displaying competitive products in the licensee's show window, shop or advertising in such manner as to falsely disparage such products.
- (h) Representing falsely that competitors are unreliable.
- (i) Quoting prices of competitive products without disclosing that they are not the current prices, or showing, demonstrating or representing competitive models as being current models when they are not current models.
- (j) Imitating or simulating the trademarks, trade names, brands or labels of competitors with the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers.
- (k) Using in the licensee's advertising the name, model name or trademark of a particular manufacturer of hearing aids in such a manner as to imply a relationship with the manufacturer that does not exist, or otherwise to mislead or deceive purchasers or prospective purchasers.
- (l) Using any trade name, corporate name, trademark or other trade designation that has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the name, nature or origin of any product of the industry, or of any material used in the product, or that is false, deceptive or misleading in any other material respect.
- (m) Obtaining information concerning the business of a competitor by bribery of an employee or agent of that competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means.

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- (n) Giving directly or indirectly, offering to give, or permitting or causing to be given money or anything of value, except miscellaneous advertising items of nominal value, to any person who advises another in a professional capacity as an inducement to influence that person or have that person influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser, or to influence persons to refrain from dealing in the products of competitors.
- (o) Sharing any profits or sharing any percentage of a licensee's income with any person who advises another in a professional capacity as an inducement to influence that person or have that person influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dispenser or to dissuade persons from dealing in products of competitors.
- (p) Failing to comply with existing federal regulations regarding the fitting and dispensing of a hearing aid.
- (q) Conviction of a felony or a misdemeanor that involves moral turpitude.
- (r) Fraudulently obtaining or attempting to obtain a license or a temporary license for the applicant, the licensee or another person.
- (s) Aiding or abetting unlicensed practice.
- (t) Wilfully making or filing a false audiology, speech-language pathology or hearing aid dispenser evaluation.
- (u) The use of narcotics, alcohol or drugs to the extent that the performance of professional duties is impaired.
- (v) Betraying a professional confidence.
- (w) Any conduct, practice or condition that impairs the ability of the licensee to safely and competently engage in the practice of audiology, speech-language pathology or hearing aid dispensing.
- (x) Providing services or promoting the sale of devices, appliances or products to a person who cannot reasonably be expected to benefit from these services, devices, appliances or products.
- (y) Being disciplined by a licensing or disciplinary authority of any state, territory or district of this country for an act that is grounds for disciplinary action under this chapter.
- (z) Violating any provision of this chapter or failing to comply with rules adopted pursuant to this chapter.
- (aa) Failing to refer an individual for medical evaluation if a condition exists that is amenable to surgical or medical intervention prescribed by the advisory committee and consistent with federal regulations.
- (bb) Practicing in a field or area within that licensee's defined scope of practice in which the licensee has not either been tested, taken a course leading to a degree, received supervised training, taken a continuing education course or had adequate prior experience.

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(cc) Failing to affix the word, term or initials "audiology", "audiologic", "audiologist", "doctor of audiology", "Au.D.", "Ph.D." or "Sc.D." in any sign, written communication or advertising media in which the term "doctor" or the abbreviation "Dr." is used in relation to the audiologist holding a doctoral degree.

### **36-1902. Powers and duties of the director; advisory committee; examining committee**

#### A. The director shall:

1. Appoint an advisory committee to collaborate with and assist the director and to perform duties as prescribed by this chapter. The director shall inform the advisory committee regarding all disciplinary actions.
2. Supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for a hearing aid dispenser's license.
3. Designate the time and place for holding examinations for a hearing aid dispenser's license.
4. License persons who apply for and pass the examination for a license, and possess all other qualifications required for the practice of fitting and dispensing hearing aids, the practice of audiology and the practice of speech-language pathology.
5. License persons who apply for a license and possess all other qualifications required for licensure as a speech-language pathology assistant.
6. Authorize all disbursements necessary to carry out this chapter.
7. Ensure the public's health and safety by adopting and enforcing qualification standards for licensees and applicants for licensure under this chapter.

#### B. The director may:

1. Purchase and maintain, or rent, equipment and facilities necessary to carry out the examination of applicants for a license.
2. Issue and renew a license.
3. Deny, suspend, revoke or refuse renewal of a license or file a letter of concern, issue a decree of censure, prescribe probation, impose a civil penalty or restrict or limit the practice of a licensee pursuant to this chapter.
4. Appoint an examining committee to assist in the conduct of the examination of applicants for a hearing aid dispenser's license.
5. Make and publish rules that are not inconsistent with the laws of this state and that are necessary to carry out this chapter.
6. Require the periodic inspection of testing equipment and facilities of persons engaging in the practice of fitting and dispensing hearing aids, audiology and speech-language pathology.
7. Require a licensee to produce customer records of patients involved in complaints on file with the department.

#### C. The advisory committee appointed pursuant to subsection A, paragraph 1 consists of the director, two physicians licensed under title 32, chapter 13 or 17, one of whom is a specialist in otolaryngology,

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two licensed audiologists, one of whom dispenses hearing aids, two licensed speech-language pathologists, two public members, one of whom is hearing impaired, one member of the Arizona commission for the deaf and the hard of hearing who is not licensed pursuant to this chapter and two licensed hearing aid dispensers who are not licensed to practice audiology. Committee members who are licensed under this chapter shall have at least five years' experience immediately preceding the appointment in their field of practice in this state.

- D. The examining committee authorized pursuant to subsection B, paragraph 4 consists of one otolaryngologist, two licensed dispensing audiologists and two licensed hearing aid dispensers. Committee members who are licensed under this chapter shall have at least five years' experience immediately preceding the appointment in their field of practice in this state. The findings of the examining committee shall be advisory to the director.
- E. The director shall verify that the audiology licensee has passed a nationally recognized examination approved by the director.
- F. The director shall verify that the speech-language pathology licensee has passed a nationally recognized examination approved by the director.
- G. The director may recognize a nationally recognized speech-language hearing association or audiology association examination, or both, as an approved examination.
- H. The advisory committee shall provide recommendations to the director in the following areas, on which the director shall act within a reasonable period of time:
  - 1. Issuance and renewal of a license.
  - 2. Prescribing disciplinary procedures.
  - 3. Appointment of an examining committee to assist in the conduct of the examination of applicants for a hearing aid dispenser's license.
  - 4. Adopting rules that are not inconsistent with the laws of this state and that are necessary to carry out this chapter.
  - 5. Requiring the periodic inspection of testing equipment and facilities of persons engaging in the practice of fitting and dispensing hearing aids, audiology and speech-language pathology.
  - 6. Requiring a licensee to produce customer records of patients involved in complaints on file with the department of health services.

### **36-1903. Deposit of monies; hearing and speech professionals fund; exemption**

- A. All monies received by the director for any purpose pursuant to this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in a hearing and speech professionals fund established in the state treasury by the director, except monies collected from civil penalties imposed pursuant to this chapter shall be deposited in the state general fund. Monies in the fund shall be administered by the director for the purposes of this chapter.
- B. Monies in the fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

### **36-1904. Issuance of license; renewal of license; continuing education; military members**

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- A. The director shall issue a regular license to each applicant who meets the requirements of this chapter. A regular license is valid for one year.
- B. A licensee shall renew a regular license annually on payment of the renewal fee prescribed in section 36-1908. There is a thirty day grace period after the expiration of a regular license. During this period the licensee may renew a regular license on payment of a late fee in addition to the renewal fee.
- C. When renewing a regular license as a hearing aid dispenser, the licensee shall provide proof of having completed at least twelve hours of continuing education within the prior twelve months. Courses sponsored by a single manufacturer of hearing aids may not satisfy more than four hours of continuing education within the prior twelve months. Courses on topics that provide a hearing aid dispenser an opportunity to stay current on business or client service practices or trends in the profession or that contribute to the professional or business competence of a hearing aid dispenser may qualify for up to one-third of the annual continuing education requirement.
- D. When renewing a regular license in audiology or in speech-language pathology, the licensee shall provide proof of having completed at least ten hours of continuing education within the prior twelve months. Courses sponsored by a single manufacturer of hearing aids may not satisfy more than four hours of continuing education within the prior twelve months for persons with a license in audiology.
- E. The director by rule shall provide standards for continuing education courses required by this section.
- F. The director may refuse to renew a regular license for any cause provided in section 36-1934.
- G. A person who does not renew a regular license as prescribed by this section shall apply for a new license pursuant to the requirements of this chapter. If an application is received by the director within one year of the expiration date of the license, the applicant is not required to take an examination.
- H. A person who reapplies for a regular license issued pursuant to this chapter must provide proof of completion of the continuing education hours prescribed by subsection C or D of this section within the previous twelve months before the date of reapplication.
- I. A license issued pursuant to this chapter to any member of the Arizona national guard or the United States armed forces reserves shall not expire while the member is serving on federal active duty and shall be extended one hundred eighty days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the director of the federal active duty status of the member. A license issued pursuant to this chapter to any member serving in the regular component of the United States armed forces shall be extended one hundred eighty days from the date of expiration, provided that the member, or the legal representative of the member, notifies the director of the federal active duty status of the member. If the license is renewed during the applicable extended time period after the member returns from federal active duty, the member is responsible only for normal fees and activities relating to renewal of the license and shall not be charged any additional costs such as late fees or delinquency fees. The member, or the legal representative of the member, shall present to the director a copy of the member's official military orders, a redacted military identification card or a written verification from the member's commanding officer before the end of the applicable extended time period in order to qualify for the extension.

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- J. A license issued pursuant to this chapter to any member of the Arizona national guard, the United States armed forces reserves or the regular component of the United States armed forces shall not expire and shall be extended one hundred eighty days from the date the military member is able to perform activities necessary under the license if the member both:
1. Is released from active duty service.
  2. Suffers an injury as a result of active duty service that temporarily prevents the member from being able to perform activities necessary under the license.

### **36-1905. Sponsors; duties**

- A. A sponsor shall directly train and supervise a temporary licensee. The director shall prescribe by rule a reasonable number of hours of training and supervision required. A sponsor may not sponsor more than two temporary licensees at one time.
- B. A sponsor and the temporary licensee are equally liable for violations of this chapter and rules adopted pursuant to this chapter that are committed by the temporary licensee.
- C. A sponsor who violates this section is subject to disciplinary action as prescribed pursuant to section 36-1934.

### **36-1906. Registering place of business with director**

- A. A person who holds a license shall notify the director in writing of the address of the place or places where the person engages in the practice of fitting and dispensing hearing aids, audiology or speech-language pathology and any change of address.
- B. The director shall keep a record of the places of practice of persons who hold licenses. Any notice required to be given by the director to a person who holds a license may be given by mailing it to that person at the address given by that person to the director.

### **36-1907. Practicing without a license; prohibition**

- A. A person shall not engage in the practice of fitting and dispensing hearing aids, audiology or speech-language pathology or display a sign or in any other way advertise or claim to be a hearing aid dispenser, an audiologist or a speech-language pathologist unless the person holds an active license in good standing issued by the director as provided in this chapter.
- B. A person shall not engage in performing the duties of a speech-language pathology assistant or claim to be a speech-language pathology assistant unless the person holds an active license in good standing issued by the director as provided by this chapter.
- C. A licensee shall conspicuously post a license issued pursuant to this chapter in the licensee's office or place of business.

### **36-1908. Fees**

The director shall prescribe and collect fees from persons who are regulated under this chapter for the following:

1. An original application for a regular or temporary license.

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2. An original issuance of a regular or temporary license.
3. An original application for a regular or temporary license if an examination pursuant to section 36-1924 is required.
4. A renewal of a regular or temporary license.
5. An issuance of a duplicate regular or temporary license.
6. A late fee.

### **36-1909. Bill of sale; requirements**

- A. A hearing aid dispenser or dispensing audiologist shall deliver a bill of sale to each person supplied with a hearing aid by the hearing aid dispenser or the dispensing audiologist or at that person's order or direction.
- B. A bill of sale shall contain the hearing aid dispenser's or the dispensing audiologist's signature and shall show the address of that person's regular place of practice and the number of that person's license, a description of the make and model of the hearing aid and the amount charged. The bill of sale shall also state the serial number and the condition of the hearing aid as to whether it is new, used or rebuilt.
- C. A bill of sale shall contain language that verifies that the client has been informed about audio switch technology, including benefits such as increased access to telephones and assistive listening devices. If the hearing device purchased by the client has audio switch technology, the client shall be informed of the proper use of the technology. The client shall be informed that an audio switch is also referred to as a telecoil, t-coil or t-switch.
- D. A bill of sale shall contain language that informs the client about the Arizona telecommunications equipment distribution program established by section 36-1947 that provides assistive telecommunications devices to residents of this state who have hearing loss.

### **36-1910. Application of chapter to corporations and other organizations; exemptions**

- A. Except as provided in subsection B of this section and to the extent practicable, this chapter applies to corporations, partnerships, trusts, associations or like organizations.
- B. Corporations, partnerships, trusts, associations or like organizations that are fitting and dispensing hearing aids are exempt from the qualification and examination requirements of sections 36-1923 and 36-1924, provided they pay the license fee prescribed in section 36-1908 and employ only licensed persons in the over-the-counter or other in-person fitting and dispensing of hearing aids.

## **Article 2 – Hearing Aid Dispensers**

### **36-1921. Persons not affected by chapter**

This chapter does not:

1. Apply to a person while engaged in the practice of recommending hearing aids if such practice is part of the academic curriculum of an accredited institution of higher education or part of a

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program conducted by a public or charitable institution, or a nonprofit organization which is primarily supported by voluntary contributions unless they sell hearing aids.

2. Apply to any person engaging in the practice of measuring human hearing for the purpose of selection of hearing aids provided that the person or the organization that employs that person does not sell hearing aids or hearing aid accessories.
3. Prevent a health care professional who is licensed or certified under title 32 from acting within the scope of that person's license or certificate.
4. Apply to a person who is credentialed by this state as a teacher of the deaf from acting within the scope of those credentials.
5. Apply to a student, intern or trainee pursuing a course of study in audiology or speech-language pathology in a nationally or regionally accredited institution of higher education or training institution if all of the following are true:
  - (a) The activities are part of a planned course of study at that institution.
  - (b) The person is designated by a title that clearly indicates the status appropriate to the person's level of education.
  - (c) The person works under the supervision of a person who is licensed in this state as an audiologist or a speech-language pathologist.
  - (d) Before a person receives services from a student or a temporary licensee, the supervising licensee provides written notification of this fact to the patient.
6. Apply to any person certified by the department of health services for the school hearing screening program.

### **36-1922. Reciprocity**

- A. The director may issue a license to a person who is currently licensed in another state or jurisdiction that the director determines meets the minimum licensure requirements of this chapter. The person shall apply for licensure and pay all applicable fees as prescribed by this chapter and shall pass an examination approved by the director in jurisprudence and ethics related to this chapter within six months after initial licensure. The director shall offer the examination at least four times each calendar year.
- B. The applicant shall provide information the director determines is necessary to investigate the status of the applicant's current license.

### **36-1923. Hearing aid dispensers; licensure; requirements**

- A. An applicant for a hearing aid dispenser license shall pay to the director a nonrefundable application fee and shall show to the satisfaction of the director that he:
  1. Is a person of good moral character.
  2. Has an education equivalent to a four-year course in an accredited high school or has continuously engaged in the practice of fitting and dispensing hearing aids during the three years preceding August 11, 1970.

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3. Has not had his license revoked or suspended by a state within the past two years and is presently not ineligible for licensure in any state due to prior revocation or suspension.
- B. An applicant for a hearing aid dispenser license who is notified by the director that he has fulfilled the requirements of subsection A shall appear at a time, place and before persons the director designates, to be examined by written and practical tests in order to demonstrate that he is qualified to practice the fitting and dispensing of hearing aids.
- C. The director shall give at least one and not exceeding four examinations of the type described in this section in each calendar year as the volume of applications may make appropriate. A minimum of three months shall elapse following the last examination before another may be given.

### **36-1924. Examination for license**

- A. The examination provided for in this article shall consist of:
  1. A demonstration of minimal knowledge in the techniques of testing hearing and fitting and evaluating hearing aids.
  2. A knowledge of the medical and rehabilitation facilities, for children and adults with hearing disorders, in this state.
  3. A knowledge of the code of ethics contained in this chapter.
  4. Tests of knowledge in the following areas as they pertain to the fitting of hearing aids:
    - (a) Physics.
    - (b) The human hearing mechanism, including its functions and causes of its disorders.
    - (c) The function of hearing aids.
  5. Practical tests of proficiency in the techniques of taking ear mold impressions and measurement of hearing by pure tone audiometry, including the air, bone and masking methods, and speech audiometry and other skills as they pertain to the candidacy for, selection of and adaptation of hearing aids.
  6. A knowledge of rehabilitation and hearing conservation techniques as they relate only to hearing aids and related devices.
- B. The examination shall not be constructed to require knowledge or abilities inconsistent with the realistic services of a hearing aid dispenser or with the requirements of sound public health practices.
- C. To provide adequate tests of proficiency, the examination requirements provided in this section may be changed when deemed necessary due to technological advances.

### **36-1926. Temporary license; sponsorship; termination of sponsorship**

- A. An applicant who fulfills the requirements of section 36-1923 may apply to the director for a temporary license.
- B. On receiving an application as provided by subsection A of this section, accompanied by an application fee and proof of sponsorship, the director shall issue a temporary license. A temporary license allows the licensee to practice the fitting and dispensing of hearing aids for a period ending on the last day of the month following a scheduled examination.

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- C. An applicant shall provide proof to the satisfaction of the director that the applicant is or will be supervised and trained for fitting and dispensing activities by a sponsor licensed pursuant to this chapter.
- D. A sponsor may terminate sponsorship at any time and for any reason. The director shall not review the reasons for the termination. A temporary license terminates on the date that the director receives notice from the sponsor that the sponsor is terminating sponsorship. This notice shall be accompanied by documentation that the sponsor has notified the licensee of the termination. The director shall prescribe by rule how the sponsor shall document this notification of termination. A person whose license is terminated shall apply for a new temporary license as prescribed by this section and shall not practice until granted a license.
- E. A person shall either take the next examination that is given following issuance of a temporary license or renew the temporary license. If the person takes and fails the examination the person may renew the temporary license once. The person shall take the next examination following the issuance of the renewal license. If the person does not take the examination but renews the temporary license, the person shall take the next examination following issuance of renewal of the temporary license.
- F. The director shall not issue a renewal to a person who has renewed a temporary license and failed the examination.
- G. A temporary license expires on the last day of the month following the next scheduled examination.
- H. The director may revoke or suspend a temporary license in the same manner and for the same reasons as prescribed pursuant to section 36-1934.

### **Article 3 – Regulation of Hearing Aid Dispensers, Audiologists and Speech-Language**

#### **36-1934. Denial, revocation or suspension of license; hearings; alternative sanctions**

- A. The director may deny, revoke or suspend a license issued under this chapter for any of the following reasons:
  - 1. Conviction of a felony or misdemeanor involving moral turpitude. The record of the conviction or a certified copy from the clerk of the court where the conviction occurred or from the judge of that court is sufficient evidence of conviction.
  - 2. Securing a license under this chapter through fraud or deceit.
  - 3. Unprofessional conduct, or incompetence in the conduct of his practice.
  - 4. Using a false name or alias in the practice of his profession.
  - 5. Violating any of the provisions of this chapter.
  - 6. Failing to comply with existing federal regulations regarding the fitting and dispensing of a hearing aid.
- B. If the director determines pursuant to a hearing that grounds exist to revoke or suspend a license, the director may do so permanently or for a fixed period of time and may impose conditions as prescribed by rule.

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- C. The department may deny a license without holding a hearing. After receiving notification of the denial, the applicant may request a hearing to review the denial.
- D. The department shall conduct any hearing to revoke or suspend a license or impose a civil penalty under section 36-1939 pursuant to title 41, chapter 6, article 10.
- E. Instead of denying, revoking or suspending a license the director may file a letter of concern, issue a decree of censure, prescribe a period of probation or restrict or limit the practice of a licensee.
- F. The director shall promptly notify a licensee's employer if the director initiates a disciplinary action against the licensee.

### **36-1936. Unlawful acts**

A person may not:

1. Sell, barter, or offer to sell or barter, a license.
2. Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to engage in the practice of fitting and dispensing hearing aids.
3. Alter materially a license with fraudulent intent.
4. Use or attempt to use as a valid license one which has been purchased, fraudulently obtained, counterfeited or materially altered.
5. Wilfully make a false, material statement in an application or related document for a license or for renewal of a license.

### **36-1937. Injunctive relief**

The director may enforce any provision of this chapter by injunction or by any other appropriate proceeding. No such proceeding shall be barred by any proceeding had or pending pursuant to any other provisions of this chapter, or by the imposition of any fine or term of imprisonment pursuant thereto.

### **36-1938. Violation; classification**

Violation of any provision of this chapter is a class 3 misdemeanor.

### **36-1939. Civil penalties; enforcement**

- A. The director may impose a civil penalty of not more than five hundred dollars for a violation of this chapter or a rule adopted pursuant to this chapter.
- B. The attorney general and the county attorney may bring an action in the name of this state to enforce civil penalties imposed pursuant to this section. Actions shall be brought in the superior court in the county where the violation occurs.
- C. The director may impose penalties assessed pursuant to this section in addition to other penalties imposed pursuant to this chapter.
- D. All monies collected from civil penalties collected for violation of this chapter or a rule adopted pursuant to this chapter shall be deposited in the state general fund.

## **Article 4 – Audiology and Speech-Language Pathology**

**36-1940. Audiology; licensure requirements**

- A. A person who wishes to be licensed as an audiologist shall:
1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant has:
    - (a) A doctoral degree with an emphasis in audiology from a nationally or regionally accredited college or university in an accredited program consistent with the standards of this state's universities.
    - (b) Completed supervised clinical rotations in audiology from a nationally or regionally accredited college or university in an accredited program consistent with the standards of this state's universities.
  3. Pass an examination pursuant to section 36-1902, subsection G. The applicant must have completed the examination within three years before the date of application for licensure pursuant to this article.
  4. Be of good moral character.
  5. Not have had a license revoked or suspended by a state within the past two years and not be presently ineligible for licensure in any state because of a prior revocation or suspension.
- B. A person who has a doctoral degree in audiology and who wishes to be licensed as an audiologist to fit and dispense hearing aids shall:
1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant has:
    - (a) A doctoral degree with an emphasis in audiology from a nationally or regionally accredited college or university in a program consistent with the standards of this state's universities.
    - (b) Completed supervised clinical rotations in audiology from a nationally or regionally accredited college or a university in an accredited program that is consistent with the standards of this state's universities.
  3. Pass an examination pursuant to section 36-1902, subsection G. The applicant must have completed the examination within three years before the date of application for licensure pursuant to this article.
  4. Pass an examination approved by the director in jurisprudence and ethics related to this chapter within six months after initial licensure. The director shall offer the examination at least four times each calendar year.
  5. Be of good moral character.
  6. Not have had a license revoked or suspended by a state within the past two years and not be presently ineligible for licensure in any state because of a prior revocation or suspension.
- C. A person who wishes to be licensed as an audiologist to fit and dispense hearing aids and who was awarded a master's degree in audiology before December 31, 2007 must:

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1. Submit a nonrefundable application fee as prescribed pursuant to section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant meets the requirements prescribed in section 36-1940.02, subsection C for a waiver of the educational and clinical rotation requirements of this article.
  3. Pass an audiology examination pursuant to section 36-1902, subsection E. The applicant must have completed the examination within three years before the date of application for licensure pursuant to this article unless the applicant is currently practicing audiology and meets the audiology examination waiver requirements of section 36-1940.02, subsection D.
  4. Pass the hearing aid dispenser's examination pursuant to section 36-1924.
  5. Be of good moral character.
  6. Not have had a license to practice as an audiologist or hearing aid dispenser revoked or suspended by another state within the past two years and not currently be ineligible for licensure in any state because of a prior revocation or suspension.
- D. The director shall adopt rules prescribing criteria for approved postgraduate professional experience.

**36-1940.01. Speech-language pathologist; licensure requirements**

- A. A person who wishes to be licensed as a speech-language pathologist shall:
1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  2. Submit evidence satisfactory to the director that the applicant has:
    - (a) A master's degree in speech-language pathology or the equivalent from a nationally or regionally accredited college or university in a program consistent with the standards of this state's universities.
    - (b) Completed a supervised clinical practicum in speech-language pathology from a nationally or regionally accredited college or university in a program consistent with the standards of this state's universities.
    - (c) Completed postgraduate professional experience in the field of speech-language pathology approved by the director.
  3. Pass an examination pursuant to section 36-1902, subsection G.
  4. Be of good moral character.
  5. Not have had a license revoked or suspended by a state within the past two years and not be presently ineligible for licensure in any state because of a prior revocation or suspension.
- B. A person who wishes to be licensed as a speech-language pathologist whose practice is limited to providing services to pupils under the authority of a local education agency or state supported institution shall:
1. Submit a nonrefundable application fee as provided by section 36-1908.
  2. Submit proof of an employee or contractor relationship with a local education agency or a state supported institution.

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3. Hold a certificate in speech and language therapy awarded by the state board of education.

C. The director shall adopt rules prescribing criteria for approved postgraduate professional experience.

### **36-1940.02. Waiver of licensure and examination requirements**

A. The advisory committee appointed under section 36-1902 may recommend to the director a waiver of the educational requirements of sections 36-1940 and 36-1940.01 if an applicant submits proof satisfactory to the department that the applicant received professional education in another country equivalent to the education and practicum requirements of this article.

B. The department shall waive the examination requirements of section 36-1940.01 under either of the following conditions:

1. The applicant presents proof satisfactory to the department that the applicant is currently licensed in a state, district or territory of this country that has standards that are at least equivalent to those of this state.

2. The applicant holds a certificate of clinical competence in speech-language pathology from a nationally recognized speech-language hearing association approved by the department in the field for which the applicant is applying for licensure.

C. The department shall waive the education and clinical rotation requirements of section 36-1940 if an applicant submits proof satisfactory to the director that the applicant either:

1. Is currently licensed in a state that has standards that are at least equivalent to those of this state.

2. Has a master's degree in audiology that was awarded by an accredited program before December 31, 2007 and has completed postgraduate professional experience in audiology as approved by the director.

D. The department shall waive the audiology examination requirements of section 36-1940 if either:

1. The applicant presents proof satisfactory to the department that the applicant is currently licensed and practicing audiology in this state or in another state that has standards that are at least equivalent to those of this state.

2. The applicant presents proof satisfactory to the department that the applicant is currently practicing audiology under the authority and supervision of an agency of the United States government or of another board, agency or department of another state and holds a certificate in audiology from a recognized credentialing body approved by the director.

E. The department shall waive the hearing aid dispensing examination requirements of section 36-1940 if:

1. The applicant presents proof satisfactory to the department that the applicant holds a current license that includes dispensing and that is issued by another state that has standards that are at least equivalent to those of this state.

2. The applicant passes an examination approved by the director in jurisprudence and ethics related to this chapter within six months after initial licensure. The director shall offer the examination at least four times each calendar year.

### **36-1940.03. Temporary licenses**

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- A. The department shall issue a temporary license to a person who does not meet the professional experience requirement of section 36-1940.01 if the applicant meets the other requirements of that section and:
  - 1. Includes with the application a plan for meeting the postgraduate professional experience.
  - 2. Submits a fee prescribed by section 36-1908.
- B. A person may renew a temporary license only once.
- C. A person issued a temporary license shall practice only under the supervision of a person who is fully licensed by this state.

### **36-1940.04. Speech-language pathologist assistant; licensure requirements; scope of practice; supervision**

- A. A person who wishes to be licensed as a speech-language pathologist assistant shall:
  - 1. Submit a nonrefundable application fee as prescribed by section 36-1908.
  - 2. Submit written evidence satisfactory to the director that the applicant has completed:
    - (a) An approved training program for speech-language pathology assistants or the equivalent from a nationally or regionally accredited college or university that consisted of a minimum of sixty semester credit hours of course work with the following curriculum content:
      - (i) Twenty to forty semester credit hours of general education.
      - (ii) Twenty to forty semester credit hours of speech-language pathology technical course work.
    - (b) A minimum of one hundred hours of clinical interaction that does not include observation, under the supervision of a licensed master's level speech-language pathologist.
  - 3. Be of good moral character.
  - 4. Not have had a license revoked or suspended by a state within the past two years and is not presently ineligible for licensure in any state because of a prior revocation or suspension.
- B. The director shall grant a waiver of the requirements for licensure as provided by subsection A of this section until September 1, 2007 to individuals who have performed the functions of a speech-language pathology assistant if the individual:
  - 1. Has completed a minimum of forty semester credit hours of speech-language pathology technical course work.
  - 2. Has satisfactorily completed a minimum of two years of experience as a speech-language pathology assistant under the supervision of a licensed master's level speech-language pathologist.
  - 3. Is of good moral character.
  - 4. Has not had a license revoked or suspended by a state within the past two years and is not presently ineligible for licensure in any state because of a prior revocation or suspension.
- C. A speech-language pathology assistant may do the following under the supervision of the licensed speech-language pathologist:
  - 1. Conduct speech and language screenings without interpretation, using screening protocols specified by the supervising speech-language pathologist.
  - 2. Provide direct treatment assistance, including feeding for nutritional purposes to patients, clients or students except for patients, clients or students with dysphagia, identified by the supervising speech-language pathologist by following written treatment plans, individualized education

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- programs, individual support plans or protocols developed by the supervising speech-language pathologist.
3. Document patient, client or student progress toward meeting established objectives as stated in the treatment plan, individual support plan or individualized education program without interpretation of the findings, and report this information to the supervising speech-language pathologist.
  4. Assist the speech-language pathologist in the collecting and tallying of data for assessment purposes, without interpretation of the data.
  5. Act as a second-language interpreter during assessments.
  6. Assist with informal documentation during an intervention session by collecting and tallying data as directed by the speech-language pathologist, preparing materials and assisting with other clerical duties as specified by the supervising speech-language pathologist.
  7. Schedule activities and prepare charts, records, graphs or other displays of data.
  8. Perform checks and maintenance of equipment.
  9. Participate with the speech-language pathologist in research projects, in-service training and public relations programs.
  10. Sign and initial treatment notes for review and co-signature by the supervising speech-language pathologist.
- D. A speech-language pathology assistant shall not:
1. Conduct swallowing screening, assessment and intervention protocols, including modified barium swallow studies.
  2. Administer standardized or nonstandardized diagnostic tests, formal or informal evaluations or interpret test results.
  3. Participate in parent conferences, case conferences or any interdisciplinary team meeting without the presence of the supervising speech-language pathologist, except for individualized education program or individual support plan meetings if the licensed speech pathologist has been excused by the individualized education program team or the individual support plan team.
  4. Write, develop or modify a patient's, client's or student's treatment plan, individual support plan or individualized education program in any way.
  5. Provide intervention for patients, clients or students without following the treatment plan, individual support plan or individualized education program prepared by the supervising speech-language pathologist.
  6. Sign any formal documents, including treatment plans, individual support plans, individualized education programs, reimbursement forms or reports.
  7. Select patients, clients or students for services.
  8. Discharge patients, clients or students from services.
  9. Unless required by law, disclose clinical or confidential information orally or in writing to anyone not designated by the speech-language pathologist.
  10. Make a referral for any additional service.
  11. Communicate with the patient, client or student or with family or others regarding any aspect of the patient, client or student status without the specific consent of the supervising speech-language pathologist.
  12. Claim to be a speech-language pathologist.
  13. Write a formal screening, diagnostic, progress or discharge note.

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14. Perform any task without the express knowledge and approval of the supervising speech-language pathologist.
- E. All services provided by a speech-language pathology assistant shall be performed under the direction and supervision of a speech-language pathologist licensed pursuant to this chapter.
- F. A licensed speech-language pathologist who supervises or directs the services provided by a speech-language pathology assistant shall:
  1. Have at least two years of full-time professional experience as a licensed speech-language pathologist.
  2. Provide direction and supervision to not more than two full-time or three part-time speech-language pathology assistants at one time.
  3. Ensure that the amount and type of supervision and direction provided to a speech-language pathology assistant is consistent with the individual's skills and experience, the needs of the patient, client or student served, the setting in which services are provided and the tasks assigned and provide:
    - (a) A minimum of twenty per cent direct supervision and ten per cent indirect supervision of all of the time that a speech-language pathology assistant is providing services during the first ninety days of the person's employment.
    - (b) Subsequent to the first ninety days of a speech-language pathology assistant's employment, a minimum of ten per cent direct supervision and ten per cent indirect supervision of all of the time a speech-language pathologist assistant is providing service.
  4. Inform a patient, client or student when the services of a speech-language pathology assistant are being provided.
  5. Document all periods of direct and indirect supervision provided to a speech-language pathology assistant.
- G. If more than one speech-language pathologist provides supervision to a speech-language pathology assistant, one of the speech-language pathologists shall be designated as the primary supervisor who is responsible for coordinating any supervision provided by other speech-language pathologists.

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36-1902	Powers and duties of the director; advisory committee; examining committee
36-1903	Deposit of monies; hearing and speech professionals fund; exemption
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36-1940	Audiology; licensure requirements
36-1940.01	Speech-language pathologist; licensure requirements
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**D-4**

**DEPARTMENT OF AGRICULTURE (R20-0402)**

Title 3, Chapter 2, Articles 1-9, Department of Agriculture - Animal Services Division

**Amend:** R3-2-101, R3-2-102, R3-2-208, R3-2-302, R3-2-401, R3-2-402, R3-2-404, R3-2-405, R3-2-406, R3-2-407, R3-2-408, R3-2-409, R3-2-413, R3-2-501, R3-2-503, R3-2-504, R3-2-505, R3-2-602, R3-2-605, R3-2-606, R3-2-607, R3-2-609, R3-2-611, R3-2-612, R3-2-613, R3-2-614, R3-2-615, R3-2-616, R3-2-617, R3-2-618, R3-2-620, R3-2-701, R3-2-702, R3-2-703, R3-2-708, R3-2-801, R3-2-803, R3-2-804, R3-2-805, R3-2-807, R3-2-808, R3-2-901, R3-2-902, R3-2-906, R3-2-907, R3-2-908

**New Section:** R3-2-403

**Repeal:** R3-2-301, R3-2-410, R3-2-411, R3-2-412, R3-2-601, R3-2-603, R3-2-604, R3-2-608



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

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**MEETING DATE:** April 7, 2020

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

**FROM:** Council Staff

**DATE:** March 13, 2020

**SUBJECT: DEPARTMENT OF AGRICULTURE (R20-0402)**

Title 3, Chapter 2, Articles 1-9, Department of Agriculture - Animal Services Division

**Amend:** R3-2-101, R3-2-102, R3-2-208, R3-2-302, R3-2-401, R3-2-402, R3-2-404, R3-2-405, R3-2-406, R3-2-407, R3-2-408, R3-2-409, R3-2-413, R3-2-501, R3-2-503, R3-2-504, R3-2-505, R3-2-602, R3-2-605, R3-2-606, R3-2-607, R3-2-609, R3-2-611, R3-2-612, R3-2-613, R3-2-614, R3-2-615, R3-2-616, R3-2-617, R3-2-618, R3-2-620, R3-2-701, R3-2-702, R3-2-703, R3-2-708, R3-2-801, R3-2-803, R3-2-804, R3-2-805, R3-2-807, R3-2-808, R3-2-901, R3-2-902, R3-2-906, R3-2-907, R3-2-908

**New Section:** R3-2-403

**Repeal:** R3-2-301, R3-2-410, R3-2-411, R3-2-412, R3-2-601, R3-2-603, R3-2-604, R3-2-608

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### **Summary:**

This rulemaking from the Arizona Department of Agriculture (Department) represents an effort to update its rules to reflect modern day practices by addressing outdated and inconsistent information within the rules, while also providing consistency with current operating practices and industry needs. The Department also indicates that this rulemaking is attempting to make the rules more clear, concise, and understandable, and also alleviate some regulatory burden while continuing to provide adequate safeguards.

This rulemaking seeks to amend 46 rules, add one new section related to quarantine for diseased animals, and repeal 8 rules.

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

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

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

The Department indicates that 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 did not review or rely on any study in conducting this rulemaking.

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

The Department is amending Title 3, Chapter 2 to address outdated and inconsistent information within the rules, provide consistency with current operating practices and industry needs, and make the rules more clear and concise. The Department does not believe that the changes will have a direct cost for business. They indicate the main cost may be related to obtaining knowledge or information on the rulemaking. They state these rules are not intended to impose new regulations, but rather update the rules to reflect current practices. Stakeholders include the Department, livestock producers, animal importers, dairy processors and egg producers.

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 did not identify any less costly or alternative methods that would still achieve the same needs.

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

The Department does not anticipate any economic impact on political subdivisions or that there will be a direct cost for business. They also do not anticipate any impact on private and public employment. They believe the only possible negative impact to private individuals is the additional restrictions for applying for self-inspection. These restrictions are intended to keep individuals who have been convicted of livestock crimes from receiving self-inspection. The Department believes the changes will make the rules easier to understand and consistent with

current industry practices which will ultimately make it easier for the regulated industries to comply with the regulations.

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

The Department indicates there were no changes between the Notice of Proposed Rulemaking and the Notice of Final Rulemaking.

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

The Department indicates that it did not receive any comments related to this rule package. The Department indicates it held a public hearing on October 15, 2019 in order to give the public an opportunity to comment on the rules, but no comments were received.

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

The rules do require a permit or license. However, the permit/licenses issued are general permits as defined by A.R.S. § 41-1001(11). Therefore, the Department is in compliance with A.R.S. § 41-1037.

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

The Department indicates that the rules are not more stringent than relevant federal law.

11. **Conclusion**

This rulemaking seeks to amend numerous rules, add a new section, and repeal eight rules in an effort to address outdated and inconsistent information within the rules, while also providing consistency with current operating practices and industry needs. The Department also indicates that this rulemaking is attempting to make the rules more clear, concise, and understandable, and also alleviate some regulatory burden while continuing to provide adequate safeguards. The Department is requesting the standard 60-day delayed effective date pursuant to A.R.S. § 41-1032(A). Council staff recommends approval of this rulemaking.



# Arizona Department of Agriculture

1688 W. Adams Street, Phoenix, Arizona 85007  
(602) 542-0990 FAX (602) 542-4290

February 10, 2020

Ms. Nicole Sornsin, Chair  
Governor's Regulatory Review Council  
100 North 15<sup>th</sup> Ave., Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 3. Agriculture  
Chapter 2. Department of Agriculture – Animal Services Division**

Dear Ms. Sornsin:

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

1. Close of Record Date: The rulemaking record was closed on October 15, 2019 following a period for public comment and an oral proceeding.
2. Relation of the rulemaking to a five-year-review report: This rulemaking was discussed in the most recent Five-Year Review Report approved on August 1, 2017.
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 the preamble discloses a reference to any study relevant to the rule that the Department reviewed and either did or did not rely on when evaluating and justifying the rule.
6. Certification that the preparer of the EIS notified JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that this rule will not require a state agency to employ a new full-time employee. No justification was provided to JLBC.
7. List of documents enclosed:
  - a. Cover letter signed by Director Killian;

- b. Notice of Final Rulemaking including the preamble, table of contents, and rule text;
- c. Economic, Small Business, and Consumer Impact Statement;
- d. Materials incorporated by reference; and
- e. Statutes authorizing the rulemaking and defining terms.

Sincerely,



Mark Killian  
Director

MK; cwm

NOTICE OF FINAL RULEMAKING

TITLE 3 AGRICULTURE

CHAPTER 2: DEPARTMENT OF ARGICULTURE – ANIMAL SERVICES DIVISION

SUBCHAPTER LABEL. HEADING (IF APPLICABLE)

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R3-2-101	Amend
R3-2-102	Amend
R3-2-208	Amend
R3-2-301	Repeal
R3-2-302	Amend
R3-2-401	Amend
R3-2-402	Amend
R3-2-403	New Section
R3-2-404	Amend
R3-2-405	Amend
R3-2-406	Amend
R3-2-407	Amend
R3-2-408	Amend
R3-2-409	Amend
R3-2-410	Repeal
R3-2-411	Repeal
R3-2-412	Repeal
R3-2-413	Amend
R3-2-501	Amend
R3-2-503	Amend
R3-2-504	Amend
R3-2-505	Amend
R3-2-601	Repeal
R3-2-602	Amend
R3-2-603	Repeal
R3-2-604	Repeal
R3-2-605	Amend
R3-2-606	Amend
R3-2-607	Amend
R3-2-608	Repeal
R3-2-609	Amend
R3-2-611	Amend
R3-2-612	Amend
R3-2-613	Amend
R3-2-614	Amend
R3-2-615	Amend
R3-2-616	Amend
R3-2-617	Amend
R3-2-618	Amend
R3-2-620	Amend
R3-2-701	Amend
R3-2-702	Amend
R3-2-703	Amend
R3-2-708	Amend
R3-2-801	Amend
R3-2-803	Amend

R3-2-804	Amend
R3-2-805	Amend
R3-2-807	Amend
R3-2-808	Amend
R3-2-901	Amend
R3-2-902	Amend
R3-2-906	Amend
R3-2-907	Amend
R3-2-908	Amend

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

Authorizing statute: A.R.S. § 3-107(A)(1)

Implementing statute: A.R.S. §§ 3-603, 6-605, 3-611, 3-667, 3-706, 3-710, 3-739, 3-1203, 3-1204, 3-1205, 3-2046

**3. The effective date of the rule:** 60 days after filed with the Secretary of State.

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

**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):**  
N/A

**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: Volume 25 A.A.R. Page 2372

Notice of Proposed Rulemaking: Volume 25 A.A.R. Page 2291

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

Name: Chris McCormack, Associate Director, ASD

Address: Arizona Department of Agriculture  
1688 W. Adams St.  
Phoenix, AZ 85007

Telephone: (602) 542-7186

Fax: (602) 542-4290

E-mail: [cmccormack@azda.gov](mailto:cmccormack@azda.gov)

Web site: <https://agriculture.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:**

The Arizona Department of Agriculture’s Animal Services Division is made up of five distinct programs; the Dairy Program, the Egg Program, Livestock Inspection, Meat and Poultry Inspection, and the State Veterinarian’s Office. Each of these programs plays a valuable role in ensuring that Arizona Agriculture can continue to provide safe and wholesome food to the rest of the world. This rule package is the result of Governor Ducey’s initiative to modernize or eliminate Arizona’s regulations. Within this package are a variety of rules that were repealed, rules that were updated to include modern day practices, and others that were amended so that they could be easier to understand. The Department has

spent a significant amount of time working with its stakeholders to ensure that their concerns were addressed in advance of filing this rulemaking. Both the Animal Services Division Advisory Council and the Department of Agriculture Advisory Council have recommended that these rules move forward.

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

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:**

N/A

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

Because there is little to no new regulation in this rulemaking, the economic impact of this rule package is minimal.

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

NONE

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

This rulemaking is the result of listening to stakeholder concerns to modernize our administrative rules. As a result, the Department has not received any feedback (positive or negative) related to this rule package. A public hearing was held on October 15, 2019 in order to give the public the opportunity to comment on the rules; however, no comment was received.

**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:**

The Animal Services Division Advisory Council approved the rule package on February 15, 2019, and the Arizona Department of Agriculture Advisory Council approved the rule package on June, 19, 2019.

**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:**

Any permits issued are general permits.

**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:**

These rules are not more stringent than federal law.

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

No analysis was received.

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

R3-2-101 – 9 CFR Part 71.19; 9 CFR Part 71.2; 9 CFR Part 86.4 as revised on January 1, 2018.

R3-2-302 – 9 CFR Part 166 as revised on January 1, 2018.

R3-2-408 & 409 – National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 2016, Part I, Sections A & B.

R3-2-501 – 9 CFR Part 77 as revised on January 1, 2018.

R3-2-503 – 9 CFR Part 78 as revised on January 1, 2018 and USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective September 30, 2003.

R3-2-504 – 9 CFR Part 85 as revised on January 1, 2018.

R3-2-505 – 9 CFR Part 79 as revised on January 1, 2018.

R3-2-612 – 9 CFR Parts 93.424 – 93.427; 9 CFR Part 77 as revised on January 1, 2018.

R3-2-803 & 804 – 21 CFR Parts 101, 131, and 133, as revised on April 1, 2017.

R3-2-908 – 7 CFR Part 56 effective March 30, 2008.

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

No rule was filed as an emergency rule.

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

## ARTICLE 1. GENERAL PROVISIONS

### Section

- R3-2-101. Definitions
- R3-2-102. Licensing Time-frames

## ARTICLE 2. MEAT AND POULTRY INSPECTION

### Section

- R3-2-208. Diseased and Injured Animals

## ARTICLE 3. FEEDING OF ANIMALS~~12~~

### Section

- R3-2-301. ~~Operation of Beef Cattle Feedlots~~ Repealed
- R3-2-302. Permit to Feed Garbage to Swine; Requirements

## ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL ~~13~~

### Section

- R3-2-401. Definitions
- R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories
- R3-2-403. ~~Expired~~ Quarantine for Diseased Animals
- R3-2-404. Importation, Manufacture, Sale, and Distribution of ~~Biologicals and Semen~~ Biologics
- R3-2-405. Depopulation of Animals Infected with a Foreign Animal Disease
- R3-2-406. Disease Control; Designated Feedlots
- R3 2 407. Disease Control; Equine Infectious Anemia
- R3-2-408. Disposition of Livestock Exposed to Rabies
- R3-2-409. Rabies Vaccines for Animals
- R3-2-410. ~~Restricted Swine Feedlots~~ Repealed
- R3-2-411. ~~Exhibition Swine~~ Repealed
- R3-2-412. ~~Exhibition Sheep and Goats~~ Repealed
- R3-2-413. Sheep and Goats; Intrastate Movement

## ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

### Section

- R3-2-501. Tuberculosis Control and Eradication Procedures
- R3 2 502. Repealed
- R3 2 503. Brucellosis Control and Eradication Procedures
- R3-2-504. Pseudorabies Procedures for Eradication
- R3-2-505. Scrapie Procedures for Eradication

## ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS

### Section

- R3-2-601. ~~Definitions~~ Repealed
- R3-2-602. Importation Requirements
- R3-2-603. ~~Importation of Diseased Animals~~ Repealed
- R3-2-604. ~~Livestock Permit Requirements; Exceptions~~ Repealed
- R3-2-605. ~~Quarantine~~ Hold Order for Animals Entering Illegally
- R3-2-606. ~~Health Certificate~~ Certificate of Veterinary Inspection
- R3-2-607. Entry Permit Number

- R3-2-608. Consignment of Animals ~~Repealed~~
- R3-2-609. Diversion; Prohibitions
- R3-2-610. Tests; Official Confirmation
- R3-2-611. Transporter Duties
- R3 2 612. Importation of Cattle and Bison
- R3-2-613. Importation of Swine
- R3-2-614. Importation of Sheep and Goats
- R3-2-615. ~~Equine~~-Importation of Equine
- R3-2-616. Importation of Cats and Dogs
- R3-2-617. Importation of Poultry
- R3-2-618. Importation of Psittacine Birds
- R3-2-619. Repealed
- R3-2-620. Importation of Zoo Animals
- R3-2-621. Expired
- R3-2-622. Expired

## ARTICLE 7. LIVESTOCK INSPECTION

- Section
- R3-2-701. Department Livestock Inspection
  - R3-2-702. Livestock Self-inspection
  - R3 2 703. Seasonal Self inspection Certificate

### EMERGENCY RULEMAKING

- R3-2-704. Determining Original and Subsequent Brands
- R3-2-705. Repealed
- R3 2 706. Repealed
- R3-2-707. Ownership and Hauling Certificate for Equines; Fees
- R3-2-708. Equine Rescue Facility Registration

## ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

- Section
- R3-2-801. Definitions
  - R3-2-804. Trade Products
  - R3-2-805. Grade A Raw Milk For Consumption
  - R3 2 807. Frozen Dessert Plant and Processing Standards
  - R3-2-808. Frozen Desserts Reconstituted from Powdered Mixes

## ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

- Section
- R3-2-901. Definitions
  - R3-2-902. Standards, Grades, and Weight Classes for ~~Shell~~ Eggs; Pasteurized In-Shell Eggs
  - R3-2-906. Violations and Penalties
  - R3-2-907. Poultry Husbandry; Standards for Production of Eggs and Biosecurity Requirements
  - R3-2-908. Sanitary Standards; Egg Processing

## ARTICLE 1. GENERAL PROVISIONS

### **R3-2-101. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-1201, 3-1451, and 3-1771, the following terms apply to this Chapter:

“Accredited veterinarian” means a veterinarian approved by the State Veterinarian and USDA Area Veterinarian In Charge (A.V.I.C.) to perform functions required by cooperative State-Federal animal disease control and eradication programs.

“Animal” means livestock, bison, dogs, cats, rabbits, rodents, aquatic animals, game animals, furbearing and wildlife mammals, and poultry and psittacines.

“APHIS” means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

~~“Breeding swine” means any member of the family Suidae having the potential to procreate, and includes gilts, sows, and boars.~~

~~“Cervidae” means the family of cervids that includes, but is not limited to, deer, moose, elk, reindeer, and caribou.~~

“Beef cattle” means all cattle other than dairy cattle.

~~Health certificate~~ “Certificate of Veterinary Inspection” or “CVI” means a legible record that is issued by a VS animal health official, state animal health official, or accredited veterinarian at the point of origin of a shipment of animals, conforms to the requirements of R3-2-606, and is written on a form approved by the chief animal health official of the state of origin or an equivalent form of the USDA attesting that the animal described has been inspected and found to meet the Arizona entry requirements.

~~“Dairy cattle” means cattle of dairy breeds or dairy types used for the production of milk or milk products for human consumption~~ any domesticated bovine dairy animal or crosses of the Bos genus that show at least 50 percent phenotypic characteristics of a dairy breed, including; Ayrshire, Brown Swiss, Canadienne, Dutch Belt, Holstein, Jersey, Guernsey, Kerry, Milking Devon, Milking Shorthorn, or Norwegian Red.

“Designated feedlot” means a feedlot containing a confined drylot area under state quarantine that is approved and authorized by the State Veterinarian; contains a restricted feeding pen; and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Entry Permit permit number” or “Import permit number” means a serialized number issued by the State Veterinarian’s Office that conforms to the requirements of this chapter and allows the regulated movement of certain animals into Arizona.

“Equine Infectious Anemia” or “EIA” means an infectious, noncontagious, and potentially fatal viral disease of members of equine caused by a RNA virus classified in the Lentivirus genus, family Retroviridae.

“Official Identification” as defined in 9 CFR 71.19 (b) as revised on January 1, 2018 for swine; 9 CFR 79.2 (a)(2) as revised on January 1, 2018 for sheep and goats; and 9 CFR 86.4 as revised on January 1, 2018 for cattle.

“Poultry” means any bird except psittacine, whether live or dead, including but not limited to chickens, turkeys, ducks, geese, guineas, ratites, squabs, and any exotic birds not regulated as restricted wildlife by the Arizona Game and Fish Department. The definition “poultry” also includes hatching eggs, which are fertilized eggs produced by breeding poultry.

“Psittacine” means a bird belonging to the family Psittacidae, which includes macaws, parakeets, and parrots.

“USDA” means the United States Department of Agriculture.

“VS” means the Veterinary Services branch of APHIS.

### **R3-2-102. Licensing Time-frames**

**A.** Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of calendar days provided for the administrative completeness review and the substantive review.

**B.** Administrative completeness review.

1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant

within the administrative completeness review time-frame, the Department considers the application complete.

2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails sends the notice of missing information to the applicant until the date the Department receives the information.
3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.

C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.

1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

**Table 1. Time-frames (Calendar Days)**

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
MEAT AND POULTRY INSPECTION						
License to Slaughter	A.R.S. §§ 3-2002 & <del>A.R.S. § 3-2003</del> R3-2-208	14	14	30	14	44
Transfer of license without fee	A.R.S. § 3-2009	14	14	30	5	44
State Meat Inspection Service	A.R.S. § 3-2047	14	14	30	14	44
Sale or Exchange of Meat or Poultry	A.R.S. § 3-2081 R3-2-208	14	14	30	14	44
Rendering Facility Certification	A.R.S. § 3-2081 <del>R3-2-205</del>	14	14	30	14	44
Transfer of License	A.R.S. § 3-2086	14	14	30	5	44
Official Slaughter Meat Licenses	A.R.S. § 3-2122 R3-2-208	14	14	30	14	44
FEEDING OF ANIMALS						
Feed Lot License	A.R.S. § 3-1452	14	14	60	14	74
Permit to Feed Garbage to Swine	A.R.S. § 3-2664	14	14	60	14	74
DAIRY PRODUCTS AND CONTROL						
Milk Distributing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28

Milk Processing Plant New	A.R.S. § 3-607	14	14	14	14	28
Renewal		14	14	14	14	28
Plant Licensing New	A.R.S. § 3-665	14	14	14	14	28
Renewal		14	14	14	14	28
Request to market a product as a milk product	A.R.S. § 601.01	14	14	14	14	28
Tester License	A.R.S. § 3-619	7	7	7	7	14
Trade Product Label	A.R.S. § 3-667	14	14	30	30	44
LIVESTOCK INSPECTION						
Equine Trader Permit	A.R.S. § 3-1348	7	7	7	7	14
Ownership and Hauling Certificate for Equines	A.R.S. §§ 3-1344 & <del>A.R.S.</del> § 3-1345	14	14	14	14	28
EGG PRODUCTS AND CONTROL						
Annual Licensing	A.R.S. § 3-714	10	10	10	10	20
AQUACULTURE						
Aquaculture Facility	A.R.S. § 3-2907	14	14	30	14	44
Fee Fishing Facility	R3-2-1004					
Processor	R3-2-1005	14	14	30	14	44
Transporter	R3-2-1006	14	14	30	14	44
	R3-2-1007	14	14	30	14	44
Special Licenses	A.R.S. § 3-2908 <del>R3-2-1008</del>	14	14	30	14	44

## ARTICLE 2. MEAT AND POULTRY INSPECTION

### R3-2-208. Diseased and Injured Animals

#### A. Diseased animals.

1. No meat from any diseased animal shall be processed, sold or stored at premises where food is sold or prepared for human consumption, unless it is decharacterized and clearly identified “Not for Human Consumption.”
2. Subsection (A)(1) does not apply to meat from animals affected by any disease that does not render the meat unfit for human consumption if the affected animals are slaughtered in establishments where meat inspection is maintained under A.R.S. § 3-2051 and 9 CFR, Chapter III, Subchapter A, which is incorporated by reference in R3-2-202(A).

#### B. Injured animals. An injured animal may be slaughtered by:

1. The animal’s owner at the owner’s premises if the meat is used solely for consumption by the owner, the owner’s immediate family, or employees. The owner shall keep the animal’s hide until it has been inspected and marked or tagged by a livestock officer under A.R.S. § 3-2011.
2. An official slaughter establishment, if:
  - a. The animal is inspected by a livestock officer at origin; or
  - b. The animal is transported to the official slaughter establishment with a self-inspection certificate; or
  - c. The animal is transported to an official slaughter establishment with a waiver from the Associate Director and the waiver is documented by the livestock officer.
3. An exempt slaughterer, if the meat is used solely for consumption by the animal’s owner, the owner’s immediate family or employees, and if:

- a. The animal's body temperature is 103° F or less and except for the injury its condition appears normal; and
- b. The animal is inspected by a livestock officer at origin who verifies the temperature and condition of the animal and approves it for slaughter; or
- c. The Associate Director waives the inspection and the waiver is documented by the livestock officer, and the exempt slaughterer verifies the temperature and condition of the animal.

**C. Non-ambulatory disabled cattle.**

1. Non-ambulatory disabled cattle shall not be slaughtered by any official or exempt slaughterer. Non-ambulatory disabled cattle are cattle that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertabral column, or metabolic conditions.

## ARTICLE 3. FEEDING OF ANIMALS

**R3-2-301. ~~Operation of Beef Cattle Feedlots~~ Repealed**

~~A. An operator shall manage a feedlot under the standards prescribed in A.R.S. § 3-1454(A) and R3-2-406.~~

~~—B. An operator shall comply with applicable federal, state, and local laws.~~

**R3-2-302. Permit to Feed Garbage to Swine; Requirements**

A swine garbage feeding permit holder or applicant for a permit to feed garbage to swine shall comply with the following requirements:

1. An approved cooker is installed, ~~and~~ is in operating condition on the premises, and fenced off from all swine.
2. A concrete slab, trough, or other easily cleanable area, and equipment for feeding garbage is provided.
3. Premises utilized for swine garbage feeding are reasonably clean, free of litter, adequately drained, and provide for removal of animal excrement and garbage not consumed.
4. Individually operated swine garbage feeding premises are separated from other swine premises by a minimum distance of 200 feet in all directions and constructed to prevent the escape of any swine.
5. In addition, all swine garbage feeding permit holders shall follow all federal garbage feeding regulations as outlined in 9 CFR Part 166 as revised on January 1, 2018.

## ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL

**R3-2-401. Definitions**

The following terms apply to this Article:

~~“Accereditd veterinarian” means a veterinarian approved by the State Veterinarian and USDA Area Veterinarian to perform functions required by cooperative State-Federal animal disease control and eradication programs.~~

~~“Biologicals~~ Biologics” means medical preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.

~~“Disease Control; Designated feedlot” means a confined drylot area under state quarantine that is approved and licensed by the State Veterinarian, contains restricted feeding pens, and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.~~

“Foreign Animal Disease” means a transboundary animal disease or pest, or an aquatic animal disease or pest, not known to exist in the United States, or its territories.

~~“Equine infectious anemia” or “EIA” means a viral disease, also known as Swamp Fever, of members of the family equidae.~~

~~“Restricted feeding pen” means an enclosed area in a designated feedlot, located at least eight feet from other pens, where cattle are maintained for feeding in a dry lot without provisions for pasturing or grazing.~~

### **R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories**

All veterinarians and laboratories performing diagnostic services on animals shall:

- ~~1.A.~~ Notify the State Veterinarian at (602) 542-4293 and [diseasereporting@azda.gov](mailto:diseasereporting@azda.gov), within ~~four hours~~ four hours of diagnosing or suspecting any ~~Office of International Epizootics List A disease, Eighth Edition, 1999, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State, chronic wasting disease, or the following List B diseases:~~ disease or clinical signs of disease listed below:

African horse sickness

African swine fever

African trypanosomiasis

Anthrax

Aujeszky's disease

Avian influenza

Bovine Babesiosis

Bovine Brucellosis

Bovine spongiform encephalopathy

Bovine Tuberculosis

Caprine and ovine brucellosis

Classical Swine Fever

Contagious agalactia

Contagious bovine pleuropneumonia

Contagious caprine pleuropneumonia

Contagious equine metritis

Crimean Congo Hemorrhagic Disease

Dourine

Enterovirus encephalomyelitis

Epizootic lymphangitis

Equine infectious anaemia

Equine Neurologic Diseases (Eastern, Western, Venezuelan, West Nile Virus, Equine Herpesvirus-1/ Equine Herpesvirus

Myeloencephalopathy)

Equine piroplasmosis

Equine viral arteritis

Equine viral encephalomyelitis

Foot and Mouth Disease

Fowl Typhoid

Glanders

Heartwater (Ehrlichia ruminantium)

Hemorrhagic septicemia (Pasteurella multocida)

Hendra virus (Equine morbillivirus)

Horse pox

Infectious haematopoietic necrosis of fish

Japanese encephalitis

Lumpy skin disease

Malignant catarrhal fever

Melioidosis (Burkholderia pseudomallei)

Nairobi sheep disease

Newcastle Disease

Nipah

Ovine epididymitis

Paratuberculosis

Peste des Petits Ruminants

Porcine brucellosis

Pullorum disease

Q fever

Rabies

Rabbit Hemorrhagic Disease

Rift Valley Fever

Rinderpest

Schmallenberg virus/ Akabane

Senecavirus A

Scrapie  
Screwworm myiasis  
Sheep and goat pox  
Spring viraemia of carp  
Surra (Trypanosoma evansi)  
Swine Vesicular Disease  
Theileriosis (T. parva or T. annulata)  
Tuberculosis (Mycobacterium bovis)  
Tularemia  
Turkey rhinotracheitis (Avian metapneumovirus)  
Trypanosomiasis  
Viral hemorrhagic septicemia of fish.  
Vesicular exanthema of swine virus  
Vesicular stomatitis

**B. Notify the State Veterinarian at (602) 542-4293 and [diseasereporting@azda.gov](mailto:diseasereporting@azda.gov), within twenty four hours of diagnosing or suspecting any disease or clinical signs of disease listed below:**

Brucellosis (Brucella spp.)  
Chronic Wasting Disease in Cervids  
Contagious Equine Metritis  
Epizootic Lymphangitis  
Equine Piroplasmiasis  
Equine Viral Arteritis  
Fowl typhoid (Salmonella gallinarum)  
Ornithosis (Psittacosis, Avian Chlamydiosis, Chlamydia psittaci)  
Pigeon Fever (Corynebacterium pseudotuberculosis)  
Pseudorabies (Aujeszky's disease)  
Q fever  
Pullorum disease (Salmonella pullorum)  
Scrapie  
Sheep scabies  
Strangles (Strep equi spp. equi)  
Swine enteric coronavirus diseases  
Trichomoniasis (Tritrichomonas foetus)

#### **Aquatic Diseases**

Crayfish plague  
Epizootic hematopoietic necrosis disease  
Epizootic ulcerative syndrome  
Gyrodactylosis  
Abalone Viral Ganglioneuritis  
Bonamiosis (B. exitiosa/ ostreae)  
Marteiliosis (M. refringens)  
Perkinsosis (P. marinus / olseni)  
Salmonid alphavirus infection  
Infection with Xenohalictis californiensis  
Infectious hematopoietic necrosis  
Infectious hypodermal and haematopoietic necrosis  
Infectious myonecrosis  
Infectious salmon anemia  
Koi herpesvirus disease  
Necrotizing hepatopancreatitis  
Red sea bream iridoviral disease  
Spring viremia of carp  
Taura syndrome  
Tilapia Lake Virus (TiLV)  
Viral hemorrhagic septicemia  
Viral nervous necrosis (VNN)  
White spot disease  
White tail disease  
Yellowhead

2.C. Notify the State Veterinarian by email at [diseasereporting@azda.gov](mailto:diseasereporting@azda.gov) or facsimile at (602) 542-4290 by the end of the month, within thirty days after diagnosing any ~~Office of International Epizooties List B disease, Eighth Edition, 1999, not specified in subsection (1). This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.~~ of the diseases listed below:

Anaplasmosis  
Avian infectious bronchitis  
Avian infectious laryngotracheitis  
Bluetongue  
Bovine cysticercosis  
Bovine genital campylobacteriosis  
Bovine viral diarrhea  
Camelpox  
Caprine arthritis/encephalitis  
Duck viral hepatitis  
Echinococcosis/hydatidosis  
Enzootic abortion of ewes  
Enzootic bovine leukosis (BLV)  
Epizootic hemorrhagic disease  
Equine Herpesvirus - 4  
Equine influenza  
Infectious bovine rhinotracheitis  
Infectious bursal disease  
Johne's disease  
Leishmaniasis  
Leptospirosis  
Maedi-visna (OPP)  
Marek's disease  
Mycoplasma Gallisepticum  
Mycoplasma Synoviae  
Myxomatosis in rabbits  
Porcine cysticercosis  
Porcine Reproductive and Respiratory Syndrome  
Paratyphoid abortion in Ewes (Salmonella abortusovis)  
Swine influenza  
Trichinellosis (Trichinella spiralis)

3. ~~Follow the reporting criteria listed in the National Animal Health Reporting system Manual, January 1, 1999 when making an Epizooties List B notification specified in subsection (2). This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.~~

### **R3-2-403. ~~Expired Quarantine for Diseased Animals~~**

- A.** A quarantine order shall be issued by the Director or his designee when the presence of a Foreign Animal Disease is suspected or diagnosed.
- B.** A quarantine order may be issued by the Director or his designee on the advice of the State Veterinarian when the presence of a disease is suspected or diagnosed.
- C.** The quarantine order may isolate specific animals, premises, counties, districts, or sections of the state and shall restrict the movement of animals.

### **R3-2-404. Importation, Manufacture, Sale, and Distribution of ~~Biologicals~~ Biologics and Semen**

- A.** Any person importing, manufacturing, selling, or distributing any ~~biological~~ biologic intended for diagnostic or therapeutic treatment of animals shall request, in writing, permission from the State Veterinarian.
- B.** The State Veterinarian shall ~~deny approval of~~ not approve the importation, manufacture, sale, or distribution of any ~~biological~~ biologic that will interfere with the State's animal disease control programs.

~~C. A person shall import semen only from boars in pseudorabies Stage IV or V states.~~

### **R3-2-405. Depopulation of Animals Infected with a Foreign Animal Disease**

When a ~~foreign animal disease~~ Foreign Animal Disease is diagnosed, the State Veterinarian ~~shall~~ may order the owner, agent, or feedlot operator to immediately depopulate and dispose of all infected and exposed animals on the premises if necessary to prevent the spread of the disease among animals.

### **R3-2-406. Disease Control; Designated Feedlots**

Designated feedlots are subject to the following restrictions:

- A. A designated feedlot shall have a restricted feeding pen. A restricted feeding pen shall:
1. Be isolated from all other pens,
  2. Have separate loading and unloading chutes, alleys, and handling facilities from all other pens,
  3. Not share water or feeding facilities accessible to other areas,
  4. Be posted at all corners with permanently affixed signs stating "Restricted Feeding Area,"
  5. Have a minimum of eight feet between restricted and other pens and facilities, and
  6. Have no common fences or gates with other pens.
- B. An operator may place diseased cattle or bison that are under state quarantine into ~~in~~ a restricted feeding pen as follows:
1. All cattle or bison, except steers and spayed heifers, shall be branded with an "F", at least two inches in height, ~~on the jaw or~~ adjacent to the tailhead before entering the pen; and
    - 2.a. Imported cattle or bison, of any age and from any area shall be transported under seal and if shall be accompanied by a-an entry permit number and an-a official health certificate Certificate of Veterinary Inspection or federal restricted movement document; or
    - 3.b. Native Arizona cattle or bison shall be accompanied by an Arizona livestock inspection certificate, as approved by the State Veterinarian or designee.
- C. An operator may ~~remove~~ move cattle or bison from a restricted feeding pen as follows:
1. ~~All animals cattle or bison, except steers and spayed heifers, shall be moved only to slaughter or to another designated feedlot; or to an auction market approved only by prior written approval of the State Veterinarian or APHIS veterinarian. for sale to slaughter.~~
  2. ~~A steer or spayed heifer may be moved to any location.~~

### **R3-2-407. Disease Control; Equine Infectious Anemia**

- A. The Arizona official test for EIA is either the agar-gel immunodiffusion test, known as the Coggins Test, or the Competitive Enzyme-Linked Immunosorbent Assay test, known as the CELISA test. The test shall be performed in a laboratory approved by APHIS, and required samples shall be drawn by an accredited veterinarian, the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
- B. Disposal of equine testing positive.
1. When an Arizona equine tests positive to EIA, the testing laboratory shall ~~immediately~~ notify the State Veterinarian by telephone at (602) 542-4293 and email at [diseasereporting@azda.gov](mailto:diseasereporting@azda.gov), or fax within four (4) hours.
  2. The EIA-positive equine shall be quarantined ~~to the premises where tested~~ at its current location, segregated from other equine, and shall not be moved unless authorized by the State Veterinarian. The equine shall be retested by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian within two weeks of the notification.
  3. Within 14 days of being notified by the testing laboratory of a positive test conducted under subsection (B)(2), the State Veterinarian or the State Veterinarian's designee shall brand the equine on the left side of its neck with "86A" not less than two inches in height.
  4. Within 10 days after being branded, the EIA-positive equine shall be:
    - a. Humanely destroyed,
    - b. Confined to a screened stall marked "EIA Quarantine" that is at least 200 yards from other equine, or

- c. Consigned to slaughter at a slaughtering establishment. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
  - 5. Offspring of mares testing EIA-positive shall be quarantined, segregated from other equine, and tested for EIA at six months of age. Offspring testing positive shall be handled as prescribed in subsections (B) (3) and (B) (4).
  - 6. If an EIA-positive equine is located on premises other than those of the owner at the time a quarantine under this Section, ~~is effective~~, the State Veterinarian may authorize movement of the EIA-positive equine to the owner's premises if requested by the owner. Movement shall be under the direct supervision of the State Veterinarian or the State Veterinarian's designee. If the owner lives in another state, the owner may move the equine to that state with the permission of the chief livestock health official of the state and APHIS.
- C. The State Veterinarian shall require testing of any equine located in the same facility as the EIA-positive equine or any equine considered exposed to the EIA-positive equine. The owner of the equine tested shall pay the expenses for the testing.
- D. The owner of any equine found to be EIA-positive shall not be indemnified by the state for any loss caused by the destruction or loss of value of the equine.

### **R3-2-408. Disposition of Livestock Exposed to Rabies**

Livestock bitten by a known or suspected rabid animal shall be handled using the methods prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 1999, ~~Part III, Section 5~~ 2016 Part I, Section B. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

### **R3-2-409. Rabies Vaccines for Animals**

All animals in Arizona vaccinated against rabies shall be vaccinated as prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 1999, ~~Part II~~ 2016 Part I Section A. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

### **~~R3-2-410. Restricted Swine Feedlots~~ Repealed**

- ~~A. The State Veterinarian shall approve restricted swine feedlots for feeding swine from herds not known to be infected with pseudorabies and not tested for pseudorabies before importation if the imported swine meet all requirements in Article 6. Swine moved from a restricted swine feedlot shall be transported directly to a state or federal slaughter facility for immediate slaughter.~~
- ~~B. No breeding swine shall be located on or within 1/4 mile of a restricted swine feedlot.~~
- ~~C. If pseudorabies is diagnosed in swine at a restricted swine feedlot, the feedlot shall be immediately quarantined and shall not receive any additional shipments of swine until the herd at the feedlot is declared free of pseudorabies or all swine are depopulated from the premises and the premises are cleaned and disinfected.~~
- ~~D. A restricted swine feedlot owner or agent shall submit monthly feedlot records to the State Veterinarian, listing the animal's origin, health certificate number, permit number, slaughter destination, and shipping date.~~

### **~~R3-2-411. Exhibition Swine~~ Repealed**

~~An exhibit official shall deny entry to any swine not individually identified by the following:~~

- ~~1. Imported swine:
 
  - ~~a. The health certificate prescribed in R3-2-606 and individual permanent identification by a method prescribed in R3-2-606(A)(5)(e)(i), and~~
  - ~~b. The import permit prescribed in R3-2-607.~~~~
- ~~2. Native Arizona swine. Individual permanent identification by a method prescribed in R3-2-606(A)(5)(e)(i).~~

~~An exhibit official shall deny entry to any sheep or goat not individually identified by the following:~~

- ~~1. Imported sheep or goat.
  - a. The health certificate prescribed in R3-2-606 and the animal identification required in R3-2-614, and
  - b. The import permit prescribed in R3-2-607.~~
- ~~2. Native Arizona sheep or goat. A method prescribed in 9 CFR 79.2(a) (2) for a non-neutered sheep or goat, and a neutered sheep or goat more than 18 months of age.~~

### **R3-2-412. ~~Exhibition Sheep and Goats~~—Repealed**

~~An exhibit official shall deny entry to any sheep or goat not individually identified by the following:~~

- ~~1. Imported sheep or goat.
  - a. The Certificate of Veterinary Inspection and the entry permit number prescribed in R3-2-607 and
  - b. Official Identification as prescribed in 9 C.F.R. 79.2 (adopted 9/18/08).~~
- ~~2. Native Arizona sheep or goat. A method prescribed in 9 CFR 79.2(a) (2) (adopted 9/18/08) for a non-neutered sheep or goat, and a neutered sheep or goat more than 18 months of age.~~

### **R3-2-413. Sheep and Goats; Intrastate Movement**

A. Before intrastate movement of a sheep more than 18 months of age, or a sheep or goat of any age not in a slaughter channel, the producer shall identify the animal to the flock of birth using official identification before leaving the flock of birth. A sheep or goat not in a slaughter channel includes an animal not for sale, transfer, or movement to:

1. A slaughter facility,
2. Custom slaughter, or
3. A feeding operation before movement to slaughter.

B. Subsection (A) does not apply if

- ~~1. The the first point of commingling with animals other than those in the flock of birth is an Arizona auction market, and that is an approved tagging site.~~
- ~~2. The auction market acts as the owner's agent to identify the sheep or goat to the flock of birth.~~

~~C. This Section is effective January 1, 2003.~~

## **ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM**

### **R3-2-501. Tuberculosis Control and Eradication Procedures**

A. Procedures for tuberculosis control and eradication in cattle, bison, and goats shall be as prescribed in the USDA publication, Bovine Tuberculosis Eradication—Uniform Methods and Rules, effective February 3, 1989-9 CFR Part 77 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

~~B. Cattle or bison willfully exposed to quarantined cattle or bison are not eligible for the tuberculosis depopulation indemnity provided in A.R.S. § 3-1745.~~

B. Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in 9 CFR 77 Subpart C as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

~~C. Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in the USDA publication, Tuberculosis Eradication in Cervidae—Uniform Methods and Rules, effective May 15, 1994, including 1995 amendments. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.~~

### **R3-2-503. Brucellosis Control and Eradication Procedures**

- A. Procedures for brucellosis control and eradication in cattle and bison shall be as prescribed in ~~the USDA publication Brucellosis Eradication Uniform Methods and Rules, effective February 1, 1998 9 CFR 78 as revised on January 1, 2018.~~ This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
- B. Procedures for brucellosis control and eradication in swine shall be as prescribed in ~~the USDA publication, Swine Brucellosis Control/Eradication, State Federal Industry Uniform Methods and Rules, revised February 1995 9 CFR 78 Subpart D as revised on January 1, 2018.~~ This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
- C. Procedures for brucellosis control and eradication in ~~Cervidae animals~~ not listed as restricted live wildlife in A.A.C. R12-4-406, shall be as prescribed in the USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective ~~September 30, 1998, and the May 14, 1999 revision, September 30, 2003.~~ This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

### **R3-2-504. Pseudorabies Procedures for Eradication**

Procedures for pseudorabies control and eradication in swine shall be as prescribed in ~~the USDA publication, Pseudorabies Eradication, State Federal Industry Program Standards, effective January 1, 1999 9 CFR 85 as revised on January 1, 2018.~~ This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

### **R3-2-505. Scrapie Procedures for Eradication**

The Department controls and eradicates scrapie using the procedures outlined in 9 CFR 54; ~~66 FR 43963-44003, August 21, 2001-79 as revised on January 1, 2018.~~ This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the Office of the Secretary of State.

## **ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS**

### **R3-2-601. Definitions Repealed**

The following terms apply to this Article:

- “Animal” means livestock, feral swine, ratite, bison, water buffalo, oxen, llama, and any exotic mammal not regulated as restricted live wildlife by the Arizona Game and Fish Department.
- “Certified copy” means a copy of an official health certificate that includes an additional original signature from the authorizing veterinarian.
- “Macaque” means any monkey of the genus *Macaca* in the family *Ceropithecidae*.
- “Official eartag” means an identification tag providing unique identification for individual animals. An official eartag that contains or displays an AIN with an 840 prefix must bear the US shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users, subject to the approval of the USDA. The official eartag must be tamper resistant and have a high retention rate in the animals. Official eartags must adhere to one of the following number systems:
  - National Uniform Ear tagging System;
  - Scrapie tags as prescribed in 9 C.F.R. 79.2
  - Animal identification number (AIN);
  - Premises based number system. The premises based number system combines an official premises identification number (PIN) with a producer’s livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag, or
  - Any other numbering system approved by the Administrator of APHIS for the identification of animals in commerce.

~~“Specifically approved stockyard” means a stockyard specifically approved by VS and the State Veterinarian for receiving from other states cattle and bison that are not brucellosis reactor, brucellosis suspect, or brucellosis exposed.~~

### **R3-2-602. Importation Requirements**

- ~~A. All animals and poultry transported or moved into the state of Arizona, unless otherwise specifically provided for in this Article, must shall be accompanied by a valid, official Certificate of Veterinary Inspection from the state of origin, or a VS 9-3 form for National Poultry Improvement Plan flocks. All animals shall be imported in accordance with this rule and the species specific rule in this article. Any violation of this article is subject to a hold order pursuant to R3-2-605.~~
- ~~1. An official health certificate from the state of origin or a permit number, or both; and~~
  - ~~2. The health documentation shall be attached to the waybill or in the possession of the driver of the vehicle or person in charge of the animals.~~
- ~~B. When a single health certificate and permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall retain the original or a certified copy of the health certificate and permit number.~~
- ~~B. Livestock may not enter the state of Arizona unless accompanied by an Arizona entry permit number documented on the Certificate of Veterinary Inspection. This requirement applies regardless of the species, breed, sex, class, age, point of origin, place of destination, or purpose of the movement of the livestock entering the state, except:~~
- ~~1. Equine;~~
  - ~~2. Livestock consigned directly to slaughter at a state or federally licensed slaughter establishment; or~~
  - ~~3. Livestock being transported through the state.~~
- ~~C. An animal affected with or recently exposed to any infectious, contagious, or communicable disease, or which originates in a state or federal quarantine area, shall not be transported or moved into the state of Arizona unless a permit for the entry is first obtained from the Arizona State Veterinarian’s Office. All conditions for the movement of animals from a quarantined area established by the quarantining authority or APHIS shall be met. Animals imported from a quarantine area may be subject to additional import requirements by the State Veterinarian prior to entry into Arizona.~~
- ~~D. The owner or owner’s agent shall obtain prior permission from the State Veterinarian to ship or move into the state of Arizona any animal from a lot or herd from which an animal shows clinical signs of disease or positive reaction to a test required for admission to Arizona.~~
- ~~E. The Director may enter into an agreement to allow New Mexico livestock consigned directly to an Arizona livestock auction to enter the state on a New Mexico brand inspection certificate in place of a Certificate of Veterinary Inspection. If the agreement is entered, it shall be posted on the Arizona Department of Agriculture’s website. In the event the agreement is terminated or expires, the Department shall put notice of the termination on the website. The livestock owner or owner’s agent is responsible for ensuring that the agreement is current prior to shipping the livestock. This process is subject to the restrictions included in the agreement.~~

### **R3-2-603. Importation of Diseased Animals Repealed**

- ~~A. An animal affected with or recently exposed to any infectious, contagious, or communicable disease, or which originates in a state or federal quarantine area, shall not be transported or moved into the state of Arizona unless a permit for the entry is first obtained from the Arizona State Veterinarian’s Office. All conditions for the movement of animals from a quarantined area established by the quarantining authority or APHIS shall be met.~~
- ~~B. The owner or owner’s agent shall obtain prior permission from the State Veterinarian to ship or move into Arizona any animal from a lot or herd from which an animal shows a suspicious or positive reaction to a test required for admission to Arizona.~~

### **R3-2-604. Livestock Permit Requirements; Exceptions Repealed**

- ~~A. Livestock may not enter the state of Arizona unless accompanied by an Arizona permit. Except as discussed in subsection (B), this requirement applies regardless of the species, breed, sex, class, age, point of origin, place of destination, or purpose of the movement of the livestock entering the state.~~
- ~~B. Exceptions:~~
- ~~1. Horses, mules, and asses; or~~
  - ~~2. Livestock consigned directly to slaughter at a state or federally licensed slaughter establishment.~~

### **R3-2-605. Quarantine Hold Order for Animals Entering Illegally**

- ~~A. Animals entering the state without a valid health certificate or permit number or both, if required, or in violation of any Section under 3 A.A.C. 2 this Article, shall may be held in quarantine placed under a hold order at the risk and expense of the owner until released by an authorized representative of the State Veterinarian. Animals placed under quarantine a hold order for noncompliance with this Article may be released only after the State Veterinarian is satisfied by testing, dipping, or observation over time, that the animals are not a threat to the livestock industry.~~
- ~~B. The State Veterinarian may request order that an imported animal failing to meet entry requirements be returned to the state of origin, consigned directly to slaughter, confined to a designated feedlot, or consigned to a feedlot in another state within two weeks of the request. Any extension to this time-frame shall must be approved in writing by the State Veterinarian.~~
- ~~C. If the owner or owner's agent fails to comply with a an request order to return an animal to the state of origin within the time-frame required in subsection (B), the Department shall require that the animal be immediately gathered and tested at the owner's risk and expense to avoid exposure of Arizona animals to disease. The owner shall pay the expenses no later than five days after receipt of the bill, or Failure to do so will result in an auction of sufficient livestock to pay the just expenses which shall be held within 10 days at a livestock public auction market. If additional expenses occur due to lack of cooperation by the owner or the owner's agent, the Director shall order the further sale of livestock.~~

### **R3-2-606. Health Certificate Certificate of Veterinary Inspection**

- ~~A. A health certificate Certificate of Veterinary Inspection is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article, and shall contain:~~
- ~~1. The name and address of the shipper Consignor and receiver Consignee;~~
  - ~~2. The physical address of the origin of the animal;~~
  - ~~3. The physical address of the animal's final destination;~~
    - ~~a. Entry permit number if applicable;~~
    - ~~b. Official identification if applicable; and~~
    - ~~c. Certificate of Veterinary Inspection individual certificate number.~~
    - ~~d. Qualifying required tests with completion dates.~~
  - ~~4. Cattle:~~
    - ~~a. The number of animals covered by the health certificate, an accurate description and, except for steers, spayed heifers, or "F" branded heifers consigned to a designated feedlot identified by brand, one of the following individual identifications:
      - ~~i. The official eartag number that, for dairy cattle, identifies the herd of birth, or~~
      - ~~ii. The registration tattoo number and the registration brand of a breed association recognized by VS.~~~~
    - ~~b. The health status of the animals, including date and result of an inspection, dipping, test, or vaccination required by Arizona;~~
    - ~~c. The method of transportation; and~~
    - ~~d. For bulls subject to testing under R3-2-612(J), a statement that the bulls:
      - ~~i. Tested negative for Tritrichomonas foetus within one month prior to shipment using a polymerase chain reaction test or three cultures collected at intervals of no less than seven days apart; and~~
      - ~~ii. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.~~~~
  - ~~5. Swine.~~

- a. ~~Evidence that the swine have been inspected by the veterinarian issuing the health certificate within 10 days before the shipment;~~
  - b. ~~A statement that:
 
    - i. ~~The swine have never been fed garbage, and~~
    - ii. ~~The swine have not been vaccinated for pseudorabies;~~~~
  - c. ~~Except for feeder swine consigned to a restricted swine feedlot:
 
    - i. ~~A list of the individual permanent identification for each exhibition swine, using an ear notch that conforms to the universal swine ear notch system or for each commercial swine, using other individual identification, and the premises identification using a tattoo or producer furnished tamper-proof eartag that conforms to the USDA National Premises Identification System;~~
    - ii. ~~The validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd;~~
    - iii. ~~The pseudorabies status of the state of origin; and~~
    - iv. ~~The pseudorabies qualified negative herd number, if applicable;~~~~
  - d. ~~Except for feeder swine consigned to a restricted swine feedlot, swine moving directly to an exhibition, and swine from a farm of origin in a state recognized by APHIS as a pseudorabies Stage V state, a statement that the swine shall be quarantined on arrival at destination and kept separate and apart from all other swine until tested negative for pseudorabies no sooner than 15 days nor later than 30 days after entry into Arizona; and~~
  - e. ~~Feeder swine consigned to a restricted swine feedlot shall be identified by premises of origin using a tattoo or producer furnished tamper-proof eartag that conforms to the USDA National Premises Identification System;~~
6. ~~Sheep and goats.~~
- a. ~~Individual identification prescribed in R3-2-614;~~
  - b. ~~A statement that:
 
    - i. ~~The sheep or goats are not infected with bluetongue, or exposed to scrapie, and do not originate from a scrapie-infected or source flock;~~
    - ii. ~~Breeding rams have been individually examined and are free of gross lesions of ram epididymitis; and~~~~
  - c. ~~A statement that the sheep or goat test negative for Brucella ovis if a test is required by R3-2-614(B); and~~
7. ~~Equine.~~
- a. ~~An accurate identification for each equine covered by the health certificate including age, sex, breed, color, name, brand, tattoo, sears, and distinctive markings; and~~
  - b. ~~A statement that the equine has a negative test for EIA, as required in R3-2-615, including:
 
    - i. ~~The date and results of the test;~~
    - ii. ~~The name of the testing laboratory; and~~
    - iii. ~~The laboratory accession number.~~~~
- B.** ~~Additions, deletions, and unauthorized or uncertified changes inserted or applied to a health certificate renders the certificate void. Uncertified photocopies of health certificates are invalid.~~
- B.** The Certificate of Veterinary Inspection shall be forwarded to the State Veterinarian in Arizona within 14 days of issue.
- C.** The veterinarian issuing a health certificate shall certify that the animals shown on the health certificate are free from evidence of any infectious, contagious, or communicable disease or known exposure.
- C.** A VS form 17-30 is deemed a valid international CVI if the following conditions are met:
- 1. Accompanied by a valid brand inspection certificate from a southern border state with an entry permit number; and
  - 2. Official identification as documented on the VS form 17-30.
- D.** ~~An accredited veterinarian shall inspect animals for entry into the state.~~
- D.** Official Certificates of Veterinary Inspection may be used in electronic or paper form.

- ~~E. The Director may limit the period for which a health certificate is valid to less than 30 days if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.~~
- E. Additions, deletions, and unauthorized or uncertified changes inserted or applied to a Certificate of Veterinary Inspection renders the certificate void and may be subject to state or federal penalties.
- F. The veterinarian issuing a Certificate of Veterinary Inspection shall certify that the animals shown on the Certificate of Veterinary Inspection are free from evidence of any infectious, contagious, or communicable disease or known exposure.
- G. An accredited veterinarian shall inspect animals for entry into the state.
- H. The Director may limit the period for which a Certificate of Veterinary Inspection is valid to less than 30 days if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.

### **R3-2-607. Entry Permit Number**

- A. ~~A~~ An entry permit number for interstate movement may be obtained from the Office of the State Veterinarian, by calling (602) 542-4293 during the hours of 8 a.m. to 5 p.m. Monday through Friday, excluding state holidays. Any person applying for ~~A~~ an entry permit number shall provide the following information:
  - 1. The name and address of the ~~shipper~~ Consignor and ~~receiver~~ Consignee;
  - 2. The number and kind of animals;
  - 3. The physical address of the origin of shipment;
  - 4. The physical address of the shipment's final destination;
  - 5. The method of transportation; and
  - 6. Any other information required by the State Veterinarian.
- B. ~~A~~ An entry permit number is valid for ~~15~~ a maximum of 30 calendar days from the date of issuance unless otherwise ~~specified~~ indicated on the CVI.
- C. ~~A~~ An entry permit number shall be issued if the animals listed on the ~~permit~~ Certificate of Veterinary Inspection are in compliance with this Article. To cope with changing disease conditions, the State Veterinarian may refuse to issue ~~A~~ an entry permit number or may require additional conditions not specifically established in this Article if necessary to protect animal health in Arizona.
- D. The entry permit number issued shall be affixed or written on the ~~health certificate~~ Certificate of Veterinary Inspection, brand inspection certificate, and any other official documents as follows: "Arizona Permit No. \_\_\_\_\_" followed by the serialized number.
- E. The State Veterinarian shall refuse to grant ~~A~~ an entry permit number to any person who repeatedly commits the following:
  - 1. Giving false information concerning ~~A~~ an entry permit number for transportation of animals,
  - 2. Failing to fulfill the conditions of ~~A~~ an entry permit number, or
  - 3. Failing to obtain ~~A~~ an entry permit number.

### **R3-2-608. Consignment of Animals Repealed**

~~The owner, or owner's agent, of an animal transported or moved into Arizona, except an exhibition or show animal, shall consign the animal to or place it in the care of an Arizona resident or an entity authorized to do business in Arizona.~~

### **R3-2-609. Diversion; Prohibitions**

A person consigning, transporting, or receiving an animal into the state of Arizona shall not authorize, order, or carry out diversion of the animal to a destination or consignee other than as set forth on the ~~health certificate~~ Certificate of Veterinary Inspection and entry permit, if required, without first obtaining permission from the State Veterinarian.

### **R3-2-611. Transporter Duties**

- A. All owners and operators of railroads, trucks, airplanes, or other conveyances transporting animals into or through the state shall possess ~~a valid health certificate under R3-2-606, and a permit number issued by the State Veterinarian, if required by R3-2-607.~~ all of the importation documents required by this Article. These

documents shall be attached to the waybill, or be in the possession of the vehicle driver, or person in charge of the animals. When a single ~~health certificate~~ Certificate of Veterinary Inspection ~~or~~ and entry permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall possess the original or a ~~certified~~ copy of the ~~health certificate~~ Certificate of Veterinary Inspection containing the entry permit number, if required.

- B. The owner or operator of a railroad car, truck, airplane, or other conveyance used to transport animals into or through the state shall maintain the conveyance in a clean and sanitary condition.
- C. The owners and operators of railroads, trucks, airplanes, or other conveyances who transport animals into the state in violation of this Section shall clean and disinfect the conveyance in which the animals were illegally brought into the state before using the conveyance for transporting more animals. The cleaning and disinfection shall be performed under the supervision of an authorized representative of the State Veterinarian or the USDA.
- D. The owners ~~and~~ or operators of railroads, trucks, airplanes, or other conveyances shall follow the USDA requirements; and Arizona Department of Agriculture and Arizona Commerce Commission rules and ~~Arizona~~ statutes, in the humane transport of animals into, within, or through the state.

### **R3-2-612. Importation of Cattle and Bison**

~~A.~~ The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in R3-2-602 through R3-2-611 and the following conditions:

- ~~1. Pay the expenses incurred to quarantine, test, and retest the imported cattle or bison or return them to the state of origin.~~
- ~~2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies an official eartag to each animal.~~

A. The Certificate of Veterinary Inspection for cattle and bison shall include:

- 1. A valid entry permit number
- 2. The number of cattle and bison covered by the Certificate of Veterinary Inspection, an accurate description and official identification, if applicable except for "F" branded heifers consigned to a designated feedlot identified by brand.
- 3. The health status of the cattle and bison including:
  - a. The date of the inspection;
  - b. The dipping date, if applicable;
  - c. The date of negative results for required testing under this Article; and
  - d. The vaccination status as required by this Article.
- 4. The method of transportation; and
- 5. For bulls subject to testing under R3-2-612 (I), a statement that the bulls:
  - a. Tested negative for Tritrichomonas foetus within 30 days prior to shipment using a polymerase chain reaction test; and
  - b. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.

~~B.~~ Arizona shall not accept:

- ~~1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:~~
  - a. ~~Steers and spayed females, and~~
  - b. ~~Animals shipped directly for immediate slaughter to an official state or federal slaughter establishment;~~
- ~~2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot;~~
- ~~3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class Free State, or without tuberculosis status comparable to an Accredited Free State;~~
- ~~4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;~~

5. ~~Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.~~

**B. The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in this article. Failure to comply with entry requirements will incur the following conditions:**

1. Pay the expenses incurred by a hold order to test and retest the imported cattle or bison or return them to the state of origin.
2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies an official eartag identification to each bovine or bison.

**C. ~~Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.~~**

1. ~~The owner or owner's agent shall ensure that an official calfhood vaccinate is tested negative for brucellosis within 30 days before entering Arizona if the official calfhood vaccinate is:
  - a. 18 months or older,
  - b. Cutting the first set of permanent incisors, or
  - c. Parturient or postparturient.~~
2. ~~The owner or owner's agent shall ensure that bulls and non-vaccinated heifers test negative for brucellosis if 12 months of age or older, unless consigned for feeding purposes to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand upon arrival. All "F" branded cattle or bison that leave the designated feedlot shall be shipped directly to:
  - a. An official state or federal slaughter establishment for immediate slaughter,
  - b. Another designated feedlot, or
  - c. Another state if shipping is permitted by the State Veterinarian in the state of destination.~~
3. ~~If cattle or bison originate from a Certified Brucellosis Free Herd and the herd certification number is documented on the health certificate and import permit, no brucellosis test is required.~~
4. ~~If native ranch cattle are from a brucellosis Class Free State that does not have free-ranging brucellosis infected bison or wildlife, no brucellosis test is required as long as:
  - a. The native ranch cattle are moved directly from the ranch of origin to an Arizona destination and the official eartag numbers are listed on a health certificate; or
  - b. The native ranch cattle are from a state that has a brand inspection program approved by the State Veterinarian and the owner's brand is listed on a brand inspection certificate or health certificate.~~
5. ~~Health and brand inspection certificates issued for the movement shall be forwarded to the State Veterinarian in Arizona within two weeks of issue.~~
6. ~~The owner or owner's agent:
  - a. Shall ensure that beef breeding cattle or breeding bison from a Class A State the cattle remain under import quarantine and isolation until the cattle test negative for brucellosis. The test shall be performed no earlier than 45 days and no later than 120 days after entry.
  - b. Shall retest dairy cattle if the State Veterinarian determines there is a potential risk of the introduction of brucellosis in the state.
  - c. Is not required to quarantine or test for brucellosis official calfhood vaccinates less than 18 months of age, if permission is granted by the State Veterinarian.~~
7. ~~The owner or owner's agent:
  - a. Shall notify the State Veterinarian within seven days of moving cattle or bison that are under import quarantine from the destination listed on the import permit and health certificate
  - b. Shall notify the State Veterinarian at the time animals are retested for brucellosis, if the animals are under import quarantine and are not moved from the destination listed on the import permit and health certificate.
  - c. Is not required to notify the State Veterinarian if the cattle or bison are shipped directly to an official state or federal slaughter establishment for immediate slaughter.~~

- ~~8. Beef breeding cattle, breeding bison, and dairy cattle meeting the criteria of subsections (C)(1) or (C)(2) and not meeting the criteria of subsection (C)(3) may be imported without a brucellosis test if moved to a specifically approved stockyard and tested before sale or movement from the stockyard. The owner or owner's agent shall not commingle these cattle or bison with other cattle or bison until these cattle or bison are tested and found to be brucellosis negative.~~
- ~~9. Within seven days after importation, the owner or owner's agent shall ensure that the individual official eartag identification for imported dairy cattle is the same as that listed on the health certificate and the owner or the owner's agent shall report any discrepancies between the official eartag and the health certificate to the State Veterinarian. Any dairy cattle shipped into Arizona not documented on the health certificate shall be tested for brucellosis and tuberculosis by the receiver within one week of arrival.~~

C. Arizona shall not accept:

1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:
  - a. Steers and spayed females, and
  - b. Cattle or bison shipped directly for immediate slaughter to an official state or federal slaughter establishment;
2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot;
3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class-Free State, or without tuberculosis status comparable to an Accredited-Free State;
4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;
5. Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.

D. Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.

- ~~1. Before to entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, January 1, 2007, as amended on December 4, 2013. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.~~
- ~~2. The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis. The test shall not be performed earlier than 60 days nor later than 120 days after entry into Arizona. The test shall be performed again on breeding cattle and breeding bison 30 days after calving, unless the animals were consigned to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official eartag identification records are kept on all incoming consignments and then submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.~~
- ~~3. Dairy cattle from Mexico shall test for brucellosis again 30 days after calving, unless the dairy cattle were consigned directly to a feedlot.~~

D. Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.

1. Brucellosis testing is not required in dairy and beef cattle from a brucellosis Class-Free State that does not have free-ranging brucellosis infected bison or wildlife.

2. Brucellosis not required for any cattle or bison consigned to a designated feedlot that are branded with an "F" adjacent to the tail head as long as the State Veterinarian grants permission to apply the "F" brand upon arrival. All "F" branded cattle or bison that leave the designated feedlot shall be shipped directly to:
  - a. An official state or federal slaughter establishment for immediate slaughter,
  - b. Another designated feedlot, or
  - c. Another state if shipping is permitted by the State Veterinarian in the state of destination.
3. All female dairy cattle four months of age or older, imported into Arizona, shall be official calfhood vaccinates, officially identified, certified, and legibly tattooed except for the following:
  - a. Show cattle for exhibition,
  - b. Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and
  - c. Cattle consigned for feeding purposes to a designated feedlot with an entry permit number.
4. For beef breeding cattle, breeding bison, and dairy breeding cattle from a Class A state the owner or owner's agent:
  - a. Shall ensure that the cattle remain under ~~import~~ quarantine and isolation until the cattle test negative for brucellosis. The test shall be performed no earlier than 45 days and no later than 120 days after entry.
  - b. Shall retest dairy cattle if the State Veterinarian determines there is a potential risk of the introduction of brucellosis in the state.
  - c. Is not required to quarantine or test for brucellosis official calfhood vaccinates less than 18 months of age, if permission is granted by the State Veterinarian.
5. The owner or owner's agent:
  - a. Shall notify the State Veterinarian within seven days of moving cattle or bison that are under quarantine from the destination listed on the import permit and Certificate of Veterinary Inspection.
  - b. Shall notify the State Veterinarian at the time animals are retested for brucellosis, if the animals are under quarantine and are not moved from the destination listed on the import permit and Certificate of Veterinary Inspection.
  - c. Is not required to notify the State Veterinarian if the cattle or bison are shipped directly to an official state or federal slaughter establishment for immediate slaughter.

~~E. Except for the following all female dairy cattle four months of age or older, imported into Arizona, shall be official calfhood vaccinates, properly identified, certified, and legibly tattooed:~~

- ~~1. Show cattle for exhibition,~~
- ~~2. Cattle from a Certified Brucellosis-Free Herd with permission of the State Veterinarian,~~
- ~~3. Cattle from a brucellosis free state or country with permission of the State Veterinarian,~~
- ~~4. Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and~~
- ~~5. Cattle consigned for feeding purposes to a designated feedlot under import permit.~~

E. Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.

1. No tuberculosis test is required for:
  - a. Beef breeding cattle or breeding bison, from a tuberculosis accredited Free State if the state accredited status is documented on the Certificate of Veterinary Inspection and entry permit; or
  - b. Steers and spayed heifers.
2. Beef breeding cattle and breeding bison from a Tuberculosis Modified Accredited State or Tuberculosis Class Free State with a Tuberculosis Quarantine in effect, shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.
3. All dairy breeding cattle greater than 120 days of age shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.

~~F. When imported breeding cattle, breeding bison, or dairy cattle under import quarantine and isolation are sold at a specifically approved stockyard, the owner or owner's agent shall, at the time of the sale, identify those cattle to the new owner as being under import quarantine. If market cattle identification testing for brucellosis is conducted at the auction, the owner or owner's agent shall ensure that the cattle or bison are tested before the sale. The new owner shall segregate the cattle or bison and retest for brucellosis 45 to 120 days after the animals entered the state.~~

F. Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.

1. Prior to entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
2. The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis. The test shall not be performed earlier than 60 days nor later than 120 days after entry into Arizona. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official eartag identification records are kept on all incoming consignments and then submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.
3. Dairy cattle from Mexico shall test for brucellosis again 30 days after calving, unless the dairy cattle were consigned directly to a feedlot.

~~G. Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.~~

- ~~1. No tuberculosis test is required for:
  - a. Beef breeding cattle or breeding bison, or dairy cattle from a tuberculosis accredited herd Free State if the herd accreditation number is documented on the health certificate and import entry permit; or
  - b. Native commercial and purebred beef breeding cattle from an Accredited Free State if its accredited free status is documented on the health certificate; and
  - c. Steers and spayed heifers~~
- ~~2. Unless from an accredited herd, prescribed in subsection (G)(1), the owner or owner's agent shall ensure that purebred beef breeding cattle from modified accredited states, breeding bison, dairy females, and bulls for breeding dairy cattle test negative for tuberculosis within 60 days before entry into Arizona.~~

H.G. Tuberculosis testing requirements for cattle and bison imported into Arizona from Mexico.

1. Before~~Prior to~~ entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427 as revised on January 1, 2018, incorporated by reference in subsection ~~(D)~~ (F) (1).
2. Steers and spayed heifers from states or regions in Mexico shall not enter the state if they have not been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico.
3. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico shall not be imported into Arizona without permission of the State Veterinarian.
4. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:

- a. Tested negative for tuberculosis in accordance with procedures equivalent to the ~~Bovine Tuberculosis Eradication—Uniform Methods and Rules~~ 9 CFR Part 77 as amended on January 9, 2013 within 60 days before entry into the United States, or
  - b. Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
5. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single group and not commingled with other cattle before arriving at the border.
  6. Beef breeding cattle and breeding bison from states or regions in Mexico may be imported into Arizona if the State Veterinarian determines the Eradication or Free Phase of the bovine tuberculosis eradication program of Mexico has been fully implemented and the breeding cattle and breeding bison remain under ~~import~~ quarantine and isolation until retested negative for tuberculosis in accordance with the ~~Bovine Tuberculosis Eradication—Uniform Methods and Rules~~ 9 CFR Part 77 as revised on January 1, 2018. The test shall be performed not earlier than 60 days but not later than 120 days after entry unless consigned to a designated feedlot for feeding purposes only. Unless neutered, all beef breeding cattle or breeding bison consigned to a designated feedlot shall be branded with an “F” adjacent to the tail head before entry into Arizona, unless permission is granted by the State Veterinarian to apply the “F” brand on arrival. All beef breeding cattle or breeding bison leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official ~~ear tag~~ identification records are kept on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all beef breeding cattle and breeding bison leaving the designated feedlot. A copy of the form shall accompany the cattle and bison to slaughter and a copy shall be submitted to the State Veterinarian.

**I.H.** Bovine scabies requirements.

1. The owner or owner’s agent shall ensure that no cattle or bison affected with or exposed to scabies is shipped, trailed, driven, or otherwise transported or moved into Arizona except cattle or bison identified and moving under ~~permit number~~ a VS Form 1-27 and seal for immediate slaughter at an official state or federal slaughter establishment.
2. The owner or owner’s agent of cattle or bison from an official state or federal scabies quarantined area shall comply with the requirements of 9 CFR 73, Scabies in Cattle, ~~January 1, 2007, as revised on January 1, 2018~~, before moving the cattle or bison into Arizona. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
3. The State Veterinarian may require that breeding and feeding cattle and bison from known scabies infected areas and states be dipped or treated even if the animals are not known to be exposed. The State Veterinarian shall require that dairy cattle be dipped only if the animals are known to be exposed; otherwise ~~a~~ an accredited veterinarian’s examination and certification shall be sufficient.

**J.I.** Trichomoniasis requirements for bulls imported into Arizona from other states.

1. The owner or owner’s agent shall ensure bulls:
  - a. Test negative for Trichomonas foetus within 30 days prior to shipment using a polymerase chain reaction test or ~~three cultures collected at intervals of no less than seven days apart~~, a diagnostic test approved by the state veterinarian, except for bulls:
    - i. Less than ~~one year~~ twelve months of age,
    - ii. Consigned directly to a state or federal licensed slaughter facility,
    - iii. Consigned directly to a dairy,
    - iv. Consigned directly to an exhibition or rodeo,
    - v. Consigned directly to a licensed feedlot for castration on arrival,
    - vi. Branded with an “F” adjacent to the tailhead and consigned directly to a designated feedlot for feeding and later movement directly to slaughter, and

b. Have no breeding activity during the interval between the collection of a sample and the date of shipment.

c. The following statements documented on the CVI in reference to R3-2-612 (A) (5):

i. Test negative for Tritrichomonas foetus within 30 days prior to shipment using a polymerase chain reaction test; and

ii. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.

2. An accredited veterinarian approved to collect samples for Tritrichomonas foetus testing by the state animal health official in the state of origin shall collect the Tritrichomonas foetus test samples.

3. A laboratory approved to conduct tests for Tritrichomonas foetus by the state animal health official in the state of origin shall perform the test for Tritrichomonas foetus.

J. For purposes of this section beef breeding cattle means intact beef cattle.

### **R3-2-613. Importation of Swine**

~~A. The owner of swine entering Arizona, or the owner's agent, shall comply with the requirements of Article 6 and the following conditions:~~

~~1. Pay the expenses incurred to quarantine, test, and retest the imported swine; and~~

~~2. Obtain an official health certificate specified in R3-2-606-613 and permit specified in R3-2-607.~~

A. A Certificate of Veterinary Inspection for swine shall include:

1. A valid entry permit number;

2. The following statements recorded on the CVI;

a. The swine listed on this CVI have never been fed garbage; and

b. The swine listed on this CVI have not been vaccinated for pseudorabies;

3. Official Identification; and

4. If applicable, the validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd.

**B. Brucellosis test requirements. ~~Breeding swine~~ Swine imported into Arizona from other states shall:**

1. Originate from a validated swine brucellosis-free herd or from a swine brucellosis-free state; or

2. Test negative for brucellosis within 30 days before entry.

**~~C. Pseudorabies test requirements. Swine imported into Arizona from other states shall:~~**

~~1. Be shipped directly from:~~

~~a. The farm of origin in a state recognized by USDA APHIS as a pseudorabies Stage IV or Stage V state,~~

~~b. The farm of origin in a state recognized by USDA APHIS as a pseudorabies Stage III state if the swine are:~~

~~1. Consigned directly to a terminal exhibition of only neutered swine,~~

~~2. Tested negative within 15 days before entry, and~~

~~3. Transported directly to a state or federally inspected slaughter facility immediately after the exhibition in a truck sealed by the State Veterinarian or agent;~~

~~c. A pseudorabies monitored feeder pig herd in a pseudorabies Stage II or Stage III state if the swine is consigned to a restricted swine feedlot; or~~

~~d. A sale in a state recognized by USDA APHIS as a pseudorabies Stage IV or Stage V state if all swine entered in the sale are from a state recognized by USDA APHIS as a pseudorabies Stage IV or Stage V state.~~

~~2. Except for feeder swine consigned to a restricted swine feedlot, swine moving directly to exhibition, and swine from a farm of origin in a state recognized by USDA APHIS as a pseudorabies Stage V state, remain under import quarantine and isolation at the location specified on the import permit~~

and health certificate Certificate of Veterinary Inspection, with the following restrictions, until tested negative for pseudorabies no sooner than 15 days or later than 30 days after entry:

- e. ~~The isolation pen shall be at least 200 feet from straying pigs, other livestock, pets, or working dogs, and not be accessible to normal traffic flow;~~
  - f. ~~Equipment, tools, and implements shall not be moved from an isolation pen and used at another pen;~~
  - g. ~~Workers shall disinfect their shoes and clothing before working with other livestock or the main herd; and~~
  - h. ~~The distance between an isolation pen barrier and another swine pen barrier shall be at least 200 feet and the isolation pen shall be double fenced to prevent exposure to accidental strays.~~
  - i. ~~Imported quarantined swine testing positive after entry shall be shipped directly to a state or federal slaughter establishment within 15 days after the positive identification and shall be accompanied by a USDA VS Form 1-27. The remainder of exposed animals shall be quarantined until the herd is declared free of the disease, or all exposed animals are depopulated and the premises cleaned and disinfected.~~
3. ~~If swine move directly to exhibition from a herd in a Stage IV state, and remain in the state, the swine shall be held under import quarantine at a location disclosed by the exhibitor. The exhibitor shall disclose the location of the quarantine facility to the Department within three days of the end of the exhibition. The swine shall be quarantined according to the restrictions identified in subsections (C)(2)(a) through (C)(2)(e) until tested negative for pseudorabies no sooner than 15 days or later than 30 days after entry into the state.~~

#### C. ~~Exhibition Swine~~

1. ~~All imported exhibition swine not moved directly to an exhibition in Arizona shall be inspected by a Department livestock officer, inspector, or documented through self-inspection requirements.~~
2. ~~Exhibit officials shall deny entry to any swine not accompanied by the following documents:~~
  1. ~~Imported swine moved directly to an exhibition. An official certificate of veterinary inspection specified in this article and an entry permit number specified in R3-2-607 and R3-2-613;~~
  2. ~~Imported swine not moved directly to the exhibition. A Department issued certificate of inspection of exhibition swine containing the following:~~
    1. ~~The name, address, telephone number, and signature of the owner;~~
    2. ~~The name of the inspector and the date, time, and location of the inspection;~~
    3. ~~The individual identification of the swine (see section R3-2-613 A.3)~~
3. ~~Native Arizona swine. A Department issued certificate of inspection of exhibition swine containing the following:~~
  1. ~~The name, address, telephone number, and signature of the owner;~~
  2. ~~The name of the inspector and the date, time, and location of the inspection;~~
  3. ~~The individual identification of the swine (see section R3-2-613 A.3)~~
4. ~~Department issued certificate of inspection of exhibition swine. The owner shall provide the Department with:~~
  - a. ~~Imported swine.~~
    1. ~~The certificate of veterinary inspection listing entry permit and individual identification of the swine (see section R3-2-613 A.3)~~
    2. ~~If from a Stage IV state, documentation of a negative pseudorabies test conducted 15 to 30 days after entry.~~

~~b. Native swine.~~

~~1. A bill of sale listing:~~

- ~~1. The name of the seller and buyer;~~
- ~~2. The individual identification of the swine (see section R3-2-613 A.3)~~
- ~~3. The date of the sale; or~~

~~2. Verification that the swine has been raised in Arizona and the individual identification of the swine.~~

C. For purposes of this section, breeding swine means intact swine that have had breeding activity.

D. It is unlawful for any person to import into the state of Arizona live feral swine. Any person or corporation owning or possessing a live feral swine in this state shall at all times keep such feral swine in a safe and suitable enclosure so that it may not run at large or damage the person or property of others. For purposes of this section, feral swine means a hog, boar, or pig that appear to be untamed, undomesticated, or in a wild state; or appear to be contained for commercial hunting or trapping.

### **R3-2-614. Importation of Sheep and Goats**

~~A. The owner of a sheep or goat entering Arizona, or the owner's agent, shall comply with the requirements of~~

~~1. Article 6 and pay the expenses incurred to quarantine, test, and retest the sheep or goat.; and~~

~~2. Animal identification prescribed in 9 CFR 79, January 1, 2007, edition. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.~~

A. A Certificate of Veterinary Inspection for sheep and goats shall include:

1. A valid entry permit number

2. A statement that:

- a. The sheep or goats are not infected with bluetongue, or exposed to scrapie, and do not originate from a scrapie-infected or source flock; and
- b. The sheep or goats test negative for Brucella ovis if a test is required by R3-2-614 B; and if applicable
- c. Breeding rams have been individually examined and are free of gross lesions of ram epididymitis.

B. A breeding ram six months of age or older shall test negative for Brucella ovis within 30 days of entry or originate from a certified brucellosis-free flock. An exhibition ram that returns to the out-of-state flock of origin within five days of the conclusion of the exhibit is exempt from the testing requirement of this subsection

C. Arizona native commercial flocks participating in a Brucella ovis control program through testing performed by an accredited and licensed veterinarian may return to Arizona from another state without testing, provided the flock has not commingled with other flocks.

### **R3-2-615. Equine-Importation of Equine**

~~A. Except for R3-2-607, an equine may enter the state as prescribed in R3-2-602 through R3-2-611.~~

A. A Certificate of Veterinary Inspection for equine shall include:

1. An accurate identification for each equine including age, sex, breed, color, name, brand, tattoo, scars, microchip if any, and distinctive markings; and

2. A statement that the equine has a negative test for EIA, including:

- i. The date and results of the test;
- ii. The name of the testing laboratory; and
- iii. The laboratory accession number.

~~3. A statement that the equine does not have fistulous withers or poll evil.~~

~~B. A person shall not import an equine with fistulous withers or poll evil.~~

- B. Equine entering the state are not required to obtain an entry permit number.
- C. All equine six months of age or older shall, using a test established in R3-2-407(A), ~~be tested~~ negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner.
- D. Extended Equine Certificates of Veterinary Inspection (EECVI) are valid for the life of the certificate (up to 6 months) in the state of Arizona. The equine listed on the EECVI shall be officially identified with a microchip.

**R3-2-616. Importation of Cats and Dogs**

A dog or cat shall be accompanied by a ~~health certificate~~ Certificate of Veterinary Inspection that documents the animal is currently vaccinated against Rabies ~~if older than 3 months of age~~ according to the requirements of the National Association of State Public Health Veterinarians' Compendium of Animals Rabies Control, incorporated by reference in R3-2-409.

**R3-2-617. Importation of Poultry**

~~The Department has no disease testing entry requirements on poultry~~ Poultry entering the state shall provided the poultry appear healthy, do not originate from a poultry quarantine area, comply with all interstate requirements of APHIS, and are be accompanied by a health certificate Certificate of Veterinary Inspection or Form 9-3 from the National Poultry Improvement Program.

**R3-2-618. Importation of Psittacine Birds**

- A. The owner or the owner's agent of a Psittacine bird entering Arizona shall obtain a ~~health certificate~~ Certificate of Veterinary Inspection issued by a veterinarian within 30 days of entry, certifying:
  1. The bird is not infected with the agent that causes avian chlamydiosis, and
  2. The bird was not exposed to birds known to be infected with avian chlamydiosis within the past 30 days.
- B. The ~~health certificate~~ Certificate of Veterinary Inspection shall accompany the Psittacine bird at the time of entry into Arizona.

**R3-2-620. Importation of Zoo Animals**

- A. An owner or owner's agent may transport or move zoo animals into the state of Arizona if the animals are accompanied by an official ~~health certificate~~ Certificate of Veterinary Inspection, and consigned to a zoo or in the charge of a circus or show.
- B. The owner, or owner's agent, of ~~an animal~~ livestock except swine and equine in a "Petting Zoo" shall have the ~~animal~~ livestock tested for tuberculosis within 12 months before importation. A negative test result is required for entry into Arizona.
- C. A business that transports or exhibits zoo animals shall be licensed by the Arizona Game and Fish Department.

**ARTICLE 7. LIVESTOCK INSPECTION**

**R3-2-701. Department Livestock Inspection**

- A. A Division employee shall inspect range cattle, as defined in R3-2-702(A), at a ranch if the owner or agent of livestock is:
  1. Moving cattle out-of-state,
  2. Transferring cattle ownership, or
  3. Shipping cattle for custom slaughter.
- ~~B. A division employee shall inspect cattle at a feedlot or dairy if the cattle are being shipped for custom slaughter.~~
- B. An owner or agent of cattle cannot be issued both non-range and range self-inspection certificates.
- C. With prior approval from a Division employee, livestock can be moved to a licensed custom slaughter facility using the livestock owner's or agent's or feedlot operator's self-inspection certificate. A Division employee must validate the self-inspection certificate prior to slaughter.
- ~~D. C.~~ The Department shall not issue a self-inspection certificate to an owner, or agent, of livestock or operator of a ranch, and dairy, feedlot operator if that individual has been convicted of a felony under A.R.S. Title 3

within the three-year period before the date on the self-inspection application. The Department may deny self-inspection to an applicant if within the five-year period before the date on the self-inspection application, the applicant was convicted of any A.R.S. Title 3 offense or an A.R.S. Title 13 offense related to livestock. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.

- E. ~~D.~~ During fiscal year 2016, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of \$10 plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

### **R3-2-702. Livestock Self-inspection**

#### **A. Definitions.**

“Dairy” means an owner or agent of a place or premise where one or more lactating animals are kept for milking purposes and from which a part or all of the milk is provided, sold, or offered for sale that meets both of the following conditions: the livestock is not permitted to range and the dairy is permitted by the Department. If these conditions are met, then a Division employee may grant the applicant dairy status.

“Description” means sex, breed, color, and markings, as applicable to the type of livestock.

“Exhibition” means an event including a fair, show, or field day that has as its primary purpose the opportunity for a member of a ~~youth~~ livestock organization, including 4-H and FFA, to display an animal raised by the individual youth in a judged competition.

“Feedlot” means an operator of a beef cattle feedlot or feed yard in which the livestock is not permitted to range and that is licensed by the Department. If these conditions are met, then a Division employee may grant the applicant feedlot status.

“Livestock” means cattle, sheep, goats, and ~~exhibition~~ swine.

“Livestock broker” means an owner or agent who engages in the business of buying and selling livestock and has immediate possession of the livestock for 10 days or less in which the livestock is not permitted to range. If these conditions are met, then a Division employee may grant the applicant livestock broker status.

“Non-range” means any owner or agent of an enclosed property that is 100 acres or less that meets all of the following conditions: the fence enclosing the livestock is well maintained, the livestock is not permitted to range, and the owner or agent of the livestock lives where the livestock are kept. If these conditions are met, then a Division employee may grant the applicant non-range status.

~~“Identification” means brand, back tag number, ear mark, tattoo, metal eartag, plastic eartag, and premises identification number, as applicable to the type of livestock.~~

“Range” means every character of lands, enclosed or unenclosed, outside of cities and towns, upon which livestock is permitted by custom, license or permit to roam and feed. A.R.S. § 3-1201(7)

“Range cattle” means cattle customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes. A.R.S. § 3-1201(8)

#### **B. Application.**

1. ~~Movers~~ Owners or agents of livestock or feedlot operators and an owner or operator of a dairy or feedlot shall request a book of self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:
  - a. Name, mailing address, physical address, telephone number, and ~~fax~~ email address;
  - b. Name of ~~ranch, dairy, or~~ business and type of livestock operation;
  - c. Whether the applicant has been convicted of a felony under violation of A.R.S. Title 3, or a violation of A.R.S. Title 13 related to livestock within the past three five years, and if so, the case number, court, charge, and sentence;
  - d. Recorded brand number; ~~and brand location~~
  - e. Individual(s) designated to sign self-inspection certificates, if applicable; and
  - f. Signature and date.
2. The holder of a self-inspection book shall advise the Department ~~by phone~~ within 30 days of any change to the information provided on an application form.
3. The holder of a self-inspection book shall renew registration with the Department every ~~two~~ three years from the date the initial or renewal application form is signed.

4. If a holder with self-inspection privileges has been convicted of a criminal violation under A.R.S. Title 3, or a violation of Title 13 related to livestock, that holder shall notify the Department immediately and their privileges shall be revoked.
4. 5. Prior to a department employee issuing a book of self-inspection certificates, the owner shall submit the following payment amount and the department shall receive the payment in full prior to issuing the book:
  - a. \$25.00 for a twenty five page feedlot or livestock broker book;
  - b. \$20.00 for a twenty page dairy book; or
  - c. \$10.00 for a ten page non-range, range, sheep, goat, or swine book.

C. Self-inspection certificate.

1. An owner, or agent, of livestock or feedlot operator shall provide the following information, as applicable, on a self-inspection certificate whenever livestock subject to self-inspection are moved or ownership is transferred:
  - a. Name, address, and signature, of the owner or agent of livestock or feedlot operator;
  - b. Date of the shipment or transfer of ownership;
  - c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
  - d. Name of transporter;
  - e. Number and description of livestock;
  - f. Official identification of each dairy cattle and sexually intact cattle over 18 months of age shipped out of state and back tag numbers of culled dairy cattle;
  - g. Brand number, expiration date, and location;
  - h. Name and address of buyer;
  - i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238.
2. The owner or ~~owner's agent of livestock or feedlot operator or the owner or operator of a dairy or feedlot~~ shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute copies of the certificate as follows:
  - a. One copy and any fees that are owed under subsection (C)(1)~~(j)~~(i) shall be sent to the Department within 10 days after the end of the month in which ~~it was used~~ ownership is transferred;
  - b. If the livestock are shipped, the original certificate shall accompany the livestock whenever they are in transit and one copy shall be retained by the person transporting the livestock; or
  - c. If ownership of the livestock is transferred without shipment, two copies shall be provided to the new owner or agent of livestock or feedlot operator; and one copy shall be retained by the seller.
3. A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void. The owner, or agent of livestock, or feedlot operator shall complete a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month in which the certificates are ~~issued~~ used or voided.
4. An owner, or agent of livestock or feedlot operator shall use a self-inspection certificate only with a shipment of livestock matching the description for which the certificate is issued and only for the self-inspection issued date. If any of the information on the self-inspection certificate changes, the certificate is void and the owner, or agent of livestock or feedlot operator shall complete a new certificate.
5. An altered, erased, completed but unused, or defaced self-inspection certificate is void. A voided certificate shall be returned to the Department within 10 days after the end of the month in which it is voided.
6. Upon request, ~~unused~~ certificates shall be returned to the Department by the owner, or agent of livestock or feedlot operator. If an ~~commercial~~ operation licensed for self-inspection is sold, leased, transferred, or otherwise disposed of, the owner, or agent of livestock or feedlot operator shall notify the Department and return all self-inspection certificates to the Department within 30 days of the transaction.

7. If the owner or agent of livestock or feedlot operator cannot find an unused or used certificate, they must sign an affidavit provided by the Department verifying the certificate is lost and cannot be found. New certificates will not be issued until the signed affidavit has been received by the Department.

D. Sale of livestock. A seller shall document a sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.

E. Feedlot receiving form.

1. The operator of a feedlot shall document receipt of in-coming cattle on a form obtained from the Department. The operator shall include the following information on the form:

- a. Name of feedlot and location;
- b. Month and year for which report is made;
- c. Number of cattle received, date received, and name and address of owner;
- d. Description of the cattle;
- e. If not Arizona native cattle, the import permit and ~~health~~ Certificate of Veterinary Inspection numbers;
- f. If native Arizona cattle, self-inspection ~~form~~ certificate number or Department inspection certificate number; and
- g. Pen number to which cattle are initially assigned.

2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.

F. Quarantine. Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.

G. Violations. The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).

### **R3-2-703. Seasonal Self-inspection Certificate**

~~A.~~ Exhibition cattle, sheep, goats, and swine.

1. An applicant for a seasonal self-inspection certificate prescribed under A.R.S. § 3-1346 shall ~~call the Department at (602) 542-6407 to request a seasonal self-inspection certificate from the Department.~~ The applicant shall provide ~~the answers to the following questions~~ information, as applicable:

- a. Name, mailing address, physical address if different from mailing address, telephone number, and email address ~~fax~~;
- b. Name of 4-H or FFA group, and group leader;
- c. Physical Description ~~description and identification~~ of the livestock animal;
- d. Official identification of livestock, except for native cattle born and raised in Arizona;
- ~~de.~~ Permit number and ~~health certificate~~ Certificate of Veterinary Inspection number for livestock an animal imported from another state; ~~and~~
- ~~ef.~~ Name of seller and self-inspection certificate number or Department inspection certificate number for livestock ~~an animal~~ purchased from an Arizona seller; ~~and~~
- ~~fg.~~ Signature and date of signature of the owner or lessee. If the owner or lessee is under 18 years of age, a signature of the parent or guardian and date of signature are required.

2. The Department employee who records the information required in subsection (A)(1) shall advise the applicant of the required fee prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.

3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever livestock an animal subject to seasonal self-inspection is moved or ownership is transferred:

- a. Name, address, telephone number, email address, and signature;
- b. Date of movement;
- c. Name of exhibition and location;
- d. Final disposition of the livestock animal (sale, death, or retention) and date of occurrence; and
- e. If the livestock animal is sold, name, address, and phone number of purchaser (person or slaughter plant).

4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the livestock animal or at the end of the show season if the livestock animal is retained.

### **R3-2-708. Equine Rescue Facility Registration**

- A. "Arizona Equine Rescue Standards" means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition. This material, which includes the Veterinary Checklist for Rescue/Retirement Facilities, is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, Arizona 85007. A copy of this material may also be obtained from the American Association of Equine Practitioners web site at [http://www.aaep.org/pdfs/rescue\\_retirement\\_guidelines.pdf](http://www.aaep.org/pdfs/rescue_retirement_guidelines.pdf). The American Association of Equine Practitioners is located at ~~4075~~ 4033 Iron Works Parkway, Lexington, Kentucky 40511.
- B. An equine rescue facility shall pay the annual registration fee and file the following documents with the Department's Animal Services Division for the facility to be included on the Department's registry of equine rescue facilities:
  1. An application form containing the facility's name, physical and mailing address, and contact person and the contact person's phone number ~~and email address~~.
  2. A copy of documents filed with the Arizona Corporation Commission demonstrating the facility's current status as a nonprofit corporation in good standing in this state.
  3. A letter from a licensed veterinarian, dated within 15 days of filing, certifying that the facility is not inadequate with respect to any of the Arizona Equine Rescue Standards and attaching a signed copy of the completed Arizona Equine Rescue Standards' veterinary checklist.
- C. Registration is valid for one year. Registration may be renewed annually by complying with subsection (B).
- D. The annual registration fee is \$75.
- E. A nonprofit corporation owning multiple equine rescue facilities must file the letter and checklist described in subsection (B)(3) and pay the annual registration fee for each location it wants included on the registry.
- F. The Department shall remove a facility from the registry if it determines that the facility is not presently incorporated as a nonprofit corporation in this state or is inadequate with respect to any of the Arizona Equine Rescue Standards.

## **ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL**

### **R3-2-801. Definitions**

In addition to the definitions in A.R.S. §§ 3-601 and 3-661, the following terms apply to this Article:

"3-A Sanitary Standards" and "3-A Accepted Practices," as published by the International Association for Food Protection, ~~amended May 31, 2002~~ effective on or before October 15, 2017, means the criteria for design, materials, construction and use ~~cleanability~~ of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and is also available at <http://www.3-A.org>.

"C-I-P" means a procedure by which equipment, pipelines, and other facilities are cleaned-in-place as prescribed in the 3-A Accepted Practices.

"Converted" means the process by which a frozen dessert is changed from a frozen to semi-frozen form without any change in the ingredients.

"Fluid milk" means milk and any other product made by the addition of a substance to milk or to a liquid form of milk product if the milk or other product is produced, processed, distributed, sold or offered or exposed for sale for human consumption.

"Fluid trade product" means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates any fluid milk product ~~milk, lowfat milk, chocolate milk, half and half, or cream.~~

"Food establishment" means any establishment, except a private residence, that prepares or serves food for human consumption, regardless of whether the food is consumed on the premises.

"Frozen desserts mix" or "mix" means any frozen dessert before being frozen.

“Grade A raw milk” means raw milk produced on a dairy farm that conforms to Section 7 of the PMO and the requirements of R3-2-805.

“Parlor” and “milk room” mean the facilities used for the production of Grade A raw milk for pasteurization- or Grade A raw milk.

“Plant” means any place, premise, or establishment, or any part, including specific areas in retail stores, stands, hotels, restaurants, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:

“Manufacturing plant” means a location where frozen desserts are manufactured, processed, pasteurized, and converted.

“Handling plant” means a location that is not equipped or used to manufacture, process, pasteurize, or convert frozen desserts, but where frozen desserts are sold or offered for sale other than at retail.

“PMO” means the Grade A Pasteurized Milk Ordinance, ~~2013~~ 2017 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007. A copy of the incorporated material may also be viewed at <http://agriculture.az.gov>.

“Retail food store” means any establishment offering packaged or bulk goods for human consumption for retail sale.

### **R3-2-803. Milk and Milk Products Labeling**

- A. The manufacturer or processor shall ensure that milk and milk products listed in A.R.S. § 3-601(10), and Sections 1 and 2 of the PMO are designated by the name of the product and shall conform to its definition.
- B. The manufacturer or processor of milk and milk products shall conform with the labeling requirements in A.R.S. §§ 3-601.01 and 3-627, Section 4 of the PMO, and 21 CFR 101, 131, and 133, amended April 1, ~~2002~~ 2017. This CFR material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the Office of the Secretary of State.
- C. The name of the manufacturer or processor shall be on all cartons or closures where it can be easily seen. A manufacturer or processor that has plants in other states shall use a code number or letter to designate the state in which a carton or closure is manufactured or processed. If a manufacturer or processor has a plant within Arizona, the Dairy Supervisor shall issue a code number or letter for each plant and shall keep a record of the number or letter issued. Manufacturers and processors shall include the Arizona code, 04, with the plant code assigned by the Dairy Supervisor.
- D. If milk or milk products are manufactured or processed and packaged at a plant for other retailers and the container or closure is not labeled the same as the manufacturer’s or processor’s like product, the manufacturer or processor shall include the statement “Manufactured or Processed at (name and address of plant or code number or letter)” on the carton or closure. The carton or closure may also contain the statement, “Distributed by: (name of person or firm).”
- E. Any person planning to use a new or modified label on a container shall submit the proposed label to the Dairy Supervisor for review.
  1. If the proposed label does not meet labeling standards specified in subsection (B), the Dairy Supervisor shall note the required changes on the proposed label, and sign and return the proposed label to the applicant.
  2. A person who requests additional time to use the inventory amounts of slow moving cartons or closures before using a modified label shall submit a written request to the Dairy Supervisor. The Dairy Supervisor may approve continued use of the existing cartons and closures if:
    - a. The use does not present a public health issue, and
    - b. The information on the cartons and closures is not misleading.

### **R3-2-804. Trade Products**

- A. Any fluid trade product containing milk solids shall be regulated as a fluid milk product.
- B. Advertising, display, and sale:
  - 1. Any retail food store may submit its methods and techniques for the advertising, display, and sale of trade products and real products to the Dairy Supervisor to determine compliance with this Section.
  - 2. No food establishment shall sell or provide any patron or employee, for use as food, any trade product or food whose main ingredient is a trade product, unless one of the following disclosures is posted for each trade product, in a prominent place on the premises, or is plainly visible on each menu where other food items are described:
    - a. “ \_\_\_\_\_ served here  
(brand or common name of trade product)  
instead of \_\_\_\_\_.”  
(common name of dairy product)
    - b. “Nondairy products served here.”
  - 3. No food establishment shall advertise or otherwise represent to the public that it serves, or uses in the preparation of a food, a real product when it actually serves or uses a trade product.
- C. Labeling: Except as follows, all labels shall comply with the PMO and 21 CFR 101, 131, and 133.
  - 1. The Dairy Supervisor shall approve a new or modified trade product label before the label is used. The applicant shall file a written request with duplicate copies of the proposed label and any supporting materials necessary to establish the truthfulness, reasonableness, relevancy, and completeness of the label.
  - 2. Unless each ingredient of a trade product is homogenized or pasteurized, the whole product shall not be labeled or advertised as an homogenized or pasteurized product. Individual ingredients that are homogenized or pasteurized may be identified as homogenized or pasteurized in the listing of ingredients.
  - 3. Except for combined ingredients constituting less than 1% of the whole product or unless each ingredient of a trade product qualifies as grade A, the whole product shall not be labeled or advertised as a grade A product. Ingredients that qualify as grade A may be identified as grade A in the listing of ingredients.
  - 4. Any trade product produced outside the state and labeled as prescribed in R3-2-802 and R3-2-803, may be sold within the state provided that the product meets the requirements of A.R.S. §§ 3-663 and 3-665.

### **R3-2-805. Grade A Raw Milk For Consumption**

- A. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of tuberculosis before any milk is sold. All herds shall be tested for tuberculosis at least every 12 months. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of brucellosis before any milk is sold, and shall be tested every 12 months or have negative ~~ring tests for~~ ring tests of the milk at least once each month, or both, as determined by the State Veterinarian.
- B. Grade A raw milk shall be cooled immediately after completion of milking to 45° F or less and shall be maintained at that temperature until delivery.
- C. Grade A raw milk shall be bottled on the farm where it is produced. Raw milk products authorized under ARS§3-606, except for hard cheeses aged 60 days or more as defined in 7 CFR 58.439, shall be processed, manufactured and packaged on the farm where the milk is produced. Bottling and capping shall be done in a sanitary manner on approved equipment. Hand-capping is prohibited. Caps and cap stock shall be kept in sanitary containers until used.
- D. All vehicles used for the distribution of Grade A raw milk shall prominently display the distributor’s name.
- E. Grade A raw milk shall be labeled as prescribed in R3-2-803 and A.R.S. § 3-606.

### **R3-2-807. Frozen Dessert Plant and Processing Standards**

A. Plant and Processing Standards.

1. The plant area shall be clean, orderly and free from refuse, rubbish, smoke, dust, air pollution and strong or foul odors originating on the premises. A drainage system shall be provided for the rapid drainage of water away from the building. If unsatisfactory conditions occur in the plant area, with respect to smoke, dust, air pollution, or odors, provision shall be made to protect the frozen desserts and ingredients from contamination.
2. Sewage and industrial waste shall be disposed in accordance with the provisions of the state or county environmental laws. Refuse, unless in appropriate containers, shall not accumulate on the premises.
3. Roads, driveways, yards, and parking areas adjacent to the plant shall be paved or treated to prevent dust and shall be smooth and well drained to prevent accumulation of stagnant liquid.
4. Buildings.
  - a. The building exterior and interior shall be kept clean and in good repair.
  - b. In processing and packaging areas, outside doors, windows, skylights, transoms, or other openings shall be protected and operated to preclude the entrance of dust, insects, vermin, rodents, and other animals. Outside doors shall be self-closing wherever practical. Window sills on new construction shall slope inward at least 45-degrees. Outside conveyor openings and other outside openings shall be protected by doors, screens, flaps, fans, or tunnels. Pipes shall be sealed where they extend through exterior walls. Outside pipe openings shall be covered when not in use.
  - c. Rooms. All rooms, compartments, coolers, freezers, and dry storage space in which any raw material, packaging or ingredient supplies, or finished products are handled, processed, manufactured, packaged, or stored shall be constructed to ensure clean and orderly operations.
    - i. Boiler and tool rooms shall be separate from rooms where milk products are received, where processing and packaging is done, or where equipment, facilities, and containers are washed and stored.
    - ii. Toilets and dressing rooms shall be conveniently located and toilets shall not open directly into any room where milk products, ingredients, or frozen desserts are handled, processed, packaged, or stored. Toilet and dressing room doors shall be self-closing. Toilets and dressing rooms shall be well vented to the outer air, and contain hand-washing facilities, hot and cold running water, soap, single-service towels or air dryers. Hand-washing signs shall be posted. Fixtures shall be kept clean and in good repair.
    - iii. Rooms for receiving milk and other raw ingredients and materials shall be separated from the processing area to avoid contamination of frozen desserts in the processing operations, except that products in cans or other closed containers may be received and transferred to a cooler or other storage without being received in a separate room.
    - iv. If tank truck deliveries of milk, milk products, or frozen desserts mix are made, other than occasional deliveries, a tank truck room large enough to accommodate the entire truck shall be provided with equipment for cleaning. A covered outside unloading pad may be used for truck tankers with filter dome vents, if washing and sanitizing facilities are provided. If a tank truck room is not located on the premises of an existing plant, facilities for washing and sanitizing tank trucks shall be provided at another location where the washing and sanitizing facility is free from dust and extreme weather conditions.
    - v. Except for existing processing and packaging rooms, there shall be at least three feet clearance between installations and the wall to prevent overcrowding and to facilitate cleaning. Existing facilities not meeting this requirement shall be permitted if cleaning can be accomplished and permission is obtained from the Dairy Supervisor or the Dairy Supervisor's designee. All processing and packaging rooms shall be equipped with hand-washing facilities including hot and cold running water, soap, single-service towels, or air-dryer.

- vi. Refrigeration rooms and units shall be constructed of impervious material and shall be kept clean and sanitary.
  - vii. Separate rooms shall be provided so that the manufacturing, processing, and packaging are separate from the cleaning and sterilizing of utensils and containers.
  - viii. No person shall reside or sleep in a frozen desserts plant or in any room connected with it. No animal shall be kept or permitted in a frozen desserts plant.
- d. Walls and ceilings shall be constructed of smooth, washable, impervious material. They shall be light-colored, kept clean and sanitary, and refinished when discolored. A darker color material may be used to a height not exceeding 60 inches from the floor.
  - e. Floors shall be an impervious, smooth-surfaced material that may be flushed clean with water. Except for hardening rooms, floors shall slope 3/16 to 1/4 inch per foot to one or more trapped outlets. No open channel drainage is permitted in new construction or in extensive remodeling of existing plants. Floor drains are not required in freezers used for storing frozen desserts or frozen ingredients. However, the floors shall be sloped to drain to at least one exit and shall be kept clean. Floors in new construction or extensive remodeling shall be joined and coved with the walls to form water-tight joints. Smooth wood floors may only be permitted in rooms where there will be no spillage of product or ingredients, such as rooms where wrapped or packaged frozen products are packed in multiple-pack containers. Toilets and dressing rooms shall have impervious floors and smooth walls.
  - f. Plumbing shall be installed to prevent back-up of sewage or odors into the plant.
  - g. All rooms and compartments, including storage space for materials, ingredients, and packages, and toilets and dressing rooms, shall be ventilated to maintain sanitary conditions, and to minimize or eliminate condensation and odors.
  - h. Lighting, whether natural or artificial, shall be well distributed in all rooms and compartments. Light bulbs and fluorescent tubes shall be protected so that broken glass cannot fall into any product or equipment.
    - i. Rooms where frozen desserts are handled, processed, manufactured, or packaged, or where equipment or utensils are washed, shall have at least 30 footcandles of light on all working surfaces;
    - ii. Areas where dairy products are examined for condition and quality shall have at least 50 footcandles of light; and
    - iii. All other rooms shall have at least 20 footcandles of light 30 inches above the floor.
  - i. Containers for collecting and holding waste other than dry waste paper and other dry packaging material shall be constructed of metal or other impervious material, covered with tight-fitting lids or covers, and emptied or disposed of daily or at least once during the shift. Clothing, tools, equipment, and other material not used with the frozen desserts operations shall not accumulate in the work areas or in the storage rooms.
  - j. A room or other space separate from any room or space where milk products or frozen desserts are received, handled, processed, packaged, or stored, shall be provided where employees may change and store clothing. This area shall contain hand-washing facilities, with hot and cold running water, soap or other detergents, and single-service towels or air dryers. Self-closing containers shall be provided for used towels and other wastes.
  - k. Approval of plans. Plans shall be submitted to the Dairy Supervisor, for any new or remodeled frozen dessert manufacturer, to be reviewed for compliance with this Section. The Dairy Supervisor may allow variances to the requirements in this Section, if protection from contamination is provided for all products handled.
5. Water and steam.

- a. Potable hot and cold water shall be available in sufficient quantity for all plant operations and facilities. Non-potable water may be used for boiler feed and condenser water, if the water lines are separated from the water lines carrying the potable water supply and the equipment is constructed to preclude contamination of any product or product contact surface. If water for washing frozen desserts equipment and utensils and for use in rehydration or as an ingredient in any frozen desserts is obtained from other than a regulated municipal supply, a bacteriological examination shall be made of the water supply at least once every six months by a ~~bacteriologist~~ laboratory acceptable to the Dairy regulatory program to determine potability. If the examination indicates contamination of the water supply, a device shall be installed to eliminate the contamination.
  - b. If steam is used, it shall be provided in sufficient volume and pressure for the operation of equipment or for sterilization, or both. Steam that comes in contact with frozen desserts, ingredients, or with the product contact surface, shall be steam of culinary quality as prescribed in Appendix H, Part III, Culinary Steam – Milk and Milk Products, of the PMO.
6. Equipment and utensils.
- a. New equipment shall meet applicable 3-A Sanitary Standards. All equipment, including connections, coming in contact with frozen desserts or ingredients during processing, manufacturing, handling, or packaging, shall be made of stainless steel. No equipment shall be permitted that is rusted, corroded, or in any other condition that may result in contamination of the frozen desserts. Non-metallic parts with product contact surfaces shall consist of material that meets 3-A Sanitary Standards for Plastic or Rubber and Rubber-like Materials or shall be of plastic approved by the United States Food and Drug Administration. Equipment, apparatus, and piping shall be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Stationary equipment, including welded sanitary lines and apparatus that permit in-place-cleaning, may be used if prior approval from the Dairy Supervisor has been obtained. C-I-P piping and welded sanitary pipeline systems shall be permitted if engineered and installed according to 3-A Accepted Practices for Permanently Installed Sanitary Product and Solution Pipelines and Cleaning Systems. If rigid pipelines are not practical, plastic pipelines listed in the 3-A Accepted Practices may be used. Product pumps shall be sanitary and easily dismantled for cleaning or shall be constructed to allow C-I-P procedures. All parts of interior surfaces of equipment, pipes (except C-I-P piping), or fittings, including valves and connections shall be accessible for inspection. The Dairy Supervisor may require other equipment, apparatus or piping if stationary equipment, apparatus or piping cannot or is not being effectively cleaned-in-place.
  - b. Equipment for storage and distribution of liquid sweetening agents shall be constructed of metals, alloys, or other material that will withstand corrosive action by the ingredient. The equipment and the ingredients shall be protected from contamination.
  - c. Pasteurizing equipment shall meet the standards prescribed in the PMO and 3-A Accepted Practices for Sanitary Construction, Installation, Testing and Operation of High-Temperature-Short-Time Pasteurizers and 3-A Sanitary Standards for Non-Coiled Type Batch Pasteurizers. Batch-type pasteurizers shall be provided with close-coupled outlet valves protected against leakage and shall be equipped with thermometers that record the information of each day's operation on separate charts. Air space thermometers and indicating thermometers shall be provided to check the recording thermometers. The recording thermometer chart shall contain the date, the identity of the pasteurizing number, the batch and product name, and the signature of the employee responsible for this information. The record shall be kept on file at the plant for at least six months. The accuracy of the recording thermometer shall be checked weekly ~~daily~~ using the indicating thermometer and the ~~date and name of the person responsible for the weekly accuracy check shall be recorded~~ the time and temperature shall be documented on the recording chart. Chart recorders and thermometers for batch pasteurizers shall be tested and sealed by the Dairy Supervisor or the Supervisor's designee

after testing and seals shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee.

- d. Every plant shall contain hardening rooms, refrigerating rooms, or refrigerated cabinets with space for storage of frozen desserts and perishable ingredients.
  - e. All utensils used in the receiving, storing, processing, manufacturing, packaging, and handling of frozen desserts or any ingredients shall be of smooth, stainless steel, or plastic listed in the 3-A Accepted Practices and shall have flush seams. Utensils that are badly worn, rusted, or corroded or that cannot be rendered clean and sanitary by washing shall not be used. Lead solder shall not come in contact with milk or milk products or frozen desserts.
7. Cleaning and sanitizing.
- a. Cleaning and sanitizing. Equipment, sanitary piping and utensils used in receiving, storing, processing, manufacturing, packaging, and handling frozen desserts and ingredients, and all product contact surfaces of homogenizers, high pressure pumps, packing glands on agitators, pumps and vats, and lines shall be kept clean. Before use, all equipment coming in contact with milk products or frozen desserts shall have a bactericidal or sanitizing treatment. Equipment not designed for C-I-P cleaning shall be disassembled, thoroughly cleaned and sanitized. Biodegradable dairy cleaners, wetting agents, detergents, sanitizing agents, or other similar material that does not adversely affect or contaminate the frozen desserts or ingredients may be used. Steel wool or metal sponges shall not be used to clean any equipment or utensils with product contact surfaces. C-I-P cleaning shall be used only on equipment and pipeline systems designed, engineered, and installed for that type of cleaning. Other equipment and areas in the plant shall be thoroughly cleaned with ~~a commercial vacuum cleaner or other means and the material obtained shall be burned or disposed of so that any insects are destroyed and milk products and frozen desserts will not be contaminated~~ appropriate methods that prevent potential contamination of ingredients, packaging and frozen desserts. Exhaust stacks, elevators and elevator pits, conveyors and similar facilities shall be inspected and cleaned regularly.
  - b. Equipment shall be sanitized by using one of the following methods:
    - i. Using 180° F water for at least two minutes.
    - ii. Using steam under pressure for at least two minutes or until all parts of the equipment being sanitized have reached 180° F, or the condensate off the equipment remains at 180° F for at least two minutes.
    - iii. Using chlorine with a residual of at least 50 ppm after one minute contact with equipment, or if sprayed, with a residual of at least 100 ppm after five minutes.
    - iv. Using any other sanitizing substance prescribed in Appendix F of the PMO.
8. Pasteurization and cooling.
- a. All frozen desserts mix, except for flavoring agents used in frozen desserts, shall be pasteurized.
  - b. Frozen desserts mix shall be pasteurized by heating every particle ~~to~~ as described in Table 1 below:
    - i. ~~155° F for 30 minutes,~~
    - ii. ~~160° F for 15 minutes,~~
    - iii. ~~165° F for 10 minutes,~~
    - iv. ~~175° F for 25 seconds,~~
    - v. ~~180° F for 15 seconds,~~
    - vi. ~~200° F for three seconds, or~~
    - vii. ~~210° F with no holding time.~~

Table 1	
Batch (Vat) Pasteurization	
Temperature	Time
69°C (155°F)	30 minutes

<b>Continuous Flow (HTST) Pasteurization</b>	
<b>Temperature</b>	<b>Time</b>
80°C (175°F)	25 seconds
83°C (180°F)	15 seconds
<b>Continuous Flow (HHST) Pasteurization</b>	
89°C (191°F)	1.0 seconds
90°C (194°F)	0.5 seconds
94°C (201°F)	0.10 seconds
96°C (204°F)	0.05 seconds
100°C (212°F)	0.01 seconds

- c. ~~Continuous flow pasteurizers, High-temperature-short-time and higher-heat-shorter-time, pasteurizers shall have the thermal limit controller set and sealed so that forward flow of the product cannot start unless the temperature at the controller sensor is above the required temperature and forward flow of the product cannot continue during descending temperatures if the temperature is below the required temperature~~ all public health controls sealed against access and alteration. The seals shall be applied by the Dairy Supervisor or the Supervisor's designee after testing and shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee. The system shall be designed so that no product can bypass the controller sensor. ~~The controller sensor shall not be removed from its proper position during the pasteurization process to meet the requirements of the PMO.~~
- d. After pasteurization all mix shall be cooled immediately to 45° F or less and shall be maintained at that temperature until frozen. Milk, cream, and other fluid milk products other than sterilized, evaporated or sweetened condensed milk in hermetically sealed containers shall be stored at 45° F or less.
- i. Refrigerated vehicles or approved insulated containers shall be used when transporting frozen desserts mix from the manufacturing or other plant to a retail manufacturer, and
  - ii. Mix shall be moved from coolers or refrigeration units in a manufacturing plant to freezers by using pipes, tubing, or other means listed in the Permanently Installed Product and Solution Pipelines and Cleaning Systems Used in Milk and Milk Product Processing Plants section of the 3-A Accepted Practices.
9. Storage.
- a. Utensils and equipment. Utensils and portable equipment used in processing, handling, or packaging of frozen desserts shall be stored above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious, corrosion-resistant material.
  - b. Supplies and containers. Whenever possible, supplies shall be kept in a room separate from the processing, handling, and packaging of frozen desserts and under conditions that result in keeping the materials clean and free from dust, moisture, insects, rodents, or other possible contamination. Supplies shall be arranged to permit cleaning of the area and easy inspection and access. Insecticides and rodenticides shall be plainly labeled, segregated, and stored in a separate room or cabinet away from the edible material or packaging supplies. Caps, parchment papers, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers for frozen desserts or ingredients shall be stored only in sanitary tubes, wrappings, or cartons and kept in a clean, dry place until used and shall be handled in a sanitary manner.
  - c. Raw milk products. Raw products for use in frozen desserts that are conducive to bacterial growth shall be handled and stored to minimize bacterial growth. When stored, raw products shall be maintained at 45° F or lower until processing commences.

- d. Non-refrigerated products. Products such as non-fat dry milk and other frozen desserts ingredients that do not require refrigeration for proper storing shall be placed in dry storage to be easily accessible for inspection and removal, and for adequate cleaning of the room. Dunnage, pallets or other similar method of elevation shall be used. Frozen desserts or ingredients shall not be stored with any product that would damage them or impair their quality. Opened containers of ingredients shall be protected from contamination.
  - e. Refrigerated products. All products that require refrigeration shall, except as otherwise specified, be stored under conditions of temperature and humidity that best maintain quality and condition. Products shall not be stored directly on wet floors or be exposed to foreign odors or conditions such as dripping or condensation that may cause package or product damage.
10. Notification of change in products to be manufactured. Any person manufacturing only frozen desserts with butterfat, or only frozen desserts with fats other than butterfat, and uses the other type of fat shall first notify the Dairy Supervisor.
  11. Clearing lines and equipment. If the same equipment is used for processing, pasteurizing, and packaging frozen desserts made with dairy products and frozen desserts made with vegetable fats, oils, or proteins, any remaining product shall be completely removed from the lines and equipment and sanitized before introducing another product into the lines and equipment. All equipment and lines shall be sanitized either at the end or beginning of each day's operations.
  12. Packaging and containers.
    - a. Frozen desserts shall be packaged in commercial containers using packaging material that protects the product from contamination. The packaging, cutting, molding, dispensing, and other handling or preparation of frozen desserts and their ingredients shall be in a sanitary manner. Frozen dessert containers shall be filled at the place of pasteurization using approved mechanical equipment. Existing manual processes may be permitted if done in a manner that prevents all contact surface contamination and is approved by the Dairy Supervisor.
    - b. Multi-use containers for frozen desserts shall be kept clean and dry. If used for transporting frozen desserts, the containers shall be:
      - i. Rinsed immediately after emptying,
      - ii. Cleaned upon return to the plant, and
      - iii. Protected from contamination during storage.
    - c. Metal cans and containers shall be free from rust and corrosion.
    - d. Paper and plastic containers, liners, covers, or other materials coming in contact with frozen desserts shall be free from contamination.
    - e. Single-service containers shall not be reused.

**B. Personnel.**

1. Plant employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling their hands. Employees shall keep their hands clean and follow good hygienic practices while on duty. Expectorating or using tobacco in rooms or compartments where frozen desserts or ingredients are exposed is prohibited. Clean, white, or light-colored, washable outer garments shall be worn by all employees engaged in handling dairy products, mix or frozen desserts. Hair coverings for head and facial hair shall be worn by all employees engaged in the processing, pasteurizing, packaging, handling, and storage of frozen desserts, product containers, and utensils.
2. Frozen desserts shall be handled so that there is no direct contact between an employee's hands and the product.
3. A person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portions of the body shall not work in any plant processing or packaging room or in any capacity resulting in contact with milk products or frozen desserts or equipment used in the processing or

handling of milk products or frozen desserts. An employee returning to work following illness from a communicable disease shall provide a certificate from a physician attesting to the employee's complete recovery before processing or handling milk products or frozen desserts.

C. Quality standards.

1. Milk products used in the manufacture of frozen desserts shall meet the following standards: **Product Standard Plate Count Not to Exceed**

Raw Milk	500,000 per ml.
Pasteurized Milk	50,000 per ml.
Raw Cream	500,000 per ml.
Pasteurized Cream	100,000 per ml.

2. Butter, 80% cream, plastic cream, mixtures of butterfat, sugar or sweetening agent, moisture and flavoring, condensed milk, mixes and all other similar products shall meet the following standards:

**Bacterial Standards Not to Exceed**

Standard Plate Count	50,000 per gram
Coliform Count	20 per gram
Yeast <u>Count</u>	50 per gram
Mold <u>Count</u>	50 per gram

3. Powdered non-fat dry milk, dry whey, and dry buttermilk shall meet the PMO standards.
4. Fats and oils other than from milk shall meet the standards of the United States Food, Drug and Cosmetic Act as amended, or those of any applicable state regulation for fats and oils of food grade standards.
5. Frozen desserts in broken or opened containers or in containers from which the product has been partially used may be returned to the plant for examination but shall not be used or sold for making frozen desserts.
6. All reconstituted frozen desserts shall be pasteurized before packaging.

D. Labeling.

1. All packages of frozen desserts, including cans or other containers of frozen desserts mix but not including frozen desserts packaged in accordance with a customer's request and in the presence of the customer, shall be labeled as prescribed in the federal Food, Drug and Cosmetic Act, as amended.
2. Each frozen dessert package shall contain:
  - a. The code number assigned by the Dairy Supervisor, identifying the specific manufacturing plant; or
  - b. The name and address of the frozen dessert manufacturer.

- E. License suspension. The Dairy Supervisor may suspend the license of a frozen dessert plant whenever the bacteria count, coliform determination, yeast or mold count exceeds the quality standards for frozen desserts in three out of the last five samples taken on separate days. In addition, the Dairy Supervisor may suspend the permit of a frozen dessert plant for failure to comply with any of the provisions of this Section.

**R3-2-808. Frozen Desserts Reconstituted from Powdered Mixes**

Except for R3-2-807(A)(8), retail establishments that reconstitute frozen desserts from powdered mixes and dispense the desserts on the premises shall comply with the requirements prescribed in R3- 2-807 and the following standards:

1. All equipment, containers, and utensils shall be washed and air-dried after each use and shall be sanitized before each use, in accordance with the ~~sterilization~~ sanitation standards established in subsection R3-2-807(A)(7)(b).
2. When not in use, all equipment, utensils, and containers shall be stored above the floor in a clean, dry location free from dust, moisture, insects, rodents, or other possible sources of contamination.
3. Excess quantities of the reconstituted frozen dessert shall not be made from the powdered mix in advance and stored outside the dispensing machine.

4. Frozen desserts shall be reconstituted according to the directions provided by the powdered mix manufacturer.

## ARTICLE 9. EGG AND EGG PRODUCTS CONTROL

### R3-2-901. Definitions

In addition to the definitions provided in A.R.S. §§ 3-701, ~~3-702~~, 3-703 and 3-704, the following shall apply to this Article:

“Check” means an individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak. A "check" is considered to be lower in quality than a "dirty."

“Dirty” means a shell that is unbroken and that has dirt or foreign material adhering to its surface, which has prominent stains, or moderate stains covering more than 1/32 of the shell surface if localized, or 1/16 of the shell surface if scattered.

“Leaker” means an individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell.

“Lot” means any quantity of two or more eggs.

“Lot Consolidation” means the removal of damaged eggs from cartons labeled by a producer or producer dealer and replacement of the damaged eggs with eggs of the same grade, size, brand, expiration date and source.

“Pasteurized in-shell eggs” means eggs that have been pasteurized with the shell intact by any method approved by the Federal Food and Drug Administration or the department.

“Repacking” means changing the identity of a lot of eggs by removing them from the original container labeled by a packer and placing them into another container not labeled by the packer at the point of origin with the same grade, size, lot number, source and/or brand.

“Spot-check” sample means any sample less than a representative sample described in the chart in R3-2-903(B).

“Ultimate consumer” means a person consuming eggs or egg products and a restaurant using eggs in the preparation of a meal.

“United Egg Producers Animal Husbandry Guidelines” means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, ~~2008~~ 2017 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Ste. 230, Alpharetta, GA 30005.

“United Egg Producers Certified” means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.

“United Egg Producers Certified logo” means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.

### R3-2-902. Standards, Grades, and Weight Classes for Shell Eggs; Pasteurized In-Shell Eggs

#### A. Standards for Eggs

All standards, grades, and weight classes of quality for chicken eggs in the shell shall meet the grades for shell eggs shall be as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and the United States Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Ave., S.W., Washington, DC 20250-0259, or online at ~~www.ams.usda.gov/poultry/standards/index.htm~~ www.ams.usda.gov/grades-standards/eggs. “AMS” means Agricultural Marketing Service, United States Department of Agriculture.

#### B. Standards for Pasteurized In-Shell Eggs

It is unlawful for a producer, producer dealer, dealer, or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless both of the following conditions are met:

1. Quality and weight classes

- a. The eggs used to produce pasteurized in-shell eggs shall meet Consumer Grades A or AA and Weight Classes for Eggs of section A. above.
- b. At destination:
  - i. Pasteurized in-shell eggs shall contain no more than 7 percent (9 percent for Jumbo size) Checks and not more than 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.
  - ii. In lots of two or more cases, no individual case may exceed 10 percent Checks.
- c. Pasteurized in-shell eggs shall meet the weight classes as indicated in Table I of this section.

<b>Table I</b>			
<b><u>Weight Classes for Pasteurized In-Shell Eggs</u></b>			
<u>Size or weight class</u>	<u>Minimum net weight per dozen (ounces)</u>	<u>Minimum net weight 30 per dozen (pounds)</u>	<u>Minimum net weight for individual eggs at rate per dozen (ounces)</u>
<u>Jumbo</u>	<u>30</u>	<u>56</u>	<u>29</u>
<u>Extra large</u>	<u>27</u>	<u>50 1/2</u>	<u>26</u>
<u>Large</u>	<u>24</u>	<u>45</u>	<u>23</u>
<u>Medium</u>	<u>21</u>	<u>39 1/2</u>	<u>20</u>
<u>Small.....</u>	<u>18</u>	<u>34</u>	<u>17</u>
<u>Peewee</u>	<u>15</u>	<u>28</u>	<u>--</u>

\*A lot average tolerance of 3.3 percent for individual eggs in the next lower weight class is permitted as long as no individual case within the lot exceeds 5 percent.

2. Labeling requirements

Except as provided in subdivision (j) below, it is unlawful for an egg producer, producer dealer, dealer or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled on one outside top, side, or end with all of the following:

- a. The consumer container is conspicuously labeled “KEEP REFRIGERATED” or with words of similar meaning as approved by the department. Consumer container labeling that complies with the safe handling instructions required by Section 101.17 of Title 21 of the Code of Federal Regulations shall be deemed to comply with this paragraph.
- b. The consumer container is conspicuously labeled “produced from” in conjunction with the appropriate consumer grade in letters no smaller than ½ size of the labeled consumer grade. The use of the consumer grade without the qualifier “produced from” is not permitted.
- c. The words “Best By”, or “Use by” immediately followed by the month and day in bold type. Months shall be abbreviated Jan, Feb, Mar, Apr, May, Jun, Jul, Aug, Sep, Oct, Nov or Dec. The “Use by”, or “Best before” date shall not exceed 75 days from the date on which the pasteurized in-shell eggs were pasteurized, excluding the date of pasteurization. Processors of in-shell eggs that subject the eggs to the pasteurization process shall establish a sell-by date by completion of an appropriate shelf stability study that includes public health and safety criteria. The processor shall retain the study on file at the processing plant and make it available to the department upon request.
- d. If the pasteurized in-shell eggs are repacked, the original “Best By” or “Use by” date shall apply.
- e. A Julian pack date which is the consecutive day of the year on which the pasteurized in-shell eggs were pasteurized.
- f. The identification number of the plant of origin.
- g. A conspicuous identification of the eggs as “pasteurized.”
- h. All state and federal labeling requirements.
- i. This section does not apply to pasteurized in-shell eggs that are packaged for export.

j. Paragraph B. does not apply to pasteurized in-shell eggs that are packaged for interstate commerce or pasteurized in-shell eggs that are packaged for military sales if exported to a state or federal agency that requires a different format for the sell-by or best-if-used-by date on pasteurized in-shell eggs, and the processor is utilizing that format.

**R3-2-906. Violations and Penalties**

A. A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:

1. Category A:

- a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
- b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
- c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;
- d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container; ~~unless the eggs are exempt under A.R.S. § 3-715(K);~~ Selling pasteurized in-shell eggs without or past the “Best By” or “Use by” date.
- e. Failing to maintain records and reports required by this Article;
- f. Failing to label a carton, case, or container with one size, one grade, one brand name, or, if applicable under R3-2-907(B), the United Egg Producer Certified logo;
- g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;
- h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
- i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products.
- j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907(B).
- k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907(A).

2. Category B:

- a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701~~(10)~~(13); or
- b. Advertising, representing, or selling out-of-state eggs as local eggs.

3. Category C:

- a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
- b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower; or
- c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F.
- d. Failing to meet the sanitary standards egg processing of R3-2-908.

B. Any violation of this Article or of A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.

C. Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is:

Number of Violations	Category A	Category B	Category C
1	Warning	Warning	Warning
2	\$50	\$50	\$100
3	\$100	\$100	\$200
4		\$150	\$400
5		\$200	\$500
6		\$250	

**R3-2-907. Poultry Husbandry; Standards for Production of Eggs and Biosecurity Requirements**

- A. All egg-laying hens in this state shall be raised according to United Egg Producers Animal Husbandry Guidelines.
- B. All eggs sold in this state produced by hens shall be from hens raised according to the United Egg Producers Animal Husbandry Guidelines. All eggs shall display the United Egg Producers Certified logo on their cases, cartons, and containers, or the egg dealer shall annually provide the Department with a copy of a current independent third-party audit that demonstrates that the eggs were produced by hens raised according to UEP Animal Husbandry Guidelines.
- C. ~~This rule does not~~ Sections A and B of this rule do not apply to egg producers operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs. Sections A and B of this rule and also does do not apply to any hens that are raised cage-free or any eggs produced by hens that are raised cage-free.
- D.** All producers and producer dealers with operations within the state shall have a written biosecurity plan in place. At a minimum each producer and producer dealer shall:
1. Restrict access to all areas where poultry are housed or kept.
  2. Take steps to ensure that contaminated material is not transported into any poultry barns.
  3. Cover and secure feed in a manner that prevents wild bird, rodents or other animals from accessing the feed.
  4. Cover and properly contain poultry carcasses, used litter, or other disease-containing organic materials that prevents wild birds, rodents or other animals from accessing the material and movement of the materials by the wind.
  5. Keep houses in good repair and all areas to which the birds have access should be kept free of materials hazardous to the birds.
- E.** The biosecurity plan shall contain the following:
1. Methods for the disposal and handling of poultry manure.
  2. Procedures for prevention, control and eradication of vectors for poultry diseases.
  3. Procedures for the detection, control and treatment of poultry diseases.
  4. Methods for the disposal and handling of culled birds and entire flocks under normal cyclic operations and following emergency depletion as a result of disease.
  5. A facility poultry disease control and prevention plan which includes standard operating procedures with respect to specific measures to control and prevent disease including but not limited to structural and operational disease control and prevention provisions.
  6. Procedures to prevent cross contamination between nest run and in line eggs.
  7. Procedures to prevent the introduction and transmittal of diseases by vehicles and any other forms of transportation.
  8. Signed agreements with all employees containing biosecurity procedures regarding contact with outside poultry and wild birds.
- F.** A producer and producer dealer shall allow the Department to enter the premises during normal working hours to inspect the biosecurity plan documents and the biosecurity that is implemented.

**R3-2-908. Sanitary Standards; Egg Processing**

- A.** All egg producers and retail locations where lot consolidation is conducted in this state shall meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008. This material is incorporated by reference, does not include any later editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007.
- B.** No person other than a producer or producer dealer shall repack eggs. All eggs sold to the ultimate consumer must be pre-packaged with all required labeling requirements of this article and A.R.S. Title 3 Chapter 5. A producer, producer dealer shall not pack or repack eggs that have been in retail distribution channels.

C. A retailer may lot consolidate eggs labeled for the ultimate consumer by a packer. A daily log with lot information is required and shall include volume consolidated, grade, size, brand, lot and source.

# **ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT**

## **TITLE 3. AGRICULTURE**

### **CHAPTER 2. DEPARTMENT OF AGRICULTURE – ANIMAL SERVICES DIVISION**

#### **1. An identification of the rulemaking**

Arizona Revised Statutes (A.R.S) §§ 3-107(A), 3-603, 6-605, 3-611, 3-667, 3-706, 3-710, 3-739, 3-1203, 3-1204, 3-1205, 3-2046 authorizes the Arizona Department of Agriculture (Department) to adopt rules necessary to enforce the various programs within the Animal Services Division. Accordingly, the Department is amending Title 3, Chapter 2 to address outdated and inconsistent information within the rules, provide consistency with current operating practices and industry needs, and make the rules more clear and concise. These changes will also make the rules more easily understandable and alleviate some regulatory burden while continuing to provide adequate safeguards.

#### **2. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking.**

- The Department
- Livestock Producers,
- Animal Importers
- Dairy Processors
- Egg Producers

#### **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 Department will have nominal costs in educating staff on the new provisions in this rulemaking. The Department will likely benefit from reduced enforcement and technical assistance costs due to the modernized and more flexible requirements within the 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.**

None.

- 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.**

The department does not believe these changes will have a direct cost for business. The changes will make the rules easier to understand and consistent with current industry practices which will ultimately make it easier for the regulated industries to comply with the regulations. Additionally, this rule package reduces regulatory burdens that currently exist which will allow the regulated community to expand their business within the state of Arizona (see Pasteurized In-Shell Eggs).

**4. Impact on private and public employment**

None.

**5. Impact on small businesses**

- a. Identification of the small businesses subject to the proposed rulemaking.**

Given the diverse nature of this rule package, the small business subject to the rulemaking are numerous and diverse. The majority of the rules are related livestock disease and import requirements; the small businesses predominately impacted by these rules are livestock producers, dairy farms, dairy processors, egg ranches, and slaughter facilities.

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

The main cost that small business may incur would be related to obtaining knowledge or information on the rulemaking. This rule package is not intended to impose new regulations, but rather update the rules to reflect current practices. Because of this, there will be very little cost to small business.

- 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.**

The Department could further reduce regulatory burden, but doing so would adversely affect the Departments ability to protect Arizona's animal agriculture industries. The Department always

educates its industry members before taking enforcement action; this will not change and will be even an even larger priority after these rules are implemented.

**d. Probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

The only part of this rulemaking that could negatively impact private individuals is the restriction additional restrictions for applying for self-inspection. (R3-2-701(D)). The additional restrictions are intended to keep individuals who have been convicted of livestock crimes from receiving self-inspection. This has always been the spirit of the rule as it was originally written; however, because of the way the criminal justice system works, there have been a few instances where individuals stole cattle, and were charged with a felony under Title 3, however, they entered a plea that convicted them of a felony/misdemeanor theft under Title 13. As written, those individuals are eligible for self-inspection.

The problem with this is that self-inspection is frequently called a “license to steal” by producers. Because self-inspection allows producers to move cattle using the honor system, it is important to make sure that individuals who have a track record of being dishonest be prohibited from using it. However, even with this restriction, producers are still able to move their livestock, they just have to get an in-person inspection instead of utilizing self-inspection.

Aside from this potential impact, the rules should not have an adverse cost to private persons. However, the benefit to private persons and consumers is having a set of rules that is easy to read and understand in order to make sure that both the regulated community and the public at large is protected.

**6. Probable effect on state revenues.**

The Department does not believe this rulemaking will have an impact on state revenue.

**7. Less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

The Department did not identify any less costly or alternative methods that would still achieve the same needs.

**8. Description of any data on which the rule is based.**

Because the intent of these rules was to modernize, improve, and increase the understandability of the existing administrative rules, there was no formal data that was relied on to develop these rule amendments.

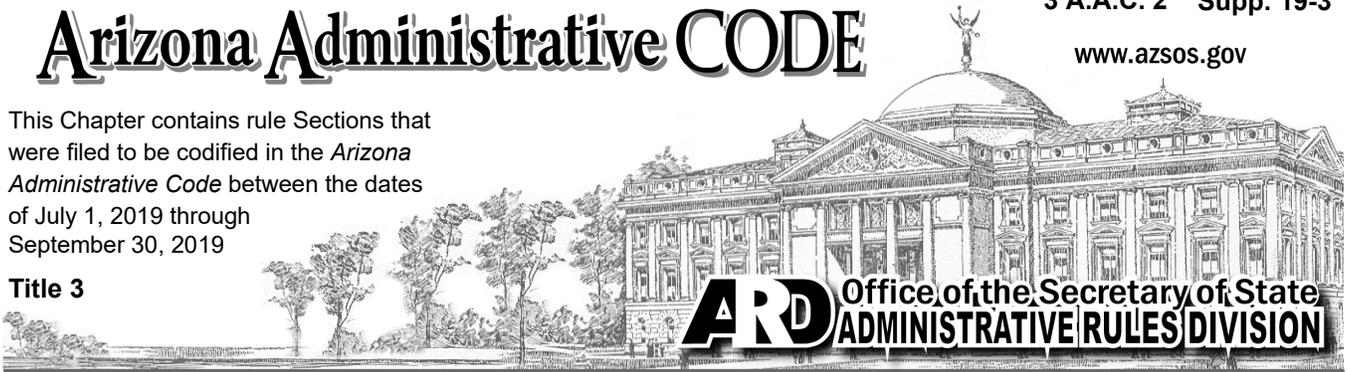
# Arizona Administrative CODE

3 A.A.C. 2 Supp. 19-3

www.azsos.gov

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of July 1, 2019 through September 30, 2019

## Title 3



## TITLE 3. AGRICULTURE

### CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

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.

<a href="#">R3-2-203.</a>	<a href="#">Licenses; Registration; Records .....</a>	<a href="#">6</a>	<a href="#">R3-2-810.</a>	<a href="#">License Fees .....</a>	<a href="#">35</a>
<a href="#">R3-2-701.</a>	<a href="#">Department Livestock Inspection .....</a>	<a href="#">24</a>			

#### Questions about these rules? Contact:

Name: Chris McCormack, Associate Director  
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Phoenix, AZ 85007  
Telephone: (602) 542-7186  
Fax: (602) 542-4290  
E-mail: [cmccormack@azda.gov](mailto:cmccormack@azda.gov)

#### The release of this Chapter in Supp. 19-3 replaces Supp. 18-4, 1-40 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

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### RULES

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

### THE ADMINISTRATIVE CODE

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

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

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

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

### AUTHENTICATION OF PDF CODE CHAPTERS

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

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

### HOW TO USE THE CODE

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

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

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

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

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

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

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

### EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### PERSONAL USE/COMMERCIAL USE

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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 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

(Authority: A.R.S. §§ 3-1201 et seq., 3-601 et seq., and 3-701 et seq., and 3-2901 et seq.)

Chapter 2, Articles 1 through 7 renumbered from Title 3, Chapter 9, Articles 1 through 7; Article 8, consisting of Sections R3-2-801 through R3-2-808, renumbered from Title 3, Chapter 5, Article 1, Sections R3-5-01 through R3-5-08; Article 9, consisting of Sections R3-2-901 through R3-2-909 renumbered from Title 3, Chapter 6, Article 1, Sections R3-6-101 through R3-6-109 (Supp. 91-4).

Article 1 consisting of Sections R3-9-101 through R3-9-103; Article 2 consisting of Sections R3-9-201 through R3-9-208; Article 3 consisting of Sections R3-9-301 and R3-9-302; Article 4 consisting of Sections R3-9-401 through R3-9-409; Article 5 consisting of Sections R3-9-501 through R3-9-504; Article 6 consisting of Sections R3-9-601 through R3-9-620; Article 7 consisting of Sections R3-9-701 and R3-9-702 adopted effective August 19, 1983.

Former Article 1 consisting of Sections R3-9-01 through R3-9-11; Article 2 consisting of Sections R3-9-16 through R3-9-26; Article 3 consisting of Sections R3-9-22 through R3-9-35; Article 4 consisting of Sections R3-9-46 through R3-9-48 repealed effective August 19, 1983.

ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Section R3-2-101, adopted effective May 7, 1997 (Supp. 97-2).

Article 1, consisting of Sections R3-2-101 through R3-2-109, recodified to Article 11, Sections R3-2-1101 through R3-2-1109 (Supp. 97-1).

Article 1, consisting of Sections R3-2-101 through R3-2-109, adopted effective September 11, 1996 (Supp. 96-3).

Article 1, consisting of Sections R3-2-101 through R3-2-103, renumbered from R3-9-101 through R3-9-103 (Supp. 91-4).

Table with 2 columns: Section and Page. Includes R3-2-101 Definitions (3), R3-2-102 Licensing Time-frames (3), R3-2-103 Recodified (3), R3-2-104 Recodified (3), R3-2-105 Recodified (3), R3-2-106 Recodified (3), R3-2-107 Recodified (3), R3-2-108 Recodified (4), R3-2-109 Recodified (4), and Table 1 Time-frames (Calendar Days) (5).

ARTICLE 2. MEAT AND POULTRY INSPECTION

Article 2, consisting of Sections R3-2-201 through R3-2-208, renumbered from Sections R3-9-201 through R3-9-208 (Supp. 91-4).

Table with 2 columns: Section and Page. Includes R3-2-201 Definitions (6), R3-2-202 Meat and Poultry Inspection; Slaughtering Standards (6), R3-2-203 Licenses; Registration; Records (6), R3-2-204 Official Slaughter Establishment (7), R3-2-205 Expired (9), R3-2-206 Purchase, Sale, Collection, Transportation, Disposition, and Use of Meat or Meat Food Products; Dead Animals; Animal Bone, Animal Fat, Animal Offal (9), R3-2-207 Meat from Dead Animals Processed and Decharacterized for Use as Animal Food (10), R3-2-208 Diseased and Injured Animals (11), and R3-2-209 Exempt Non-mobile Slaughter Establishments (11).

ARTICLE 3. FEEDING OF ANIMALS

Article 3, consisting of Sections R3-2-301 and R3-2-302, renumbered from R3-9-301 and R3-9-302 (Supp. 91-4).

Table with 2 columns: Section and Page. Includes R3-2-301 Operation of Beef Cattle Feedlots (12) and R3-2-302 Permit to Feed Garbage to Swine; Requirements (12).

ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL

Article 4, consisting of Sections R3-2-401 through R3-2-409 renumbered from R3-9-401 through R3-9-409 (Supp. 91-4).

Table with 2 columns: Section and Page. Includes R3-2-401 Definitions (13), R3-2-402 Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories (13), R3-2-403 Expired (14), R3-2-404 Importation, Manufacture, Sale, and Distribution of Biologicals and Semen (14), R3-2-405 Depopulation of Animals Infected with a Foreign Disease (14), R3-2-406 Disease Control; Feedlots (14), R3-2-407 Equine Infectious Anemia (15), R3-2-408 Disposition of Livestock Exposed to Rabies (15), R3-2-409 Rabies Vaccines for Animals (15), R3-2-410 Restricted Swine Feedlots (15), R3-2-411 Exhibition Swine (16), R3-2-412 Exhibition Sheep and Goats (16), and R3-2-413 Sheep and Goats; Intrastate Movement (16).

ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

Article 5, consisting of Sections R3-2-501 and R3-2-504, renumbered from R3-9-501 and R3-9-504 (Supp. 91-4).

Table with 2 columns: Section and Page. Includes R3-2-501 Tuberculosis Control and Eradication Procedures (16), R3-2-502 Repealed (16), R3-2-503 Brucellosis Control and Eradication Procedures (16), R3-2-504 Pseudorabies Procedures for Eradication (17), and R3-2-505 Scrapie Procedures for Eradication (17).

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

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**ARTICLE 1. GENERAL PROVISIONS****R3-2-101. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-1201, 3-1451, and 3-1771, the following terms apply to this Chapter:

“Animal” means livestock, bison, dogs, cats, rabbits, rodents, game animals, furbearing and wildlife mammals, and poultry and other birds.

“APHIS” means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

“Breeding swine” means any member of the family Suidae having the potential to procreate, and includes gilts, sows, and boars.

“Cervidae” means the family of cervids that includes, but is not limited to, deer, moose, elk, reindeer, and caribou.

“Dairy cattle” means cattle of dairy breeds or dairy types used for the production of milk or milk products for human consumption.

“Designated feedlot” means a confined drylot area under state quarantine that is approved and licensed by the State Veterinarian, contains a restricted feeding pen, and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Health certificate” means a legible record that is issued by a VS animal health official, state animal health official, or accredited veterinarian at the point of origin of a shipment of animals, conforms to the requirements of R3-2-606, and is written on a form approved by the chief animal health official of the state of origin or an equivalent form of the USDA attesting that the animal described has been inspected and found to meet the Arizona entry requirements.

“Permit number” or “permit” means a serialized number issued by the State Veterinarian’s Office that conforms to the requirements of R3-2-607 and allows the regulated movement of certain animals into Arizona.

“USDA” means the United States Department of Agriculture.

“VS” means the Veterinary Services branch of APHIS.

**Historical Note**

Reserved Section R3-2-101 renumbered from R3-9-101 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-101 recodified to R3-2-1101 (Supp. 97-1). New Section adopted effective May 7, 1997 (Supp. 97-2). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-102. Licensing Time-frames**

**A.** Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.

**B.** Administrative completeness review.

1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.

2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.

3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.

**C.** Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.

1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.

2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant’s right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

**Historical Note**

Reserved Section R3-2-102 renumbered from R3-9-102 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-102 recodified to R3-2-1102 (Supp. 97-1). New Section R3-2-102 adopted effective October 8, 1998 (Supp. 98-4).

**R3-2-103. Recodified****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). R3-2-103 renumbered from Section R3-9-103 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-103 recodified to R3-2-1103 (Supp. 97-1).

**R3-2-104. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-104 recodified to R3-2-1104 (Supp. 97-1).

**R3-2-105. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-105 recodified to R3-2-1105 (Supp. 97-1).

**R3-2-106. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-106 recodified to R3-2-1106 (Supp. 97-1).

**R3-2-107. Recodified**

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**Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-107 recodified to R3-2-1107 (Supp. 97-1).

**R3-2-108. Recodified**

**Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-108 recodified to R3-2-1108 (Supp. 97-1).

**R3-2-109. Recodified**

**Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-109 recodified to R3-2-1109 (Supp. 97-1).

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Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
<b>MEAT AND POULTRY INSPECTION</b>						
License to Slaughter	A.R.S. § 3-2002 A.R.S. § 3-2003 R3-2-208	14	14	30	14	44
Transfer of license without fee	A.R.S. § 3-2009	14	14	30	5	44
State Meat Inspection Service	A.R.S. § 3-2047	14	14	30	14	44
Sale or Exchange of Meat or Poultry	A.R.S. § 3-2081 R3-2-208	14	14	30	14	44
Rendering Facility Certification	A.R.S. § 3-2081 R3-2-205	14	14	30	14	44
Transfer of License	A.R.S. § 3-2086	14	14	30	5	44
Official Slaughter Meat Licenses	A.R.S. § 3-2122 R3-2-208	14	14	30	14	44
<b>FEEDING OF ANIMALS</b>						
Feed Lot License	A.R.S. § 3-1452	14	14	60	14	74
Permit to Feed Garbage to Swine	A.R.S. § 3-2664	14	14	60	14	74
<b>DAIRY PRODUCTS AND CONTROL</b>						
Milk Distributing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28
Milk Processing Plant New Renewal Plant Licensing New Renewal	A.R.S. § 3-607  A.R.S. § 3-665	14 14 14 14	14 14 14 14	14 14 14 14	14 14 14 14	28 28 28 28
Request to market a product as a milk product	A.R.S. § 601.01	14	14	14	14	28
Tester License	A.R.S. § 3-619	7	7	7	7	14
Trade Product Label	A.R.S. § 3-667	14	14	30	30	44
<b>LIVESTOCK INSPECTION</b>						
Equine Trader Permit	A.R.S. § 3-1348	7	7	7	7	14
Ownership and Hauling Certificate for Equines	A.R.S. § 3-1344 A.R.S. § 3-1345	14	14	14	14	28
<b>EGG PRODUCTS AND CONTROL</b>						
Annual Licensing	A.R.S. § 3-714	10	10	10	10	20
<b>AQUACULTURE</b>						
Aquaculture Facility	A.R.S. § 3-2907 R3-2-1004	14	14	30	14	44
Fee Fishing Facility	R3-2-1005	14	14	30	14	44
Processor	R3-2-1006	14	14	30	14	44
Transporter	R3-2-1007	14	14	30	14	44
Special Licenses	A.R.S. § 3-2908 R3-2-1008	14	14	30	14	44

**Historical Note**

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2).

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**ARTICLE 2. MEAT AND POULTRY INSPECTION****R3-2-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-101 and 3-2001 and 9 CFR 301.2 and 9 CFR 381.1, which are incorporated by reference in R3-2-202, the following terms apply to this Article:

1. "Animal" means any steer, heifer, calf, cow, bull, sheep, goat, swine, horse, ass, mule, burro, ratite, or poultry.
2. "Dead animal" means an animal that died other than by slaughter in a place where inspection is performed by the Department or by the United States Department of Agriculture.
3. "Inedible meat" means:
  - a. Meat or meat food product from an animal that died by slaughter or was processed in an inspected slaughterhouse, but which an inspector did not pass as fit for human consumption; or
  - b. Meat condemned by a federal or state inspector.
4. "Rendering" means the conversion of packinghouse waste or dead animal carcasses and parts into industrial fat, oil, or other product unfit for human consumption.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-201 renumbered from Section R3-9-201 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 10 A.A.R. 2661, effective August 7, 2004 (Supp. 04-2).

**R3-2-202. Meat and Poultry Inspection; Slaughtering Standards**

All meat and poultry inspection, slaughtering, production, processing, labeling, storing, handling, transportation and sanitation procedures shall be conducted as prescribed in 9 CFR Chapter III, revised January 1, 2016, as amended by 80 FR 75590-01 (December 2, 2015), except sections 302.2, 307.5, 307.6, 312, 322, 327, 329.7, 329.9, 331, 335, 351, 352, 354, 355, 381.38, 381.39, 381.96 through 381.112, 381.195 through 381.209, 381.218 through 381.225, 390, 391, 392, 590 and 592. This material is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available from the Department and may also be viewed online at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-202 renumbered from Section R3-9-202 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 465, effective January 5, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 10 A.A.R. 1971, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 15 A.A.R. 1890, effective October 21, 2009 for 180 days (Supp. 09-4). Emergency expired; Section amended by final rulemaking at 16 A.A.R. 351, effective April 3, 2010 (Supp. 10-1). Amended by emergency rulemaking at 19 A.A.R. 150, effective January 9, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 1789, effective July 9, 2013 (Supp. 13-3). Amended by final rulemaking at 22 A.A.R. 2167, effective October 2, 2016 (Supp. 16-3).

**R3-2-203. Licenses; Registration; Records**

- A. Any person operating a business in any of the following categories shall obtain the appropriate license from the Department.
  1. Types of slaughter licenses.
    - a. Official slaughter – the slaughtering of animals in a slaughterhouse for sale for human consumption.
    - b. Exempt slaughter.
      - i. Exempt non-mobile slaughter – the slaughtering or dressing of an animal in a stationary building for human consumption, that is not sold or offered for sale.
      - ii. Exempt mobile slaughter – the slaughtering or dressing of an animal for human consumption by using a mobile structure on the property of the animal's owner, that is not sold or offered for sale.
  2. Types of meat licenses.
    - a. Broker – any person, firm or corporation engaged in buying or selling carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments. A broker negotiates purchases or sales of these products other than for the broker's own account, as an employee of another person, and is paid a commission.
    - b. Exempt – any person, firm, or corporation engaged in processing meat or poultry products without meat inspection, for an individual owner of meat that is not for sale.
    - c. Distributor – any person, firm, or corporation engaged in receiving carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments and storing or distributing these products to commercial outlets, processors, or individuals. A distributor does not process any of these products.
    - d. Jobber – any person, firm, or corporation with an established place of business that buys meat or poultry food products and offers the products for sale to someone other than the end-use consumer.
    - e. Pet food manufacturer – any person, firm, or corporation engaged in manufacturing animal food from meat or poultry unfit for human consumption.
    - f. Processor – any person, firm, or corporation that changes meat or poultry food products by cutting, mixing, blending, canning, curing or otherwise preparing meat or meat food products wholesale for human consumption.
    - g. Renderer – any person, firm, or corporation that renders and tallows and any person, firm, or corporation engaged commercially in the hide, hair, or pelt removal, cutting up, or rendering of animals.
- B. Applications for a license or registration pursuant to A.R.S. § 3-2081(A), shall be made on forms provided by the Department and shall contain the following:
  1. The name of the applicant and the applicant's partners, officers or directors of the business, if any;
  2. The business name, mailing address, telephone number, and Social Security number of the applicant;
  3. The exact location of the business, if different from subsection (B)(2).
- C. All persons licensed or registered under this Section, and all other persons described in A.R.S. § 3-2081, shall maintain the records required under A.R.S. § 3-2081 for a minimum of one year. In addition, all registered dead animal haulers, licensed rendering and tallow plants, and pet food manufacturing plants shall prepare and submit the reports required under A.R.S. § 3-

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2695 and shall include copies of those reports as part of records maintained under this Section and A.R.S. § 3-2081.

- D. During fiscal year 2020, the fee to obtain or renew a license to slaughter is:
1. For not to exceed 45 head of cattle, and not to exceed 55 head of sheep, goats or swine in one calendar year: \$250.
  2. For more than 45 and not to exceed 150 head of cattle and more than 45 and not to exceed 160 head of sheep, goats or swine in one calendar year: \$300.
  3. For more than 150 head of cattle and more than 160 head of sheep, goats or swine in any one calendar year: \$450.
- E. During fiscal year 2020, the fee to obtain or renew a meat license is:
1. For a broker, \$450.
  2. For exempt processing, \$300.
  3. For a distributor, \$500.
  4. For a jobber, \$450.
  5. For a pet food manufacturer, \$300.
  6. For a processor, \$300.
  7. For meat storage, \$450.
  8. For transportation, \$300.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-208 renumbered from Section R3-9-208 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-203 renumbered to R3-2-208; new Section R3-2-203 renumbered from Section R3-2-208 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3).

**R3-2-204. Official Slaughter Establishment**

In addition to the requirements in A.R.S. § 3-2051, the following shall be provided when slaughtering cattle, calves, sheep, and hogs:

1. Cattle.
  - a. A metal knocking box or concrete box with metal door to confine the animals prior to stunning;
  - b. A separately drained, dry landing area at least five feet wide in front of the knocking box;
  - c. A curbed-in bleeding area at least eight feet wide and seven feet long, located so that blood will not splash upon stunned animals lying in the dry landing area or upon carcasses being skinned on the siding bed. Curbing shall be at least six inches high and six inches wide;
  - d. A separately drained area at least five feet from the curbed-in bleeding area to the siding bed;
  - e. A distance of at least 14 feet from the vertical of the dropoff to the vertical of the hoist where carcasses are eviscerated. For multiple-bed plants, this distance shall be increased to 16 feet;
2. Calves and sheep.
  - a. A bleeding rail with its top approximately 11 feet from the floor. The floor of the bleeding area shall be curbed and separately drained;
  - b. Dressing and cooler rails of such height as to provide a clearance of at least eight inches from the carcasses to the floor. Calves which are of such size that there is not a clearance of at least eight inches above the floor, or whose viscera cannot be transferred manually and unaided to the inspection stand, shall be skinned and eviscerated as cattle;
  - c. Facilities for washing hides of calves before any incision is made (except the sticking wound) when carcasses are dressed hide on. The heads of calves and veal slaughtered by the Kosher method shall be skinned prior to the washing of the carcasses;
  - d. Facilities for flushing, washing, and inspecting calf heads, including head-flushing cabinet and head inspection rack with removal calf loops;
  - e. Facilities for the inspection of the viscera. A hopped metal stand shall be provided which accommodates two removal inspection pans. One inspection pan is for the thoracic viscera; the other is for the abdominal viscera. The pans shall have perforated bottoms and handles or hand holes for removal. A sterilizing receptacle shall be provided for sterilization of contaminated pans;
  - f. Facilities for washing sheep carcasses after removal of the pelt. Calves and sheep shall be washed again after they have been eviscerated.
3. Hogs.
  - a. Facilities for bleeding hogs in a hanging position, over a separately drained, curbed-in bleeding area;
  - b. A scalding vat and gambreling table, including the platforms, of metal construction;
  - c. A shaving rail to assure that carcasses are cleaned;

- f. A distance of at least 14 feet between the vertical of the hoist where carcasses are eviscerated and the header rail leading to the cooler. This distance may be shortened when a single rail hang-off is used;
- g. A distance of at least three feet from the header rail to the adjacent wall;
- h. A bleeding rail with its top at least 16 feet above the floor or a traveling hoist on an I-beam which will provide an equivalent distance of the carcass from the floor;
- i. Floor space for a head-flushing cabinet and head inspection rack with removable hooks;
- j. When hides are dropped to a room below, a hide chute near the point where hides are removed from the carcasses. The chute shall have a vented hood with a self-closing, push-in door. The vent shall be approximately 10 inches in diameter and extend to a point above the roof. Additional chutes, which meet the requirements of this subsection, for inedible and condemned materials shall be provided separate from the hide chutes;
- k. A two-level viscera inspection truck for evisceration, except when a moving top viscera inspection table is used;
- l. An area for washing and shrouding carcasses which shall be curbed and sloped to a separate drain or have a slope of approximately 1/2 inch to the foot leading to a separate drain;
- m. Dressing rails and cooler rails at least 11 feet in height.

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- d. A hopped metal stand for the inspection of viscera. A sterilizing receptacle shall be provided at a convenient location for the sterilization of contaminated pans;
  - e. Dressing and cooler rails at least nine feet high or of such height as to provide a clearance of at least eight inches between the lowest point of the carcass, or head if left attached, and the floor.
4. Coolers. A chill cooler and separate holding coolers may be provided or both may be combined in one room. The chill cooler shall have floors of concrete sloped to a drain. The walls shall be smooth, light colored, impervious, and the room shall be sealed. The other coolers shall have floors of concrete; the walls shall be smooth, free of cracks, light colored, impervious, and the room shall be sealed. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant metal. Rails shall be spaced at least two feet from walls, columns, refrigerating equipment, or other fixed equipment to prevent contact with the carcasses. Header rails shall be three feet from the walls. When overhead refrigerating facilities are provided, insulated drip pans must be installed beneath them and the pans connected to the drainage system. If wall coils are installed, a drip gutter of impervious material and connected with the drainage system shall be installed beneath the coils. When edible offal is chilled or stored in a cooler other than a separate offal cooler, that area shall be separately drained.
  5. Other edible products departments.
    - a. Floors, walls, and ceilings in the various edible products departments of the plant shall be constructed of material that can be readily kept clean. Wooden structures and equipment shall be kept at a minimum. Floors requiring drainage shall be constructed of dense concrete or floor brick laid on a concrete base. The interior walls and, where practical, ceiling surfaces shall be smooth and flat. Walls shall be constructed of glazed tile, smooth cement plaster, or other USDA-approved impervious material. Walls shall be free of cracks and crevices, and, where brick or tile is used, the mortar joints shall be flush with the surface of the walls. Walls shall be light colored.
    - b. The floors of the plant shall be well-drained; a slope of not less than 1/4 inch to the foot to drainage inlets is required. The floors shall be smooth, impervious, and in good repair; they shall be free from cracks and depressions which could hold floor liquids. Wooden floors are not permitted. Junctions of floors and walls shall be covered.
    - c. Walls, ceilings, beams, and hangers shall be cleaned. Rails may be oiled instead of painted. Rust and scale shall be removed from hangers and meat trolleys. Smooth Portland cement plaster walls shall not be painted.
  6. Hide room. The floor of the hide room, if provided, shall be of concrete and drained. Walls shall be smooth and impervious to at least the highest point of the hide pile. The hide room shall not connect with the slaughtering department except for one opening which shall be equipped with a tight-fitting, self-closing door. The hide room shall not connect with any other room in which edible products are stored, processed, or handled.
  7. Disposal of blood. When blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises or blown to the blood drier in a manner that will not mask odors or create a harborage for pests.
  8. Other inedible products departments.
    - a. An inedible products department, completely separate and apart from edible products departments, shall be provided. Walls shall be of smooth, finished, Portland cement plaster, glazed tile, or other USDA-approved material impervious to moisture. Floors shall be constructed of dense concrete or floor tile, sloped to drain. Hot and cold water connections shall be provided. With the exception of one opening to the slaughtering department, there shall be no openings between an inedible products department and an edible products department. This one opening shall be approximately five feet in width to allow the free passage of materials and shall be equipped with a close-fitting, self-closing door of solid construction. This door shall be kept closed at all times, except when in actual use, to prevent the entrance of undesirable odors to the slaughtering department. The area at the loading dock shall be paved, drained, and of sufficient size to accommodate the largest truck used. If inedible offal is stored in an edible products department, the room is classed as an inedible products department. Paunches may be opened in the slaughtering department only when a hydraulic mechanically operated paunch lift table is provided and used for this purpose. Otherwise, the paunches shall be opened in the inedible offal rooms.
    - b. Requests for permission for rendering of shop scraps and outside dead animals shall be made to the inspector who shall grant or deny the request pursuant to Article 2.
  9. Pens.
    - a. Holding pens shall be surfaced with an impervious material, sloped to drains. A curb shall be installed around the outside of the pens to prevent the wash from escaping. Water under pressure shall be available for washing out the pens. Feeding pens shall be at least 300 feet from the plant and shall not be located in front of the plant.
    - b. Holding and shackling pens shall be located outside of, or separated from, the slaughtering department.
  10. Drainage
    - a. Floors which require flushing during operations shall have sloped floor drains to carry off the floor drainage. Each floor drain shall be equipped with a deep-seal trap; the drainage lines shall be vented to the outside in accordance with local plumbing codes. In no case shall a drain line be less than four inches in diameter.
    - b. Sewage may be disposed of into a municipal sewer system, if permitted by local ordinance, or it may be disposed of into a stream or other similar body of water, provided that:
      - i. This method is acceptable to local health authorities having jurisdiction over sewage disposal, and
      - ii. The flow of the stream or other body of water is sufficient to carry the sewage away from the plant at all seasons of the year. When cesspools are used, they shall be of sufficient size to receive the sewage from the plant at all times; they shall be so constructed that they do not create a nuisance by breeding flies or other insects.

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- c. Grease recovery basins shall not mask odors or create a harborage for pests.
11. Equipment and utensils.
- a. Equipment shall be constructed of metal and shall be so constructed that it can be easily cleaned. Cutting boards may be of hard wood or synthetic material, but equipment, such as the framework of boning or cutting tables, scalding vats, offal racks and trees, product storage racks, and product trucks shall be of metal construction. Rusty or worn-out equipment shall be replaced.
- b. All equipment shall be thoroughly cleaned following each day's operations. The use of a clear, colorless, odorless, tasteless, edible mineral oil may be used on metal equipment, such as choppers, grinders, mixers, tables, meat trucks, offal racks, hooks, and trolleys. Scale shall not be permitted to accumulate on metal equipment.
- c. Sterilizing receptacles equipped with drains to permit draining and cleaning shall be placed at convenient locations in the slaughtering department for the cleaning and sterilization of contaminated tools and equipment. Water wasting from equipment shall not flow across the floor.
- d. Shovels used for transferring ice or other edible materials from one container to another shall not touch the floor.
12. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to assure the absence of dust, masking odors, or steam vapors. Points where inspection is conducted may require special lighting. The glass area shall be at least 1/4 of the floor area in all nonrefrigerated work rooms. To assure adequate lighting at all times and at all places, natural lighting must be supplemented by well-distributed artificial lighting.
13. Water supply, wash basins, sterilizing facilities.
- a. Hot and cold running water, under pressure, shall be available at all parts of the establishment and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
- b. Foot-pedal operated wash basins shall be placed in or near dressing rooms. These wash basins shall be equipped with running hot and cold water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The drainage outlet shall lead directly into the sewage lines. Soap and towels, and a receptacle for dirty paper towels or other trash, shall be convenient to the wash basin.
- c. One or more wash basins shall be located in the slaughtering department, and one or more in the sausage manufacturing room and at any other place in the establishment essential to ensure cleanliness of all persons handling products. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
- d. Water for sterilizing purposes shall be maintained at a temperature of at least 180° F. One or more sterilizing receptacles of rust-resisting, impervious material shall be placed at convenient locations in the slaughtering department for the sterilization of all implements that have been contaminated or used on a diseased carcass or part of a diseased carcass. The sterilizer shall be equipped with a cold water and steam line, or other means to maintain water at a temperature of at least 180° F during slaughtering operations. The sterilizer shall contain a drain so that water may be completely drained out for daily cleaning. Boilers and water heaters shall not be located in the slaughtering department or in any edible products department. To prevent possible back siphonage, vacuum breakers shall be provided on all steam and water lines when open ends are submerged or connected to equipment.
14. Protection against flies, rodents, or other vermin.
- a. Plants must be kept free of flies, rats, mice, roaches, and other pests or vermin. The plant shall be constructed to prevent entrance of rodents to the premises and to eliminate their breeding places from the surrounding areas and in the establishment. Construction of the plant shall be such as to eliminate roach and other insect harbors. Windows, doors, and other openings to the plant shall be provided with insect screens, or other measures to prevent entrance of flies or other insects. The screens shall be kept in good repair. Sprays containing residual-acting chemicals shall not be used in edible products departments.
- b. Animal-handling facilities such as stock pens and runways shall be cleaned as often as necessary and the manure or other waste materials removed shall not be permitted to accumulate at or near the plant.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-204 renumbered from Section R3-9-204 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

**R3-2-205. Expired****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-205 renumbered from Section R3-9-205 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**R3-2-206. Purchase, Sale, Collection, Transportation, Disposition, and Use of Meat or Meat Food Products; Dead Animals; Animal Bone, Animal Fat, Animal Offal**

- A. A person shall not buy, sell, offer for sale, store, transport, receive, or collect any meat or meat food product except as provided in this subsection.
1. Any of the following meat or meat food products may be bought, sold, or offered for sale as animal food and may be stored, transported, received, or collected anywhere within the state:

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- a. Any meat or meat food product that is processed in an animal food manufacturing plant licensed by the Department;
  - b. Any meat or meat food product that comes from an animal that died by slaughter or is approved or passed for animal food by either state or federal meat inspectors;
  - c. Any meat or meat food product that is thoroughly cooked at a minimum temperature of 180° F for 30 minutes and is certified by a state or a federal meat inspector having jurisdiction at the place of processing.
2. A carcass with the hide, hair, or pelt still on the carcass may be bought, sold, offered for sale, collected and transported to or received by the following only:
    - a. A rendering or tallow plant;
    - b. A state or county diagnostic laboratory, a veterinarian's clinic, or crematory;
    - c. An animal food manufacturing plant;
    - d. A landfill regulated by the Arizona Department of Environmental Quality;
    - e. An out-of-state landfill regulated by that state's landfill regulatory authority; or
    - f. A landfill located on a Native American reservation that is regulated by equivalent standards to those prescribed by the Arizona Department of Environmental Quality.
  3. Any meat or meat food product described in subsection (A)(1) or a carcass with the hide, hair, or pelt still on the carcass from an official state or federal slaughter establishment shall be denatured with a denaturant that will not leave a toxic residue and is removable when steam-distilled at atmospheric pressure.
  4. Any meat or meat food product that has been condemned by state or federal meat inspectors shall be treated as provided in 9 CFR 314.3, which has been incorporated by reference in R3-2-202, and may be disposed of as provided in that rule or may be collected and transported to or received by a rendering or tallow plant or a state or county diagnostic laboratory or crematory.
- B.** A person engaged commercially in the collection or transportation of dead animal carcasses or inedible meat shall register with the Department as a dead animal hauler as prescribed in R3-2-203(B) and shall maintain and keep all records for the time required by R3-2-203(C).
- C.** A vehicle or other means of conveyance used to transport a dead animal carcass or inedible meat shall be:
1. Leak-proof,
  2. Constructed of impervious materials that permit thorough cleaning and sanitizing,
  3. Equipped to control insects and odors and prevent the spread of disease, and
  4. Comply with the Department of Environmental Quality vehicle requirements prescribed in R18-13-310(A) and (B).
- D.** Except as provided in subsection (E), a dead animal carcass may be rendered or made into animal food only at a licensed rendering or animal food manufacturing plant as prescribed in A.R.S. § 3-2088 and this Article.
- E.** Dead animals diagnosed with anthrax or an animal disease foreign to the United States shall be handled as directed by the State Veterinarian.
- F.** Discarded animal bone, animal fat, and animal offal generated by a wholesale food manufacturer shall be transported to and received by only a:
1. Licensed rendering plant, or
  2. Landfill, as prescribed in subsections (A)(2)(d), (A)(2)(e), and (A)(2)(f).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-206 renumbered from Section R3-9-206 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Citation in subsection (B) corrected to R3-2-203(C) from R3-2-208(C) under R1-1-109(C) (Supp. 01-2). Amended by final rulemaking at 8 A.A.R. 3015, effective July 10, 2002 (Supp. 02-3).

**R3-2-207. Meat from Dead Animals Processed and Decharacterized for Use as Animal Food**

- A.** The following are minimum requirements for animal food manufacturing plants:
1. Hot and cold water shall be provided with facilities for its distribution in the plant which shall conform with the minimum requirements of the state Department of Health Services. The hot water shall be at least 180° F and shall be used for the cleaning of equipment, floors, and walls.
  2. There shall be a drainage and plumbing system and a sewage disposal system that will not serve as a breeding place for flies, constitute a hazard, or endanger public health. Both systems shall meet the minimum requirements of the state Department of Health Services.
  3. The floors, walls, ceilings, partitions, posts, doors, and other parts of all structures shall be of materials, construction, and finish that are capable of being thoroughly cleaned. The floors shall be tile, cement or other material impervious to water and shall have sufficient drainage to preclude stagnant accumulations of moisture.
  4. All outside windows and doors shall be screened.
  5. All rooms shall have natural or artificial lighting and well-distributed ventilation sufficient to prevent uncontrolled mold growth and filth or bacteria that may endanger health.
  6. The plant shall be kept free from flies, rats, mice, and other vermin. Dogs and cats shall be excluded from the plants.
  7. Tables, benches, and other equipment shall be provided so that processing can be performed free from filth or bacteria that may endanger health.
  8. Each plant shall provide toilets, wash basins, towels, hot and cold running water, and soap for the employees with separate facilities when both sexes are employed. Toilets and wash basins shall be kept free from filth or bacteria that may endanger health. The rooms in which the toilet facilities are located shall be ventilated and shall be separated from the rooms in which the animal food is manufactured.
  9. Coolers shall be maintained below 40° F. Freezers shall be maintained below 10° F.
- B.** Decharacterizing or denaturant agents: The following USDA-approved denaturant agents may be used: Charcoal (finely powdered) with a minimum 1 lb. per 100 lbs. meat, F-D & C Blue 1, F-D & C Blue 2, F-D & C Green 3, or liquid charcoal.
1. In addition to the application of the denaturing agents listed, meat or meat products shall be identified with the following information:
    - a. The kind of animal,
    - b. The following phrases:
      - i. For pet food only from dead animals,
      - ii. Denatured with \_\_\_\_\_,
    - c. The correct statement of net weight, and
    - d. The name and address of processor or manufacturer.

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2. Before the denaturing agents are applied to pieces more than four inches in diameter, the pieces shall be freely slashed or sectioned. The application of any of the denaturing agents listed in this Section to the outer surfaces of molds or blocks of boneless meat, meat by-products, or meat food products shall not be considered adequate. The denaturing agent shall be mixed thoroughly with all of the material to be denatured and shall be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. Denaturant shall be used to give the meat, meat by-products, raw animal fat, or rendered animal fats and oils, a distinctive color, odor, or taste so that such material cannot be confused with an article of human food.
  3. All denaturing shall be done immediately upon condemnation of the meat or product, or immediately after the meat or product is prepared or during preparation.
  4. True containers shall be legibly marked with the words "Beef or horse meat from dead animals for pet food only and not for human consumption" in letters at least 3/4 inch in height, on all sides and in at least two places if the container has less than four sides.
  5. Every carrying container in which meat obtained from a dead animal is packaged shall have an exterior surface sufficiently absorbent so that the markings on at least two sides, in letters two inches high "Pet food only," will not become illegible during handling, storage, or transportation of the container.
- C.** Sales of meat obtained from a dead animal are permitted only to kennels, zoos, and animal food manufacturing plants registered by the Department, and records of sales shall be maintained by the purchaser and animal food manufacturing plant.
- D.** Each vehicle used for the transportation of fresh or frozen pet food shall be clearly and legibly marked with the name of the manufacturer in letters not less than four inches in height on both sides of the cab or body.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-207 renumbered from Section R3-9-207 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3).

**R3-2-208. Diseased and Injured Animals**

- A.** Diseased animals.
1. No meat from any diseased animal shall be processed, sold or stored at premises where food is sold or prepared for human consumption, unless it is decharacterized and clearly identified "Not for Human Consumption."
  2. Subsection (A)(1) does not apply to meat from animals affected by any disease that does not render the meat unfit for human consumption if the affected animals are slaughtered in establishments where meat inspection is maintained under A.R.S. § 3-2051 and 9 CFR, Chapter III, Subchapter A, which is incorporated by reference in R3-2-202(A).
- B.** Injured animals. An injured animal may be slaughtered by:
1. The animal's owner at the owner's premises if the meat is used solely for consumption by the owner, the owner's immediate family, or employees. The owner shall keep the animal's hide until it has been inspected and marked or tagged by a livestock officer under A.R.S. § 3-2011.
  2. An official slaughter establishment, if:
    - a. The animal is inspected by a livestock officer at origin; or
    - b. The animal is transported to the official slaughter establishment with a self-inspection certificate; or
    - c. The animal is transported to an official slaughter establishment with a waiver from the Associate Director and the waiver is documented by the livestock officer.
  3. An exempt slaughterer, if the meat is used solely for consumption by the animal's owner, the owner's immediate family or employees, and if:
    - a. The animal's body temperature is 103° F or less and except for the injury its condition appears normal; and
    - b. The animal is inspected by a livestock officer at origin who verifies the temperature and condition of the animal and approves it for slaughter; or
    - c. The Associate Director waives the inspection and the waiver is documented by the livestock officer, and the exempt slaughterer verifies the temperature and condition of the animal.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-203 renumbered from Section R3-9-203 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-208 renumbered to R3-2-203; new Section R3-2-208 renumbered from Section R3-2-203 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

**R3-2-209. Exempt Non-mobile Slaughter Establishments**

In addition to A.R.S. § 3-2050 and the material incorporated in R3-2-202(A), the following shall be provided when slaughtering animals in an exempt non-mobile slaughter establishment:

1. General.
  - a. A metal knocking box or concrete box with metal door to confine the animal before stunning;
  - b. A distance of at least three feet from the header rail to the adjacent wall;
  - c. A bleeding rail with its top at least 16 feet above the floor; and
  - d. Dressing rails and cooler rails placed so the lowest part of the carcass is at least 12 inches from the floor.
2. Coolers. A chill cooler and separate holding cooler may be provided or both may be combined in one unit. The walls shall be light colored, smooth, free from cracks, and impervious to moisture. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant material. Rails shall be spaced at least two feet from walls, columns, refrigeration equipment, or other fixed equipment to prevent contact with the carcasses.
3. Disposal of blood. If blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises.
4. Drainage.
  - a. Floors that require flushing during operations shall have sloped floor drains to carry off the effluent. Drainage systems shall conform to state and local plumbing codes.
  - b. Grease recovery systems shall not mask odors or create a harborage for pests.
5. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to ensure the absence of dust, masking odors, or steam vapors. To ensure adequate lighting at all times and at all places, natural lighting shall be supplemented by well-distributed artificial lighting.
6. Potable water supply, wash basins, sterilizing facilities.

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- a. Hot and cold running water, under pressure, shall be available in all parts of the plant and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
  - b. One or more wash basins shall be located in the slaughtering department. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
  - c. The tool sterilizer shall be maintained at 180° F and be in operation at all times during slaughter activities.
7. Protection against flies, rodents, or other vermin.
- a. Establishments shall be free of flies, rats, mice, roaches, and other pests or vermin. The establishment shall be constructed and maintained to prevent entrance of pests to the premises and to eliminate breeding places from the surrounding area and in the establishment.
  - b. Animal handling facilities such as stock pens and runways shall be clean and manure or other waste materials removed shall not accumulate at or near the establishment.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

**ARTICLE 3. FEEDING OF ANIMALS****R3-2-301. Operation of Beef Cattle Feedlots**

- A. An operator shall manage a feedlot under the standards prescribed in A.R.S. § 3-1454(A) and R3-2-406.
- B. An operator shall comply with applicable federal, state, and local laws.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-301 renumbered from Section R3-9-301 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-302. Permit to Feed Garbage to Swine; Requirements**

A swine garbage feeding permit holder or applicant for a permit to feed garbage to swine shall comply with the following requirements:

1. An approved cooker is installed and in operating condition on the premises, and fenced off from all swine.
2. A concrete slab, trough, other easily cleanable area, and equipment for feeding garbage is provided.
3. Premises utilized for swine garbage feeding are reasonably clean, free of litter, adequately drained, and provide for removal of animal excrement and garbage not consumed.
4. Individually operated swine garbage feeding premises are separated from other swine premises by a minimum distance of 200 feet in all directions and constructed to prevent the escape of any swine.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-302 renumbered from Section R3-9-302 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL****R3-2-401. Definitions**

The following terms apply to this Article:

“Accredited veterinarian” means a veterinarian approved by the State Veterinarian and the Deputy Administrator of VS to perform functions required by cooperative State-Federal animal disease control and eradication programs.

“Biologicals” means medical preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.

“Designated feedlot” means a confined drylot area under state quarantine that is approved and licensed by the State Veterinarian, contains restricted feeding pens, and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Equine infectious anemia” or “EIA” means a viral disease, also known as Swamp Fever, of members of the family equidae.

“Restricted feeding pen” means an enclosed area in a designated feedlot, located at least eight feet from other pens, where cattle are maintained for feeding in a drylot without provisions for pasturing or grazing.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-401 renumbered from Section R3-9-401 (Supp. 91-4). Former Section R3-2-401 renumbered to R3-2-402; new Section R3-2-401 adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories**

All veterinarians and laboratories performing diagnostic services on animals shall:

1. Notify the State Veterinarian at (602) 542-4293, within four hours of diagnosing or suspecting any Office of International Epizootics List A disease, Eighth Edition, 1999, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State, chronic wasting disease, or the following List B diseases:
  - Anthrax
  - Aujeszky’s disease
  - Babesiosis
  - Bovine brucellosis
  - Bovine spongiform encephalopathy
  - Bovine tuberculosis
  - Caprine and ovine brucellosis
  - Contagious caprine pleuropneumonia
  - Contagious equine metritis
  - Dourine
  - Enterovirus encephalomyelitis

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Epizootic lymphangitis  
 Equine infectious anaemia  
 Equine piroplasmiasis  
 Equine viral arteritis  
 Equine viral encephalomyelitis  
 Fowl typhoid  
 Glanders  
 Heartwater  
 Horse pox  
 Infectious haematopoietic necrosis of fish  
 Nairobi sheep disease  
 Ovine epididymitis  
 Paratuberculosis  
 Porcine brucellosis  
 Pullorum disease  
 Q fever  
 Rabies  
 Scrapie  
 Screwworm  
 Spring viraemia of carp  
 Surra  
 Theileriosis  
 Trypanosomiasis  
 Viral haemorrhagic septicaemia of fish

2. Notify the State Veterinarian by facsimile at (602) 542-4290 by the end of the month, after diagnosing any Office of International Epizootics List B disease, Eighth Edition, 1999, not specified in subsection (1). This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
3. Follow the reporting criteria listed in the National Animal Health Reporting system Manual, January 1, 1999 when making an Epizootics List B notification specified in subsection (2). This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-402 renumbered from Section R3-9-402 (Supp. 91-4). Former Section R3-2-402 renumbered to R3-2-403; new Section R3-2-402 renumbered from R3-2-401 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-403. Expired****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-403 renumbered from Section R3-9-403 (Supp. 91-4). Former Section R3-2-403 repealed; new Section R3-2-403 renumbered from Section R3-2-402 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**R3-2-404. Importation, Manufacture, Sale, and Distribution of Biologicals and Semen**

- A. Any person importing, manufacturing, selling, or distributing any biological intended for diagnostic or therapeutic treatment of animals shall request, in writing, permission from the State Veterinarian.
- B. The State Veterinarian shall deny approval of the importation, manufacture, sale, or distribution of any biological that will interfere with the State disease control program.
- C. A person shall import semen only from boars in pseudorabies Stage IV or V states.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-404 renumbered from Section R3-9-404 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-405. Depopulation of Animals Infected with a Foreign Disease**

When a foreign animal disease is diagnosed, the State Veterinarian shall order the owner to immediately depopulate and dispose of all infected and exposed animals on the premises if necessary to prevent the spread of the disease among animals.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-405 renumbered from Section R3-9-405 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-406. Disease Control; Feedlots**

- A. A restricted feeding pen shall:
  1. Be isolated from all other pens,
  2. Have separate loading and unloading chutes, alleys, and handling facilities from all other pens,
  3. Not share water or feeding facilities accessible to other areas,
  4. Be posted at all corners with permanently affixed signs stating "Restricted Feeding Area,"
  5. Have a minimum of eight feet between restricted and other pens and facilities, and
  6. Have no common fences or gates with other pens.
- B. An operator may place cattle in a restricted feeding pen as follows:
  1. All cattle, except steers and spayed heifers, shall be branded with an "F", at least two inches in height, on the jaw or adjacent to the tailhead before entering the pen; and
  2. Imported cattle, any age and from any area if accompanied by a permit number and an official health certificate; or
  3. Native Arizona cattle accompanied by an Arizona live-stock inspection certificate.
- C. An operator may remove cattle from a restricted feeding pen as follows:
  1. All animals, except steers and spayed heifers, shall be moved only to slaughter, to another designated feedlot, or

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to an auction market approved by the State Veterinarian or APHIS for sale to slaughter.

2. A steer or spayed heifer may be moved to any location.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-406 renumbered from Section R3-9-406 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-407. Equine Infectious Anemia**

- A. The Arizona official test for EIA is either the agar-gel immunodiffusion test, known as the Coggins Test, or the Competitive Enzyme-Linked Immunosorbent Assay test, known as the CELISA test. The test shall be performed in a laboratory approved by APHIS, and required samples shall be drawn by an accredited veterinarian, the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
- B. Disposal of equine testing positive.
  1. When an Arizona equine tests positive to EIA, the testing laboratory shall immediately notify the State Veterinarian by telephone or fax.
  2. The EIA-positive equine shall be quarantined to the premises where tested, segregated from other equine, and shall not be moved unless authorized by the State Veterinarian. The equine shall be retested by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian within two weeks of the notification.
  3. Within 14 days of being notified by the testing laboratory of a positive test conducted under subsection (B)(2), the State Veterinarian or the State Veterinarian's designee shall brand the equine on the left side of its neck with "86A" not less than two inches in height.
  4. Within 10 days after being branded, the EIA-positive equine shall be:
    - a. Humanely destroyed,
    - b. Confined to a screened stall marked "EIA Quarantine" that is at least 200 yards from other equine, or
    - c. Consigned to slaughter at a slaughtering establishment. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
  5. Offspring of mares testing EIA-positive shall be quarantined, segregated from other equine, and tested for EIA at six months of age. Offspring testing positive shall be handled as prescribed in subsections (B)(3) and (B)(4).
  6. If an EIA-positive equine is located on premises other than those of the owner at the time a quarantine under this Section is effective, the State Veterinarian may authorize movement of the EIA-positive equine to the owner's premises if requested by the owner. Movement shall be under the direct supervision of the State Veterinarian or the State Veterinarian's designee. If the owner lives in another state, the owner may move the equine to that state with the permission of the chief livestock health official of the state and APHIS.
- C. The State Veterinarian shall require testing of any equine located in the same facility as the EIA-positive equine or any equine considered exposed to the EIA-positive equine. The owner of the equine tested shall pay the expenses for the testing.
- D. The owner of any equine found to be EIA-positive shall not be indemnified by the state for any loss caused by the destruction or loss of value of the equine.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-407 renumbered from Section R3-9-407 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-408. Disposition of Livestock Exposed to Rabies**

Livestock bitten by a known or suspected rabid animal shall be handled using the methods prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 1999, Part III, Section 5. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-408 renumbered from Section R3-9-408 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-409. Rabies Vaccines for Animals**

All animals in Arizona vaccinated against rabies shall be vaccinated as prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 1999, Part II. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-409 renumbered from Section R3-9-409 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-410. Restricted Swine Feedlots**

- A. The State Veterinarian shall approve restricted swine feedlots for feeding swine from herds not known to be infected with pseudorabies and not tested for pseudorabies before importation if the imported swine meet all requirements in Article 6. Swine moved from a restricted swine feedlot shall be transported directly to a state or federal slaughter facility for immediate slaughter.
- B. No breeding swine shall be located on or within 1/4 mile of a restricted swine feedlot.
- C. If pseudorabies is diagnosed in swine at a restricted swine feedlot, the feedlot shall be immediately quarantined and shall not receive any additional shipments of swine until the herd at the feedlot is declared free of pseudorabies or all swine are depopulated from the premises and the premises are cleaned and disinfected.
- D. A restricted swine feedlot owner or agent shall submit monthly feedlot records to the State Veterinarian, listing the animal's origin, health certificate number, permit number, slaughter destination, and shipping date.

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**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-411. Exhibition Swine**

An exhibit official shall deny entry to any swine not individually identified by the following:

1. Imported swine:
  - a. The health certificate prescribed in R3-2-606 and individual permanent identification by a method prescribed in R3-2-606(A)(5)(c)(i), and
  - b. The import permit prescribed in R3-2-607.
2. Native Arizona swine. Individual permanent identification by a method prescribed in R3-2-606(A)(5)(c)(i).

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3).

**R3-2-412. Exhibition Sheep and Goats**

An exhibit official shall deny entry to any sheep or goat not individually identified by the following:

1. Imported sheep or goat.
  - a. The health certificate prescribed in R3-2-606 and the animal identification required in R3-2-614, and
  - b. The import permit prescribed in R3-2-607.
2. Native Arizona sheep or goat. A method prescribed in 9 CFR 79.2(a)(2) for a non-neutered sheep or goat, and a neutered sheep or goat more than 18 months of age.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3).

**R3-2-413. Sheep and Goats; Intrastate Movement**

- A. Before intrastate movement of a sheep more than 18 months of age, or a sheep or goat of any age not in a slaughter channel, the producer shall identify the animal to the flock of birth before leaving the flock of birth. A sheep or goat not in a slaughter channel includes an animal not for sale, transfer, or movement to:
  1. A slaughter facility,
  2. Custom slaughter, or
  3. A feeding operation before movement to slaughter.
- B. Subsection (A) does not apply if:
  1. The first point of commingling with animals other than those in the flock of birth is an Arizona auction market, and
  2. The auction market acts as the owner's agent to identify the sheep or goat to the flock of birth.
- C. This Section is effective January 1, 2003.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective January 1, 2003 (Supp. 02-3).

**ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM****R3-2-501. Tuberculosis Control and Eradication Proce-****dures**

- A. Procedures for tuberculosis control and eradication in cattle, bison, and goats shall be as prescribed in the USDA publication, Bovine Tuberculosis Eradication – Uniform Methods and Rules, effective February 3, 1989. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B. Cattle or bison willfully exposed to quarantined cattle or bison are not eligible for the tuberculosis depopulation indemnity provided in A.R.S. § 3-1745.
- C. Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in the USDA publication, Tuberculosis Eradication in Cervidae – Uniform Methods and Rules, effective May 15, 1994, including 1995 amendments. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended subsection (A) effective October 16, 1986 (Supp. 86-5). Section R3-2-501 renumbered from Section R3-9-501 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1).

**R3-2-502. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-502 renumbered from Section R3-9-502 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-503. Brucellosis Control and Eradication Procedures**

- A. Procedures for brucellosis control and eradication in cattle and bison shall be as prescribed in the USDA publication Brucellosis Eradication – Uniform Methods and Rules, effective February 1, 1998. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
- B. Procedures for brucellosis control and eradication in swine shall be as prescribed in the USDA publication, Swine Brucellosis Control/Eradication, State-Federal-Industry – Uniform Methods and Rules, revised February 1995. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
- C. Procedures for brucellosis control and eradication in Cervidae not listed as restricted live wildlife in A.A.C. R12-4-406, shall be as prescribed in the USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective September 30, 1998, and the May 14, 1999 revision. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-503 renumbered from Section R3-9-503 (Supp. 91-4). Amended March 5, 1997 (Supp. 97-1). Amended by

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final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-504. Pseudorabies Procedures for Eradication**

Procedures for pseudorabies control and eradication in swine shall be as prescribed in the USDA publication, Pseudorabies Eradication, State-Federal-Industry Program Standards, effective January 1, 1999. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-505. Scrapie Procedures for Eradication**

The Department controls and eradicates scrapie using the procedures outlined in 9 CFR 54; 66 FR 43963-44003, August 21, 2001. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3).

**ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS****R3-2-601. Definitions**

The following terms apply to this Article:

“Animal” means livestock, feral swine, ratite, bison, water buffalo, oxen, llama, and any exotic mammal not regulated as restricted live wildlife by the Arizona Game and Fish Department.

“Certified copy” means a copy of an official health certificate that includes an additional original signature from the authorizing veterinarian.

“Macaque” means any monkey of the genus *Macaca* in the family *Ceropithecidae*.

“Official eartag” means an identification tag providing unique identification for individual animals. An official eartag that contains or displays an AIN with an 840 prefix must bear the US shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users, subject to the approval of the USDA. The official eartag must be tamper-resistant and have a high retention rate in the animals. Official eartags must adhere to one of the following number systems:

National Uniform Eartagging System,  
Animal identification number (AIN),  
Premises-based number system. The premises-based number system combines an official premises identification number (PIN) with a producer’s livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag, or

Any other numbering system approved by the Administrator of APHIS for the identification of animals in commerce.

“Specifically approved stockyard” means a stockyard specifically approved by VS and the State Veterinarian for receiving from other states cattle and bison that are not brucellosis-reactor, brucellosis-suspect, or brucellosis-exposed.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-601 renumbered from Section R3-9-601 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1).

Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-602. Importation Requirements**

- A. All animals and poultry transported or moved into the state of Arizona, unless otherwise specifically provided for in this Article, must be accompanied by:
  1. An official health certificate from the state of origin or a permit number, or both; and
  2. The health documentation shall be attached to the waybill or in the possession of the driver of the vehicle or person in charge of the animals.
- B. When a single health certificate and permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall retain the original or a certified copy of the health certificate and permit number.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-602 renumbered from Section R3-9-602 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-603. Importation of Diseased Animals**

- A. An animal affected with or recently exposed to any infectious, contagious, or communicable disease, or which originates in a state or federal quarantine area, shall not be transported or moved into the state of Arizona unless a permit for the entry is first obtained from the Arizona State Veterinarian’s Office. All conditions for the movement of animals from a quarantined area established by the quarantining authority or APHIS shall be met.
- B. The owner or owner’s agent shall obtain prior permission from the State Veterinarian to ship or move into Arizona any animal from a lot or herd from which an animal shows a suspicious or positive reaction to a test required for admission to Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-603 renumbered from Section R3-9-603 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emer-

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agency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-604. Livestock Permit Requirements; Exceptions**

- A.** Livestock may not enter the state of Arizona unless accompanied by an Arizona permit. Except as discussed in subsection (B), this requirement applies regardless of the species, breed, sex, class, age, point of origin, place of destination, or purpose of the movement of the livestock entering the state.
- B.** Exceptions:
1. Horses, mules, and asses; or
  2. Livestock consigned directly to slaughter at a state or federally licensed slaughter establishment.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-604 renumbered from Section R3-9-604 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-605. Quarantine for Animals Entering Illegally**

- A.** Animals entering the state without a valid health certificate or permit number, or both if required, or in violation of any Section under 3 A.A.C. 2, shall be held in quarantine at the risk and expense of the owner until released by an authorized representative of the State Veterinarian. Animals under quarantine for noncompliance with this Article may be released only after the State Veterinarian is satisfied by testing, dipping, or observation over time, that the animals are not a threat to the livestock industry.
- B.** The State Veterinarian may request that an imported animal failing to meet entry requirements be returned to the state of origin, consigned directly to slaughter, confined to a designated feedlot, or consigned to a feedlot in another state within two weeks of the request. Any extension to this time-frame shall be approved in writing by the State Veterinarian.
- C.** If the owner or owner's agent fails to comply with a request to return an animal to the state of origin within the time-frame required in subsection (B), the Department shall require that the animal be immediately gathered at the owner's risk and expense to avoid exposure of Arizona animals. The owner shall pay the expenses no later than five days after receipt of the bill, or an auction of sufficient livestock to pay the just expenses shall be held within 10 days at a livestock auction market. If additional expenses occur due to lack of cooperation by the owner or the owner's agent, the Director shall order the further sale of livestock.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Former Section R3-9-605 renumbered to R3-2-605 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-606. Health Certificate**

- A.** A health certificate is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article, and shall contain:

1. The name and address of the shipper and receiver;
2. The origin of the animal;
3. The animal's final destination;
4. Cattle.
  - a. The number of animals covered by the health certificate, an accurate description and, except for steers, spayed heifers, or "F" branded heifers consigned to a designated feedlot identified by brand, one of the following individual identifications:
    - i. The official eartag number that, for dairy cattle, identifies the herd of birth, or
    - ii. The registration tattoo number and the registration brand of a breed association recognized by VS.
  - b. The health status of the animals, including date and result of an inspection, dipping, test, or vaccination required by Arizona;
  - c. The method of transportation; and
  - d. For bulls subject to testing under R3-2-612(J), a statement that the bulls:
    - i. Tested negative for *Tritrichomonas foetus* within one month prior to shipment using a polymerase chain reaction test or three cultures collected at intervals of no less than seven days apart; and
    - ii. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
5. Swine.
  - a. Evidence that the swine have been inspected by the veterinarian issuing the health certificate within 10 days before the shipment,
  - b. A statement that:
    - i. The swine have never been fed garbage, and
    - ii. The swine have not been vaccinated for pseudorabies;
  - c. Except for feeder swine consigned to a restricted swine feedlot:
    - i. A list of the individual permanent identification for each exhibition swine, using an ear notch that conforms to the universal swine-ear notch system or for each commercial swine, using other individual identification, and the premises identification using a tattoo or producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System;
    - ii. The validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd;
    - iii. The pseudorabies status of the state of origin; and
    - iv. The pseudorabies qualified negative herd number, if applicable;
  - d. Except for feeder swine consigned to a restricted swine feedlot, swine moving directly to an exhibition, and swine from a farm of origin in a state recognized by APHIS as a pseudorabies Stage V state, a statement that the swine shall be quarantined on arrival at destination and kept separate and apart from all other swine until tested negative for pseudorabies no sooner than 15 days nor later than 30 days after entry into Arizona; and
  - e. Feeder swine consigned to a restricted swine feedlot shall be identified by premises of origin using a tattoo or producer-furnished tamper-proof eartag that

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- conforms to the USDA National Premises Identification System;
6. Sheep and goats.
    - a. Individual identification prescribed in R3-2-614;
    - b. A statement that:
      - i. The sheep or goats are not infected with blue-tongue, or exposed to scrapie, and do not originate from a scrapie-infected or source flock;
      - ii. Breeding rams have been individually examined and are free of gross lesions of ram epididymitis; and
    - c. A statement that the sheep or goat test negative for *Brucella ovis* if a test is required by R3-2-614(B); and
  7. Equine.
    - a. An accurate identification for each equine covered by the health certificate including age, sex, breed, color, name, brand, tattoo, scars, and distinctive markings; and
    - b. A statement that the equine has a negative test for EIA, as required in R3-2-615, including:
      - i. The date and results of the test;
      - ii. The name of the testing laboratory; and
      - iii. The laboratory accession number.
  - B. Additions, deletions, and unauthorized or uncertified changes inserted or applied to a health certificate renders the certificate void. Uncertified photocopies of health certificates are invalid.
  - C. The veterinarian issuing a health certificate shall certify that the animals shown on the health certificate are free from evidence of any infectious, contagious, or communicable disease or known exposure.
  - D. An accredited veterinarian shall inspect animals for entry into the state.
  - E. The Director may limit the period for which a health certificate is valid to less than 30 days if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-606 renumbered from Section R3-9-606 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-607. Permit Number**

- A. A permit number may be obtained from the Office of the State Veterinarian, by calling (602) 542-4293. Any person applying for a permit number shall provide the following information:
  1. The name and address of the shipper and receiver;
  2. The number and kind of animals;
  3. The origin of shipment;
  4. The shipment's final destination;
  5. The method of transportation; and
  6. Any other information required by the State Veterinarian.

- B. A permit number is valid for 15 calendar days from the date of issuance unless otherwise specified.
- C. A permit number shall be issued if the animals listed on the permit are in compliance with this Article. To cope with changing disease conditions, the State Veterinarian may refuse to issue a permit number or may require additional conditions not specifically established in this Article if necessary to protect animal health in Arizona.
- D. The permit number issued shall be affixed or written on the health certificate, brand inspection certificate, and any other official documents as follows: "Arizona Permit No. \_\_\_\_\_" followed by the serialized number.
- E. The State Veterinarian shall refuse to grant a permit number to any person who repeatedly commits the following:
  1. Giving false information concerning a permit number for transportation of animals,
  2. Failing to fulfill the conditions of a permit number, or
  3. Failing to obtain a permit number.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-607 renumbered from Section R3-9-607 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-608. Consignment of Animals**

The owner, or owner's agent, of an animal transported or moved into Arizona, except an exhibition or show animal, shall consign the animal to or place it in the care of an Arizona resident or an entity authorized to do business in Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-608 renumbered from Section R3-9-608 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-609. Diversion; Prohibitions**

A person consigning, transporting, or receiving an animal into the state of Arizona shall not authorize, order, or carry out diversion of the animal to a destination or consignee other than as set forth on the health certificate and permit, if required, without first obtaining permission from the State Veterinarian.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-609 renumbered from Section R3-9-609 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-610. Tests; Official Confirmation**

A state or federal animal diagnostic laboratory or APHIS-approved laboratory shall perform or confirm any animal testing required by a state or federal authority as a condition for entry into Arizona.

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**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-610 renumbered from Section R3-9-610 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-611. Transporter Duties**

- A. All owners and operators of railroads, trucks, airplanes, or other conveyances transporting animals into or through the state shall possess a valid health certificate under R3-2-606, and a permit number issued by the State Veterinarian, if required by R3-2-607. These documents shall be attached to the waybill, or be in the possession of the vehicle driver, or person in charge of the animals. When a single health certificate or permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall possess the original or a certified copy of the health certificate containing the permit number, if required.
- B. The owner of a railroad car, truck, airplane, or other conveyance used to transport animals into or through the state shall maintain the conveyance in a clean and sanitary condition.
- C. The owners and operators of railroads, trucks, airplanes, or other conveyances who transport animals into the state in violation of this Section shall clean and disinfect the conveyance in which the animals were illegally brought into the state before using the conveyance for transporting more animals. The cleaning and disinfection shall be performed under the supervision of an authorized representative of the State Veterinarian or the USDA.
- D. The owners and operators of railroads, trucks, airplanes, or other conveyances shall follow the USDA requirements, Department and Arizona Commerce Commission rules, and Arizona statutes in the humane transport of animals into, within, or through the state.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-611 renumbered from Section R3-9-611 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-612. Importation of Cattle and Bison**

- A. The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in R3-2-602 through R3-2-611 and the following conditions:
  1. Pay the expenses incurred to quarantine, test, and retest the imported cattle or bison or return them to the state of origin.
  2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies an official eartag to each animal.
- B. Arizona shall not accept:
  1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:
    - a. Steers and spayed females, and

- b. Animals shipped directly for immediate slaughter to an official state or federal slaughter establishment;
  2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot;
  3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class-Free State, or without tuberculosis status comparable to an Accredited-Free State;
  4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;
  5. Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.
- C. Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
    1. The owner or owner's agent shall ensure that an official calfhood vaccinate is tested negative for brucellosis within 30 days before entering Arizona if the official calfhood vaccinate is:
      - a. 18 months or older,
      - b. Cutting the first set of permanent incisors, or
      - c. Parturient or postparturient.
    2. The owner or owner's agent shall ensure that bulls and non-vaccinated heifers test negative for brucellosis if 12 months of age or older, unless consigned for feeding purposes to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand upon arrival. All "F" branded cattle or bison that leave the designated feedlot shall be shipped directly to:
      - a. An official state or federal slaughter establishment for immediate slaughter,
      - b. Another designated feedlot, or
      - c. Another state if shipping is permitted by the State Veterinarian in the state of destination.
    3. If cattle or bison originate from a Certified Brucellosis-Free Herd and the herd certification number is documented on the health certificate and import permit, no brucellosis test is required.
    4. If native ranch cattle are from a brucellosis Class-Free State that does not have free-ranging brucellosis infected bison or wildlife, no brucellosis test is required as long as:
      - a. The native ranch cattle are moved directly from the ranch of origin to an Arizona destination and the official eartag numbers are listed on a health certificate; or
      - b. The native ranch cattle are from a state that has a brand inspection program approved by the State Veterinarian and the owner's brand is listed on a brand inspection certificate or health certificate.
    5. Health and brand inspection certificates issued for the movement shall be forwarded to the State Veterinarian in Arizona within two weeks of issue.
    6. The owner or owner's agent:
      - a. Shall ensure that beef breeding cattle or breeding bison from a Class A State remain under import quarantine and isolation until the cattle test negative for brucellosis. The test shall be performed no earlier than 45 days and no later than 120 days after entry.

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- b. Shall retest dairy cattle if the State Veterinarian determines there is a potential risk of the introduction of brucellosis in the state.
- c. Is not required to quarantine or test for brucellosis official calfhood vaccinates less than 18 months of age, if permission is granted by the State Veterinarian.
7. The owner or owner's agent:
- a. Shall notify the State Veterinarian within seven days of moving cattle or bison that are under import quarantine from the destination listed on the import permit and health certificate.
- b. Shall notify the State Veterinarian at the time animals are retested for brucellosis, if the animals are under import quarantine and are not moved from the destination listed on the import permit and health certificate.
- c. Is not required to notify the State Veterinarian if the cattle or bison are shipped directly to an official state or federal slaughter establishment for immediate slaughter.
8. Beef breeding cattle, breeding bison, and dairy cattle meeting the criteria of subsections (C)(1) or (C)(2) and not meeting the criteria of subsection (C)(3) may be imported without a brucellosis test if moved to a specifically approved stockyard and tested before sale or movement from the stockyard. The owner or owner's agent shall not commingle these cattle or bison with other cattle or bison until these cattle or bison are tested and found to be brucellosis negative.
9. Within seven days after importation, the owner or owner's agent shall ensure that the individual official eartag identification for imported dairy cattle is the same as that listed on the health certificate and. The owner or the owner's agent shall report any discrepancies between the official eartag and the health certificate to the State Veterinarian. Any dairy cattle shipped into Arizona not documented on the health certificate shall be tested for brucellosis and tuberculosis by the receiver within one week of arrival.
- D.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.
1. Before entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, January 1, 2007, edition. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
2. The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis. The test shall not be performed earlier than 60 days nor later than 120 days after entry into Arizona. The test shall be performed again on breeding cattle and breeding bison 30 days after calving, unless the animals were consigned to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official eartag identification records are kept on all incoming consignments and then submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.
- E.** Except for the following, all female dairy cattle four months of age or older, imported into Arizona, shall be official calfhood vaccinates, properly identified, certified, and legibly tattooed:
- Show cattle for exhibition,
  - Cattle from a Certified Brucellosis-Free Herd with permission of the State Veterinarian,
  - Cattle from a brucellosis-free state or country with permission of the State Veterinarian,
  - Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and
  - Cattle consigned for feeding purposes to a designated feedlot under import permit.
- F.** When imported breeding cattle, breeding bison, or dairy cattle under import quarantine and isolation are sold at a specifically approved stockyard, the owner or owner's agent shall, at the time of the sale, identify those cattle to the new owner as being under import quarantine. If market cattle identification testing for brucellosis is conducted at the auction, the owner or owner's agent shall ensure that the cattle or bison are tested before the sale. The new owner shall segregate the cattle or bison and retest for brucellosis 45 to 120 days after the animals entered the state.
- G.** Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
- No tuberculosis test is required for:
    - Beef breeding cattle, breeding bison, or dairy cattle from an accredited herd if the herd accreditation number is documented on the health certificate and import permit;
    - Native commercial and purebred beef breeding cattle from an Accredited-Free State if its accredited-free status is documented on the health certificate; and
    - Steers and spayed heifers.
  - Unless from an accredited herd, prescribed in subsection (G)(1), the owner or owner's agent shall ensure that purebred beef breeding cattle from modified accredited states, breeding bison, dairy females, and bulls for breeding dairy cattle test negative for tuberculosis within 60 days before entry into Arizona.
- H.** Tuberculosis testing requirements for cattle and bison imported into Arizona from Mexico.
- Before entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, incorporated by reference in subsection (D)(1).
  - Steers and spayed heifers from states or regions in Mexico shall not enter the state if they have not been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico.
  - Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico shall not be imported into Arizona without permission of the State Veterinarian.
  - Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully

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implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:

- a. Tested negative for tuberculosis in accordance with procedures equivalent to the Bovine Tuberculosis Eradication – Uniform Methods and Rules within 60 days before entry into the United States, or
  - b. Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
5. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single group and not commingled with other cattle before arriving at the border.
  6. Beef breeding cattle and breeding bison from states or regions in Mexico may be imported into Arizona if the State Veterinarian determines the Eradication or Free Phase of the bovine tuberculosis eradication program of Mexico has been fully implemented and the breeding cattle and breeding bison remain under import quarantine and isolation until retested negative for tuberculosis in accordance with the Bovine Tuberculosis Eradication - Uniform Methods and Rules. The test shall be performed not earlier than 60 days but not later than 120 days after entry unless consigned to a designated feedlot for feeding purposes only. Unless neutered, all beef breeding cattle or breeding bison consigned to a designated feedlot shall be branded with an “F” adjacent to the tail head before entry into Arizona, unless permission is granted by the State Veterinarian to apply the “F” brand on arrival. All beef breeding cattle or breeding bison leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official eartag identification records are kept on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all beef breeding cattle and breeding bison leaving the designated feedlot. A copy of the form shall accompany the cattle and bison to slaughter and a copy shall be submitted to the State Veterinarian.
- I. Bovine scabies requirements.**
1. The owner or owner’s agent shall ensure that no cattle or bison affected with or exposed to scabies is shipped, trailed, driven, or otherwise transported or moved into Arizona except cattle or bison identified and moving under permit number and seal for immediate slaughter at an official state or federal slaughter establishment.
  2. The owner or owner’s agent of cattle or bison from an official state or federal scabies quarantined area shall comply with the requirements of 9 CFR 73, Scabies in Cattle, January 1, 2007, edition, before moving the cattle or bison into Arizona. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
  3. The State Veterinarian may require that breeding and feeding cattle and bison from known scabies infected areas and states be dipped or treated even if the animals

are not known to be exposed. The State Veterinarian shall require that dairy cattle be dipped only if the animals are known to be exposed; otherwise a veterinarian’s examination and certification shall be sufficient.

- J. Trichomoniasis requirements for bulls imported into Arizona from other states.**
1. The owner or owner’s agent shall ensure bulls:
    - a. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test or three cultures collected at intervals of no less than seven days apart, except for bulls:
      - i. Less than one year of age,
      - ii. Consigned directly to a state or federal licensed slaughter facility,
      - iii. Consigned directly to a dairy,
      - iv. Consigned directly to an exhibition or rodeo,
      - v. Consigned directly to a licensed feedlot for castration on arrival,
      - vi. Branded with an “F” adjacent to the tailhead and consigned directly to a designated feedlot for feeding and later movement directly to slaughter, and
    - b. Have no breeding activity during the interval between the collection of a sample and the date of shipment.
  2. An accredited veterinarian approved to collect samples for *Tritrichomonas foetus* testing by the state animal health official in the state of origin shall collect the *Tritrichomonas foetus* test samples.
  3. A laboratory approved to conduct tests for *Tritrichomonas foetus* by the state animal health official in the state of origin shall perform the test for *Tritrichomonas foetus*.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-612 renumbered from Section R3-9-612 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-613. Swine**

- A.** The owner of swine entering Arizona, or the owner’s agent, shall comply with the requirements of Article 6 and the following conditions:
1. Pay the expenses incurred to quarantine, test, and retest the imported swine; and
  2. Obtain an official health certificate specified in R3-2-606 and permit specified in R3-2-607.
- B.** Brucellosis test requirements. Breeding swine imported into Arizona from other states shall:
1. Originate from a validated swine brucellosis-free herd or from a swine brucellosis-free state; or
  2. Test negative for brucellosis within 30 days before entry.
- C.** Pseudorabies test requirements. Swine imported into Arizona from other states shall:
1. Be shipped directly from:
    - a. The farm of origin in a state recognized by USDA-APHIS as a pseudorabies Stage IV or Stage V state,
    - b. The farm of origin in a state recognized by USDA-APHIS as a pseudorabies Stage III state if the swine are:
      - i. Consigned directly to a terminal exhibition of only neutered swine,

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- ii. Tested negative within 15 days before entry, and
  - iii. Transported directly to a state or federally inspected slaughter facility immediately after the exhibition in a truck sealed by the State Veterinarian or agent;
  - c. A pseudorabies monitored feeder pig herd in a pseudorabies Stage II or Stage III state if the swine is consigned to a restricted swine feedlot; or
  - d. A sale in a state recognized by USDA-APHIS as a pseudorabies Stage IV or Stage V state if all swine entered in the sale are from a state recognized by USDA-APHIS as a pseudorabies Stage IV or Stage V state.
2. Except for feeder swine consigned to a restricted swine feedlot, swine moving directly to exhibition, and swine from a farm of origin in a state recognized by USDA-APHIS as a pseudorabies Stage V state, remain under import quarantine and isolation at the location specified on the import permit and health certificate, with the following restrictions, until tested negative for pseudorabies no sooner than 15 days or later than 30 days after entry:
- a. The isolation pen shall be at least 200 feet from straying pigs, other livestock, pets, or working dogs, and not be accessible to normal traffic flow;
  - b. Equipment, tools, and implements shall not be moved from an isolation pen and used at another pen;
  - c. Workers shall disinfect their shoes and clothing before working with other livestock or the main herd; and
  - d. The distance between an isolation pen barrier and another swine pen barrier shall be at least 200 feet and the isolation pen shall be double-fenced to prevent exposure to accidental strays.
  - e. Imported quarantined swine testing positive after entry shall be shipped directly to a state or federal slaughter establishment within 15 days after the positive identification and shall be accompanied by a USDA-VS Form 1-27. The remainder of exposed animals shall be quarantined until the herd is declared free of the disease, or all exposed animals are depopulated and the premises cleaned and disinfected.
3. If swine move directly to exhibition from a herd in a Stage IV state, and remain in the state, the swine shall be held under import quarantine at a location disclosed by the exhibitor. The exhibitor shall disclose the location of the quarantine facility to the Department within three days of the end of the exhibition. The swine shall be quarantined according to the restrictions identified in subsections (C)(2)(a) through (C)(2)(e) until tested negative for pseudorabies no sooner than 15 days or later than 30 days after entry into the state.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 29, 1984 (Supp. 84-3). Section R3-2-613 renumbered from Section R3-9-613 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of

State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-614. Sheep and Goats**

- A. The owner of a sheep or goat entering Arizona, or the owner's agent, shall comply with the requirements of:
1. Article 6 and pay the expenses incurred to quarantine, test, and retest the sheep or goat; and
  2. Animal identification prescribed in 9 CFR 79, January 1, 2007, edition. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
- B. A breeding ram six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis-free flock. An exhibition ram that returns to the out-of-state flock of origin within five days of the conclusion of the exhibit is exempt from the testing requirement of this subsection.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-614 renumbered from Section R3-9-614 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-615. Equine Importation**

- A. Except for R3-2-607, an equine may enter the state as prescribed in R3-2-602 through R3-2-611.
- B. A person shall not import an equine with fistulous withers or poll evil.
- C. All equine six months of age or older shall, using a test established in R3-2-407(A), be tested negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-615 renumbered from Section R3-9-615 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3).

**R3-2-616. Cats and Dogs**

A dog or cat shall be accompanied by a health certificate that documents the animal is currently vaccinated against rabies according to the requirements of the National Association of State Public Health Veterinarians' Compendium of Animals Rabies Control, incorporated by reference in R3-2-409.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-616 renumbered from Section R3-9-616 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-617. Poultry**

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The Department has no entry requirements on poultry provided the poultry appear healthy, do not originate from a poultry quarantine area, comply with all interstate requirements of APHIS, and are accompanied by a health certificate or Form 9-3 from the National Poultry Improvement Program.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-617 renumbered from Section R3-9-617 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-618. Psittacine Birds**

- A. The owner or the owner's agent of a psittacine bird entering Arizona shall obtain a health certificate issued by a veterinarian within 30 days of entry, certifying:
1. The bird is not infected with the agent that causes avian chlamydiosis, and
  2. The bird was not exposed to birds known to be infected with avian chlamydiosis within the past 30 days.
- B. The health certificate shall accompany the psittacine bird at the time of entry into Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-618 renumbered from Section R3-9-618 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-619. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-619 renumbered from Section R3-9-619 (Supp. 91-4). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-620. Zoo Animals**

- A. An owner or owner's agent may transport or move zoo animals into the state of Arizona if the animals are accompanied by an official health certificate, and consigned to a zoo or in the charge of a circus or show.
- B. The owner, or owner's agent, of an animal in a "Petting Zoo" shall have the animal tested for tuberculosis within 12 months before importation. A negative test result is required for entry into Arizona.
- C. A business that transports or exhibits zoo animals shall be licensed by the Arizona Game and Fish Department.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-620 renumbered from Section R3-9-620 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final

rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-621. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**R3-2-622. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**ARTICLE 7. LIVESTOCK INSPECTION****R3-2-701. Department Livestock Inspection**

- A. A Division employee shall inspect range cattle, as defined in R3-2-702(A), at a ranch if the owner or agent is:
1. Moving cattle out-of-state,
  2. Transferring cattle ownership, or
  3. Shipping cattle for custom slaughter.
- B. A Division employee shall inspect cattle at a feedlot or dairy if the cattle are being shipped for custom slaughter.
- C. The Department shall not issue a self-inspection certificate to an owner, agent, or operator of a ranch, dairy, or feedlot if that individual has been convicted of a felony under A.R.S. Title 3 within the three-year period before the date on the self-inspection application. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.
- D. During fiscal year 2020, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of \$10 plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-701 renumbered from Section R3-9-701 (Supp. 91-4). Section R3-2-701 repealed; new Section R3-2-701 adopted effective February 4, 1998 (Supp. 98-1). Error in subsection (A)(3) corrected under R1-1-109, filed with the Office of the Secretary of State October 18, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking

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at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3).

**R3-2-702. Livestock Self-inspection****A. Definitions.**

“Description” means sex, breed, color, and markings, as applicable to the type of livestock.

“Exhibition” means an event including a fair, show, or field day that has as its primary purpose the opportunity for a member of a youth livestock organization, including 4-H and FFA, to display an animal raised by the youth in a judged competition.

“Identification” means brand, back tag number, ear mark, tattoo, metal eartag, plastic eartag, and premises identification number, as applicable to the type of livestock.

“Livestock” means cattle, sheep, goats, and exhibition swine.

“Range” means every character of lands, enclosed or unenclosed, outside of cities and towns, upon which livestock is permitted by custom, license or permit to roam and feed. A.R.S. § 3-1201(7)

“Range cattle” means cattle customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes. A.R.S. § 3-1201(8)

**B. Application.**

1. Movers of livestock and an owner or operator of a dairy or feedlot shall request a book of self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:

- a. Name, mailing address, physical address, telephone number, and fax;
- b. Name of ranch, dairy, or business and type of operation;
- c. Whether the applicant has been convicted of a felony under A.R.S. Title 3 within the past three years, and if so, the case number, court, charge, and sentence;
- d. Recorded brand and brand location;
- e. Individual designated to sign self-inspection certificates, if applicable; and
- f. Signature and date.

2. The holder of a self-inspection book shall advise the Department by phone within 30 days of any change to the information provided on an application form.

3. The holder of a self-inspection book shall renew registration with the Department every two years from the date the initial or renewal application form is signed.

4. Prior to a department employee issuing a book of self-inspection certificates, the owner shall submit the following payment amount and the department shall receive the payment in full prior to issuing the book:

- a. \$25.00 for a twenty five page feedlot book;
- b. \$20.00 for a twenty page dairy book; or
- c. \$10.00 for a ten page non-range, range, sheep, goat, or swine book.

**C. Self-inspection certificate.**

1. An owner, agent, or operator shall provide the following information, as applicable, on a self-inspection certificate

whenever livestock subject to self-inspection are moved or ownership is transferred:

- a. Name, address, and signature of the owner or agent;
- b. Date of the shipment or transfer of ownership;
- c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
- d. Name of transporter;
- e. Number and description of livestock;
- f. Official identification of each dairy cattle and sexually intact cattle over 18 months of age shipped out of state and back tag numbers of culled dairy cattle;
- g. Brand number, expiration date, and location;
- h. Name and address of buyer;
- i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238.

2. The owner or owner's agent of livestock or the owner or operator of a dairy or feedlot shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute copies of the certificate as follows:

- a. One copy and any fees that are owed under subsection (C)(1)(j) shall be sent to the Department within 10 days after the end of the month in which ownership is transferred;
- b. If the livestock are shipped, the original certificate shall accompany the livestock whenever they are in transit and one copy shall be retained by the person transporting the livestock; or
- c. If ownership of the livestock is transferred without shipment, two copies shall be provided to the new owner or agent; and one copy shall be retained by the seller.

3. A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void. The owner, agent, or operator shall complete a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month in which the certificates are issued or voided.

4. An owner, agent, or operator shall use a self-inspection certificate only with a shipment of livestock matching the description for which the certificate is issued and only for the self-inspection issued date. If any of the information on the self-inspection certificate changes, the certificate is void and the owner, agent, or operator shall complete a new certificate.

5. An altered, erased, completed but unused, or defaced self-inspection certificate is void. A voided certificate shall be returned to the Department within 10 days after the end of the month in which it is voided.

6. Upon request, unused certificates shall be returned to the Department by the owner, agent, or operator. If a commercial operation licensed for self-inspection is sold, leased, transferred, or otherwise disposed of, the owner, agent, or operator shall notify the Department and return all self-inspection certificates to the Department within 30 days of the transaction.

**D.** Sale of livestock. A seller shall document a sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.

**E.** Feedlot receiving form.

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1. The operator of a feedlot shall document receipt of incoming cattle on a form obtained from the Department. The operator shall include the following information on the form:
    - a. Name of feedlot and location;
    - b. Month and year for which report is made;
    - c. Number of cattle received, date received, and name and address of owner;
    - d. Description of the cattle;
    - e. If not Arizona native cattle, the import permit and health certificate numbers;
    - f. If native Arizona cattle, self-inspection form number or Department inspection certificate number; and
    - g. Pen number to which cattle are initially assigned.
  2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.
- F. Quarantine.** Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.
- G. Violations.** The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-702 renumbered from Section R3-9-702 (Supp. 91-4). Section R3-2-702 repealed; new Section R3-2-702 adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3).

**R3-2-703. Seasonal Self-inspection Certificate**

- A. Exhibition cattle, sheep, goats, and swine.**
1. An applicant for a seasonal self-inspection certificate prescribed under A.R.S. § 3-1346 shall call the Department at (602) 542-6407 to request a seasonal self-inspection certificate. The applicant shall provide the answers to the following questions, as applicable:
    - a. Name, mailing address, physical address if different from mailing address, telephone number, and fax;
    - b. Name of 4-H or FFA group, and group leader;
    - c. Description and identification of the animal;
    - d. Permit number and health certificate number for an animal imported from another state; and
    - e. Name of seller and self-inspection certificate number for an animal purchased from an Arizona seller.
  2. The Department employee who records the information required in subsection (A)(1) shall advise the applicant of the required fee prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.
  3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever an animal subject to seasonal self-inspection is moved or ownership is transferred:
    - a. Name, address, telephone number, and signature;
    - b. Date of movement;
    - c. Name of exhibition and location;
    - d. Final disposition of the animal (sale, death, or retention) and date of occurrence; and
    - e. If the animal is sold, name of purchaser (person or slaughter plant).
  4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the animal or at the end of the show season if the animal is retained.

**Historical Note**

Adopted effective November 27, 1987 (Supp. 87-4). Section R3-2-703 renumbered from Section R3-9-703 (Supp. 91-4). Section R3-2-703 repealed; new Section R3-2-703 adopted effective February 4, 1998 (Supp. 98-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3).

**EMERGENCY RULEMAKING****R3-2-704. Determining Original and Subsequent Brands**

- A. Application of this rule.** This rule is to be used to address brands that may have been adopted improperly as a result of the Arizona Supreme Court ruling in *Stambaugh v. Killian*, 398 P.3d 574 (Ariz. 2017). The rule shall only be used by the Department to evaluate existing recorded brands to determine if it has the “same design or figure” as another recorded brand. If there is a determination that two brands are of the same design or figure, the Department shall use this rule to determine which brand will remain a valid brand and which brand will become invalid.
- B. Definitions.** The following definitions shall be used for interpreting this rule:
- “Arrangement” means the placement and orientation of the characters within the brand.
- “Brand” means a design or figure that is recorded with the Department and applied to livestock in a manner that leaves a permanent mark used to identify the owner of the livestock.
- “Chain of ownership” means the period of time from the date the brand was recorded, until present and begins each time a brand is abandoned, if applicable.
- “Design or figure” means the brand’s image as a whole, including the font, size, and arrangement of the characters.
- “Font” means the style or type variation of a character.
- “Original brand” means as the brand that is deemed to be of the same design or figure as another brand, but has the longer continuous chain of ownership.
- “Size” means the height, length, or width of the characters relative to the other characters within the brand.
- “Subsequent brand” means all brands that are deemed to be of the same design or figure, but are not the original brand.
- C. Brands that are the same.** Brands with a design or figure that have no visible distinctions from another brand’s design or figure shall be deemed a brand of the same design or figure. This determination shall be made by comparing the images printed on the current brand certificates recorded with the Department. Neither the location of the brand on the livestock, nor the species of livestock shall be considered when determining if a brand is of the same design or figure.
- D. Original Brands.** In the event that two or more recorded brands are determined to be of the same design or figure, an evaluation must be conducted to determine which is the original brand, and which are subsequent brands. To determine which brand is the original brand, the individual brand files must be reviewed to determine which brand has the longest chain of ownership. In the event that a brand is deemed to be abandoned pursuant to A.R.S. § 3-1265, the chain of ownership

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breaks; a new chain of ownership begins the next time the brand is recorded. The original brand is deemed to be properly recorded with the Department. Any brand determined to be a subsequent brand is deemed to be unlawfully recorded with the Department and therefore is not valid.

**Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Section made by emergency rulemaking at 24 A.A.R. 3589, with an immediate effective date of December 13, 2018, valid for 180 days (Supp. 18-4).

**R3-2-705. Repealed****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-706. Repealed****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-707. Ownership and Hauling Certificate for Equines; Fees**

The fee for a new, transferred, or replacement Ownership and Hauling Certificate for Equines as prescribed under A.R.S. §§ 3-1344(B) and 3-1345(B) is \$10 per certificate.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 3932, effective August 22, 2002 (Supp. 02-3).

**R3-2-708. Equine Rescue Facility Registration**

- A.** "Arizona Equine Rescue Standards" means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition. This material, which includes the Veterinary Checklist for Rescue/Retirement Facilities, is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, Arizona 85007. A copy of this material may also be obtained from the American Association of Equine Practitioners web site at [http://www.aaep.org/pdfs/rescue\\_retirement\\_guidelines.pdf](http://www.aaep.org/pdfs/rescue_retirement_guidelines.pdf). The American Association of Equine Practitioners is located at 4075 Iron Works Parkway, Lexington, Kentucky 40511.
- B.** An equine rescue facility shall pay the annual registration fee and file the following documents with the Department's Animal Services Division for the facility to be included on the Department's registry of equine rescue facilities:
1. An application form containing the facility's name, address, and contact person and the contact person's phone number.
  2. A copy of documents filed with the Arizona Corporation Commission demonstrating the facility's current status as a nonprofit corporation in good standing in this state.
  3. A letter from a licensed veterinarian, dated within 15 days of filing, certifying that the facility is not inadequate with respect to any of the Arizona Equine Rescue Standards and attaching a signed copy of the completed Arizona Equine Rescue Standards' veterinary checklist.

- C.** Registration is valid for one year. Registration may be renewed annually by complying with subsection (B).
- D.** The annual registration fee is \$75.
- E.** A nonprofit corporation owning multiple equine rescue facilities must file the letter and checklist described in subsection (B)(3) and pay the annual registration fee for each location it wants included on the registry.
- F.** The Department shall remove a facility from the registry if it determines that the facility is not presently incorporated as a nonprofit corporation in this state or is inadequate with respect to any of the Arizona Equine Rescue Standards.

**Historical Note**

New Section made by final rulemaking at 16 A.A.R. 876, effective July 3, 2010 (Supp. 10-2).

**ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL****R3-2-801. Definitions**

In addition to the definitions in A.R.S. §§ 3-601 and 3-661, the following terms apply to this Article:

"3-A Sanitary Standards" and "3-A Accepted Practices," as published by the International Association for Food Protection, amended May 31, 2002, means the criteria for cleanliness of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and is also available at <http://www.3-A.org>.

"C-I-P" means a procedure by which equipment, pipelines, and other facilities are cleaned-in-place as prescribed in the 3-A Accepted Practices.

"Converted" means the process by which a frozen dessert is changed from a frozen to semi-frozen form without any change in the ingredients.

"Fluid trade product" means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates milk, lowfat milk, chocolate milk, half and half, or cream.

"Food establishment" means any establishment, except a private residence, that prepares or serves food for human consumption, regardless of whether the food is consumed on the premises.

"Frozen desserts mix" or "mix" means any frozen dessert before being frozen.

"Grade A raw milk" means raw milk produced on a dairy farm that conforms to Section 7 of the PMO and the requirements of R3-2-805.

"Parlor" and "milk room" mean the facilities used for the production of Grade A raw milk for pasteurization.

"Plant" means any place, premise, or establishment, or any part, including specific areas in retail stores, stands, hotels, restaurants, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:

"Manufacturing plant" means a location where frozen desserts are manufactured, processed, pasteurized, and converted.

"Handling plant" means a location that is not equipped or used to manufacture, process, pasteurize, or convert fro-

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zen desserts, but where frozen desserts are sold or offered for sale other than at retail.

“PMO” means the Grade A Pasteurized Milk Ordinance, 2013 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007. A copy of the incorporated material may also be viewed at <http://agriculture.az.gov>.

“Retail food store” means any establishment offering packaged or bulk goods for human consumption for retail sale.

**Historical Note**

Former Regulations 1-11. Section R3-2-801 renumbered from R3-5-01 (Supp. 91-4). R3-2-801 renumbered to R3-2-803; new Section R3-2-801 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 2215, effective May 9, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 3030, effective September 30, 2006 (Supp. 06-3). Amended by final rulemaking at 14 A.A.R. 889, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired. Amended by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3).

**R3-2-802. Milk and Milk Products Standards**

Unless specifically mentioned in A.R.S. Title 3, Chapter 4, Article 1, or in this Article, all milk and milk products, except frozen desserts, sold or distributed for human consumption shall meet the PMO standards for production, processing, storing, handling, and transportation.

**Historical Note**

Former Regulations 1, 2. Section R3-2-802 renumbered from R3-5-02 (Supp. 91-4). Section repealed; new Section adopted effective December 2, 1998 (Supp. 98-4).

**R3-2-803. Milk and Milk Products Labeling**

- A. The manufacturer or processor shall ensure that milk and milk products listed in A.R.S. § 3-601(10), and Sections 1 and 2 of the PMO are designated by the name of the product and shall conform to its definition.
- B. The manufacturer or processor of milk and milk products shall conform with the labeling requirements in A.R.S. §§ 3-601.01 and 3-627, Section 4 of the PMO, and 21 CFR 101, 131, and 133, amended April 1, 2002. This CFR material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the Office of the Secretary of State.
- C. The name of the manufacturer or processor shall be on all cartons or closures where it can be easily seen. A manufacturer or processor that has plants in other states shall use a code number or letter to designate the state in which a carton or closure is manufactured or processed. If a manufacturer or processor has a plant within Arizona, the Dairy Supervisor shall issue a code number or letter for each plant and shall keep a record of the number or letter issued. Manufacturers and processors shall include the Arizona code, 04, with the plant code assigned by the Dairy Supervisor.
- D. If milk or milk products are manufactured or processed and packaged at a plant for other retailers and the container or closure is not labeled the same as the manufacturer’s or processor’s like product, the manufacturer or processor shall include

the statement “Manufactured or Processed at (name and address of plant or code number or letter)” on the carton or closure. The carton or closure may also contain the statement, “Distributed by: (name of person or firm).”

- E. Any person planning to use a new or modified label on a container shall submit the proposed label to the Dairy Supervisor for review.
  1. If the proposed label does not meet labeling standards specified in subsection (B), the Dairy Supervisor shall note the required changes on the proposed label, and sign and return the proposed label to the applicant.
  2. A person who requests additional time to use the inventory amounts of slow moving cartons or closures before using a modified label shall submit a written request to the Dairy Supervisor. The Dairy Supervisor may approve continued use of the existing cartons and closures if:
    - a. The use does not present a public health issue, and
    - b. The information on the cartons and closures is not misleading.

**Historical Note**

Former Regulations 1 - 21; Amended effective August 4, 1978 (Supp. 78-4). Section R3-2-803 renumbered from R3-5-03 (Supp. 91-4). R3-2-803 renumbered to R3-2-804; new Section R3-2-803 renumbered from R3-2-801 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2).

**R3-2-804. Trade Products**

- A. Any fluid trade product containing milk solids shall be regulated as a fluid milk product.
- B. Advertising, display, and sale:
  1. Any retail food store may submit its methods and techniques for the advertising, display, and sale of trade products and real products to the Dairy Supervisor to determine compliance with this Section.
  2. No food establishment shall sell or provide any patron or employee, for use as food, any trade product or food whose main ingredient is a trade product, unless one of the following disclosures is posted for each trade product, in a prominent place on the premises, or is plainly visible on each menu where other food items are described:
    - a. “\_\_\_\_\_ served here  
(brand or common name of trade product)  
instead of \_\_\_\_\_.”  
(common name of dairy product)
    - b. “Nondairy products served here.”
  3. No food establishment shall advertise or otherwise represent to the public that it serves, or uses in the preparation of a food, a real product when it actually serves or uses a trade product.
- C. Labeling: Except as follows, all labels shall comply with the PMO and 21 CFR 101, 131, and 133.
  1. The Dairy Supervisor shall approve a new or modified trade product label before the label is used. The applicant shall file a written request with duplicate copies of the proposed label and any supporting materials necessary to establish the truthfulness, reasonableness, relevancy, and completeness of the label.
  2. Unless each ingredient of a trade product is homogenized or pasteurized, the whole product shall not be labeled or advertised as an homogenized or pasteurized product. Individual ingredients that are homogenized or pasteurized may be identified as homogenized or pasteurized in the listing of ingredients.

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3. Except for combined ingredients constituting less than 1% of the whole product or unless each ingredient of a trade product qualifies as grade A, the whole product shall not be labeled or advertised as a grade A product. Ingredients that qualify as grade A may be identified as grade A in the listing of ingredients.
4. Any trade product produced outside the state and labeled as prescribed in R3-2-802, may be sold within the state provided that the product meets the requirements of A.R.S. §§ 3-663 and 3-665.

**Historical Note**

Former Regulations 1 - 8; Amended effective December 7, 1976 (Supp. 76-5). Correction, subsection (A)(2) through (H) omitted, Supp. 76-5 (Supp. 79-4). Section R3-2-804 renumbered from R3-5-04 (Supp. 91-4). R3-2-804 renumbered to R3-2-805; new Section R3-2-804 renumbered from R3-2-803 and amended effective December 2, 1998 (Supp. 98-4).

**R3-2-805. Grade A Raw Milk For Consumption**

- A. All cattle from which Grade A raw milk is produced shall be tested and found free of tuberculosis before any milk is sold. All herds shall be tested for tuberculosis at least every 12 months. All cattle from which Grade A raw milk is produced shall be tested and found free of brucellosis before any milk is sold, and shall be tested every 12 months or have negative ring tests for brucellosis, or both, as determined by the State Veterinarian.
- B. Grade A raw milk shall be cooled immediately after completion of milking to 45° F or less and shall be maintained at that temperature until delivery.
- C. Grade A raw milk shall be bottled on the farm where it is produced. Bottling and capping shall be done in a sanitary manner on approved equipment. Hand-capping is prohibited. Caps and cap stock shall be kept in sanitary containers until used.
- D. All vehicles used for the distribution of Grade A raw milk shall prominently display the distributor's name.
- E. Grade A raw milk shall be labeled as prescribed in R3-2-803.

**Historical Note**

Former Regulations 1, 2. Section R3-2-805 renumbered from R3-5-05 (Supp. 91-4). Section R3-2-805 repealed; new Section R3-2-805 renumbered from R3-2-804 and amended effective December 2, 1998 (Supp. 98-4).

**R3-2-806. Parlors and Milk Rooms**

- A. Construction Plans.
  1. Any person constructing or extensively altering a parlor or milk room shall submit the plans and specifications to the Dairy Supervisor for written approval before work begins. The Dairy Supervisor shall approve or deny the plans within 10 business days.
  2. Plans shall consist of a scaled plot design with elevations and pertinent dimensions.
  3. Any deviations from the requirements in this Section and from approved plans and specifications may be made only after written approval of the Dairy Supervisor.
- B. Site.
  1. The parlor and milk room shall be located in a place free from contaminated surroundings.
  2. Feed racks, calf pens, bull pens, hog pens, poultry pens, horse stables, horse corrals, and shelter sheds shall not be closer than 100 feet to the milk room or closer than 50 feet to the parlor.
- C. Surroundings.
  1. Dirt or unpaved corrals and unpaved lanes shall not be closer than 25 feet to the parlor or closer than 50 feet to

the milk room; corrals shall be constructed to remove runoff from the lowest point of the grade.

2. A paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the parlor. This paved area shall be curbed sufficiently high enough to contain waste material and water used to clean this area.
- D. Drains and waste disposal systems shall be adequate to drain the volume of water used in rinsing and cleaning, as well as the waste created by animals in the parlor. Instead of natural drainage, automatic pumps or other means shall be provided for drainage disposal.
- E. Milk room.
  1. The milk room shall consist of one or more rooms for the handling of the milk and the cleaning, sanitization, and storage of the milk-handling equipment. Hot and cold running water outlets shall be provided as needed for sanitation. There shall be a minimum of five feet between a farm milk tank at the widest point and the milk room wall where the wash vats are installed. Except for currently installed milk tanks, there shall be at least three feet between any farm tank or farm tank appurtenance and the milk room walls.
  2. Passageway. The passageway between the milk room and parlor shall have at least a 3-foot clearance for ingress and egress. Equipment such as milk receivers, dump tanks, or coolers that are part of an enclosed milk line system may be installed in the passageway if:
    - a. A 3-foot clearance is allowed for the walkway;
    - b. Space is provided between walls and equipment to permit the disassembly of equipment for cleaning or inspection;
    - c. The passageway between the parlor and the milk room may be closed at one end. The parlor may be separated from the passageway by a pipe rail fence if the slope of the parlor floor is away from the passageway. If the slope of the parlor floor is toward the passageway, a concrete wall between the passageway and parlor floor of at least 12 inches in height shall be provided.
    - d. Rustless pipe sleeves with tight-fitting flanges and protective closures shall be installed where the milk lines, hoses for tankers, and wash lines go through the walls of the passageway.
  3. Floors.
    - a. The floors of the milk room, and passageway, if provided, shall be constructed of four-inch thick concrete, or other impervious material troweled smooth. The milk room floor shall slope at least 1/4 inch per 12 inches to a vented trapped drain. The passageway floor shall slope at least one inch per 10 feet toward a drain or gutter. All floor and wall junctions shall have at least a two-inch radius cove.
    - b. Drainage from the milk room may be independent from or connected to the parlor drainage. Floor drains shall be vented, have a water trap, and a clean-out plug. All floor drains and pipes under the milk room and parlor floor shall meet all applicable plumbing codes.
  4. Walls and ceilings.
    - a. All walls and ceilings shall be constructed of a light colored, impervious material with a smooth finish. If concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete.

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- b. The main ceiling height shall allow sufficient room for access to, and sampling from, the bulk milk storage tank.
  - 5. Doors and windows.
    - a. All opening windows shall have at least 16-inch mesh screen.
    - b. Exterior doors of the milk room shall open outward, be solid, self-closing, and tight fitting. Any door from the passageway shall be a solid door, metal covered on both sides of the bottom half. Wooden door jambs or frames shall terminate six inches above the floor, and the concrete floor cove shall extend to the jambs or frames.
    - c. All working areas in the milk room shall contain at least 30 foot-candles of natural and/or artificial lighting.
  - 6. Ventilation. The milk room shall provide adequate ventilation to minimize condensation on ceilings, walls and equipment. Vents shall be protected from the penetration of insects, dust and other contaminants. The milk room shall contain one or more ceiling vents. Ceiling vents shall not be installed directly above bulk milk storage tanks.
  - 7. Tanker loading area. A tanker-loading area, at least 10 feet by 12 feet, paved, curbed, and sloped to drain, shall be provided adjacent to the milk room where milk is transferred from a farm tank to a milk tanker. If a tanker is used instead of a farm tank, a tanker shelter shall be provided that complies with the construction, light, drainage, and general maintenance requirements of the milk room.
  - 8. Farm tank installations. All farm tanks for the cooling and storing of milk shall be installed in the milk room. Bulk milk tanks equipped with agitator shaft opening seals may, if approved by the Dairy Supervisor, be bulk-headed through a wall.
- F. Parlor.**
- 1. Floors.
    - a. The floors shall be constructed of four-inch thick concrete or other, light-colored, impervious material, finished smooth. The floors, alleys, gutters, mangers, and curbs shall slope lengthwise toward a drain or gutter. The cow standing platform in the elevated stall parlor shall slope sufficiently to provide for adequate drainage and cleaning.
    - b. Floor and wall junctions shall have at least a two-inch radius cove and shall be an integral part of the floor.
    - c. The cow standing platform, litter alley, holding corral and concrete lane shall be treated to prevent slipping.
  - 2. Walls. All walls shall be constructed of a light-colored, impervious material. If necessary, means shall be provided to prevent the entrance of swine, fowl and other prohibited animals. All walls shall be finished smooth on the inside with the top ledge rounded on open walls. If a parlor wall forms a part of the holding corral or an entrance or exit lane, it shall be finished smooth on the outside. If a concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete. In elevated stall parlors, the wall under the cow standing platform adjacent to the milking area shall be finished smooth and designed to prevent leakage.
  - 3. Stalls. A tandem stall and a herringbone stall shall have a smooth, flat, non-absorbent splash panel behind each cow.
    - 4. Light. Natural and/or artificial light shall be at least 30 foot-candles at the floor level and located to minimize shadows in the milking area.
    - 5. Gutters.
      - a. All parlors shall have gutters to catch the defecation of cows while in the stall and for any water used for rinsing.
      - b. Pipe used for parlor gutter drainage shall be at least four inches in diameter and meet applicable plumbing codes.
    - 6. Curbs.
      - a. In elevated stall parlors, the cow standing platform shall be curbed on the side next to the milking alley and the curb shall be at least six inches in height with the top rounded to retain the elevated stall floor washings. This curb may be lowered to not less than two inches at the area where the milking machines are applied. Metal curbs shall be free of voids and sealed to stall and floor or wall.
      - b. Floor level parlors shall contain a curb under the stanchion line at least six inches wide, 12 inches high from the stall floor, except if metal mangers are used the top of this curb shall be rounded.
    - 7. Stanchions.
      - a. The stanchion shall be metal or other impervious, easily cleanable material.
      - b. Mangers and feed boxes in all types of parlors shall be constructed of impervious materials, finished smooth, and provided with drainage outlets at low points.
    - 8. Ventilation. Adequate ventilation shall be provided in the parlor, holding corral, and wash area, if roofed.
- G.** Roof drainage from parlors and milk rooms shall not drain into a corral unless the corral is paved and properly drained.
- H.** If animals are fed in the parlor, feed storage facilities shall be provided. Feed storage rooms, when installed, shall be partitioned from the parlor and shall be fly and rodent proof. The feed discharge area of the bulk feed storage shall be concrete or other impervious material that is curbed and drained. Bulk feed may discharge directly into the parlor. A bulk feed tank located opposite the passageway shall be at least six feet from the milk room. Overhead feed storage is permissible if it is fly, rodent, and dust tight. Feed shall be conveyed to the manger or feed box in a tightly closed dust-free system. Overhead metal feed tanks may be used.
- I.** Facilities to store dairy supplies shall be provided. Only supplies that come in contact with the milk or milk contact surface of the milk-handling equipment may be stored in the milk room and shall be protected from toxic materials, vectors, and dust.
- Historical Note**
- Former Regulations 1 - 11. Section R3-2-806 renumbered from R3-5-06 (Supp. 91-4). Section amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3).
- R3-2-807. Frozen Dessert Plant and Processing Standards**
- A.** Plant and Processing Standards.
- 1. The plant area shall be clean, orderly and free from refuse, rubbish, smoke, dust, air pollution and strong or foul odors originating on the premises. A drainage system shall be provided for the rapid drainage of water away from the building. If unsatisfactory conditions occur in the plant area, with respect to smoke, dust, air pollution,

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- or odors, provision shall be made to protect the frozen desserts and ingredients from contamination.
2. Sewage and industrial waste shall be disposed in accordance with the provisions of the state or county environmental laws. Refuse, unless in appropriate containers, shall not accumulate on the premises.
  3. Roads, driveways, yards, and parking areas adjacent to the plant shall be paved or treated to prevent dust and shall be smooth and well drained to prevent accumulation of stagnant liquid.
  4. Buildings.
    - a. The building exterior and interior shall be kept clean and in good repair.
    - b. In processing and packaging areas, outside doors, windows, skylights, transoms, or other openings shall be protected and operated to preclude the entrance of dust, insects, vermin, rodents, and other animals. Outside doors shall be self-closing whenever practical. Window sills on new construction shall slope inward at least 45-degrees. Outside conveyor openings and other outside openings shall be protected by doors, screens, flaps, fans, or tunnels. Pipes shall be sealed where they extend through exterior walls. Outside pipe openings shall be covered when not in use.
    - c. Rooms. All rooms, compartments, coolers, freezers, and dry storage space in which any raw material, packaging or ingredient supplies, or finished products are handled, processed, manufactured, packaged, or stored shall be constructed to ensure clean and orderly operations.
      - i. Boiler and tool rooms shall be separate from rooms where milk products are received, where processing and packaging is done, or where equipment, facilities, and containers are washed and stored.
      - ii. Toilets and dressing rooms shall be conveniently located and toilets shall not open directly into any room where milk products, ingredients, or frozen desserts are handled, processed, packaged, or stored. Toilet and dressing room doors shall be self-closing. Toilets and dressing rooms shall be well vented to the outer air, and contain hand-washing facilities, hot and cold running water, soap, single-service towels or air dryers. Hand-washing signs shall be posted. Fixtures shall be kept clean and in good repair.
      - iii. Rooms for receiving milk and other raw ingredients and materials shall be separated from the processing area to avoid contamination of frozen desserts in the processing operations, except that products in cans or other closed containers may be received and transferred to a cooler or other storage without being received in a separate room.
      - iv. If tank truck deliveries of milk, milk products, or frozen desserts mix are made, other than occasional deliveries, a tank truck room large enough to accommodate the entire truck shall be provided with equipment for cleaning. A covered outside unloading pad may be used for truck tankers with filter dome vents, if washing and sanitizing facilities are provided. If a tank truck room is not located on the premises of an existing plant, facilities for washing and sanitizing tank trucks shall be provided at another location where the washing and sanitizing facility is free from dust and extreme weather conditions.
- v. Except for existing processing and packaging rooms, there shall be at least three feet clearance between installations and the wall to prevent overcrowding and to facilitate cleaning. Existing facilities not meeting this requirement shall be permitted if cleaning can be accomplished and permission is obtained from the Dairy Supervisor or the Dairy Supervisor's designee. All processing and packaging rooms shall be equipped with hand-washing facilities including hot and cold running water, soap, single-service towels, or air-dryer.
  - vi. Refrigeration rooms and units shall be constructed of impervious material and shall be kept clean and sanitary.
  - vii. Separate rooms shall be provided so that the manufacturing, processing, and packaging are separate from the cleaning and sterilizing of utensils and containers.
  - viii. No person shall reside or sleep in a frozen desserts plant or in any room connected with it. No animal shall be kept or permitted in a frozen desserts plant.
- d. Walls and ceilings shall be constructed of smooth, washable, impervious material. They shall be light-colored, kept clean and sanitary, and refinished when discolored. A darker color material may be used to a height not exceeding 60 inches from the floor.
  - e. Floors shall be an impervious, smooth-surfaced material that may be flushed clean with water. Except for hardening rooms, floors shall slope 3/16 to 1/4 inch per foot to one or more trapped outlets. No open channel drainage is permitted in new construction or in extensive remodeling of existing plants. Floor drains are not required in freezers used for storing frozen desserts or frozen ingredients. However, the floors shall be sloped to drain to at least one exit and shall be kept clean. Floors in new construction or extensive remodeling shall be joined and coved with the walls to form water-tight joints. Smooth wood floors may only be permitted in rooms where there will be no spillage of product or ingredients, such as rooms where wrapped or packaged frozen products are packed in multiple-pack containers. Toilets and dressing rooms shall have impervious floors and smooth walls.
  - f. Plumbing shall be installed to prevent back-up of sewage or odors into the plant.
  - g. All rooms and compartments, including storage space for materials, ingredients, and packages, and toilets and dressing rooms, shall be ventilated to maintain sanitary conditions, and to minimize or eliminate condensation and odors.
  - h. Lighting, whether natural or artificial, shall be well distributed in all rooms and compartments. Light bulbs and fluorescent tubes shall be protected so that broken glass cannot fall into any product or equipment.
    - i. Rooms where frozen desserts are handled, processed, manufactured, or packaged, or where equipment or utensils are washed, shall have at

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- least 30 footcandles of light on all working surfaces;
- ii. Areas where dairy products are examined for condition and quality shall have at least 50 footcandles of light; and
  - iii. All other rooms shall have at least 20 footcandles of light 30 inches above the floor.
- i. Containers for collecting and holding waste other than dry waste paper and other dry packaging material shall be constructed of metal or other impervious material, covered with tight-fitting lids or covers, and emptied or disposed of daily or at least once during the shift. Clothing, tools, equipment, and other material not used with the frozen desserts operations shall not accumulate in the work areas or in the storage rooms.
  - j. A room or other space separate from any room or space where milk products or frozen desserts are received, handled, processed, packaged, or stored, shall be provided where employees may change and store clothing. This area shall contain hand-washing facilities, with hot and cold running water, soap or other detergents, and single-service towels or air dryers. Self-closing containers shall be provided for used towels and other wastes.
  - k. Approval of plans. The Dairy Supervisor may allow variances to the requirements in this Section, if protection from contamination is provided for all products handled.
5. Water and steam.
    - a. Potable hot and cold water shall be available in sufficient quantity for all plant operations and facilities. Non-potable water may be used for boiler feed and condenser water, if the water lines are separated from the water lines carrying the potable water supply and the equipment is constructed to preclude contamination of any product or product contact surface. If water for washing frozen desserts equipment and utensils and for use in rehydration or as an ingredient in any frozen desserts is obtained from other than a regulated municipal supply, a bacteriological examination shall be made of the water supply at least once every six months by a bacteriologist to determine potability. If the examination indicates contamination of the water supply, a device shall be installed to eliminate the contamination.
    - b. If steam is used, it shall be provided in sufficient volume and pressure for the operation of equipment or for sterilization, or both. Steam that comes in contact with frozen desserts, ingredients, or with the product contact surface, shall be steam of culinary quality as prescribed in Appendix H, Part III, Culinary Steam – Milk and Milk Products, of the PMO.
  6. Equipment and utensils.
    - a. New equipment shall meet applicable 3-A Sanitary Standards. All equipment, including connections, coming in contact with frozen desserts or ingredients during processing, manufacturing, handling, or packaging, shall be made of stainless steel. No equipment shall be permitted that is rusted, corroded, or in any other condition that may result in contamination of the frozen desserts. Non-metallic parts with product contact surfaces shall consist of material that meets 3-A Sanitary Standards for Plastic or Rubber and Rubber-like Materials or shall be of plastic approved by the United States Food and Drug Administration. Equipment, apparatus, and piping shall be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Stationary equipment, including welded sanitary lines and apparatus that permit in-place-cleaning, may be used if prior approval from the Dairy Supervisor has been obtained. C-I-P piping and welded sanitary pipeline systems shall be permitted if engineered and installed according to 3-A Accepted Practices for Permanently Installed Sanitary Product and Solution Pipelines and Cleaning Systems. If rigid pipelines are not practical, plastic pipelines listed in the 3-A Accepted Practices may be used. Product pumps shall be sanitary and easily dismantled for cleaning or shall be constructed to allow C-I-P procedures. All parts of interior surfaces of equipment, pipes (except C-I-P piping), or fittings, including valves and connections shall be accessible for inspection. The Dairy Supervisor may require other equipment, apparatus or piping if stationary equipment, apparatus or piping cannot or is not being effectively cleaned-in-place.
  - b. Equipment for storage and distribution of liquid sweetening agents shall be constructed of metals, alloys, or other material that will withstand corrosive action by the ingredient. The equipment and the ingredients shall be protected from contamination.
  - c. Pasteurizing equipment shall meet the standards prescribed in 3-A Accepted Practices for Sanitary Construction, Installation, Testing and Operation of High-Temperature-Short-Time Pasteurizers and 3-A Sanitary Standards for Non-Coiled Type Batch Pasteurizers. Batch-type pasteurizers shall be provided with close-coupled outlet valves protected against leakage and shall be equipped with thermometers that record the information of each day's operation on separate charts. Air space thermometers and indicating thermometers shall be provided to check the recording thermometers. The recording thermometer chart shall contain the date, the identity of the pasteurizing number, the batch and product name, and the signature of the employee responsible for this information. The record shall be kept on file at the plant for at least six months. The accuracy of the thermometer shall be checked weekly and the date and name of the person responsible for the weekly accuracy check shall be recorded.
  - d. Every plant shall contain hardening rooms, refrigerating rooms, or refrigerated cabinets with space for storage of frozen desserts and perishable ingredients.
  - e. All utensils used in the receiving, storing, processing, manufacturing, packaging, and handling of frozen desserts or any ingredients shall be of smooth, stainless steel, or plastic listed in the 3-A Accepted Practices and shall have flush seams. Utensils that are badly worn, rusted, or corroded or that cannot be rendered clean and sanitary by washing shall not be used. Lead solder shall not come in contact with milk or milk products or frozen desserts.
7. Cleaning and sanitizing.
    - a. Cleaning and sanitizing. Equipment, sanitary piping and utensils used in receiving, storing, processing, manufacturing, packaging, and handling frozen desserts and ingredients, and all product contact surfaces of homogenizers, high pressure pumps,

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- packing glands on agitators, pumps and vats, and lines shall be kept clean. Before use, all equipment coming in contact with milk products or frozen desserts shall have a bactericidal or sanitizing treatment. Equipment not designed for C-I-P cleaning shall be disassembled, thoroughly cleaned and sanitized. Biodegradable dairy cleaners, wetting agents, detergents, sanitizing agents, or other similar material that does not adversely affect or contaminate the frozen desserts or ingredients may be used. Steel wool or metal sponges shall not be used to clean any equipment or utensils with product contact surfaces. C-I-P cleaning shall be used only on equipment and pipeline systems designed, engineered, and installed for that type of cleaning. Other equipment and areas in the plant shall be thoroughly cleaned with a commercial vacuum cleaner or other means and the material obtained shall be burned or disposed of so that any insects are destroyed and milk products and frozen desserts will not be contaminated. Exhaust stacks, elevators and elevator pits, conveyors and similar facilities shall be inspected and cleaned regularly.
- b. Equipment shall be sanitized by using one of the following methods:
    - i. Using 180° F water for at least two minutes.
    - ii. Using steam under pressure for at least two minutes or until all parts of the equipment being sanitized have reached 180° F, or the condensate off the equipment remains at 180° F for at least two minutes.
    - iii. Using chlorine with a residual of at least 50 ppm after one minute contact with equipment, or if sprayed, with a residual of at least 100 ppm after five minutes.
    - iv. Using any other sanitizing substance prescribed in Appendix F of the PMO.
8. Pasteurization and cooling.
    - a. All frozen desserts mix, except for flavoring agents used in frozen desserts, shall be pasteurized.
    - b. Frozen desserts mix shall be pasteurized by heating every particle to:
      - i. 155° F for 30 minutes,
      - ii. 160° F for 15 minutes,
      - iii. 165° F for 10 minutes,
      - iv. 175° F for 25 seconds,
      - v. 180° F for 15 seconds,
      - vi. 200° F for three seconds, or
      - vii. 210° F with no holding time.
    - c. High-temperature-short-time pasteurizers shall have the thermal limit controller set and sealed so that forward flow of the product cannot start unless the temperature at the controller sensor is above the required temperature and forward flow of the product cannot continue during descending temperatures if the temperature is below the required temperature. The seal shall be applied by the Dairy Supervisor or the Supervisor's designee after testing and shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee. The system shall be designed so that no product can bypass the controller sensor. The controller sensor shall not be removed from its proper position during the pasteurization process.
    - d. After pasteurization all mix shall be cooled immediately to 45° F or less and shall be maintained at that temperature until frozen. Milk, cream, and other fluid milk products other than sterilized, evaporated or sweetened condensed milk in hermetically sealed containers shall be stored at 45° F or less.
      - i. Refrigerated vehicles or approved insulated containers shall be used when transporting frozen desserts mix from the manufacturing or other plant to a retail manufacturer, and
      - ii. Mix shall be moved from coolers or refrigeration units in a manufacturing plant to freezers by using pipes, tubing, or other means listed in the Permanently Installed Product and Solution Pipelines and Cleaning Systems Used in Milk and Milk Product Processing Plants section of the 3-A Accepted Practices.
  9. Storage.
    - a. Utensils and equipment. Utensils and portable equipment used in processing, handling, or packaging of frozen desserts shall be stored above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious, corrosion-resistant material.
    - b. Supplies and containers. Whenever possible, supplies shall be kept in a room separate from the processing, handling, and packaging of frozen desserts and under conditions that result in keeping the materials clean and free from dust, moisture, insects, rodents, or other possible contamination. Supplies shall be arranged to permit cleaning of the area and easy inspection and access. Insecticides and rodenticides shall be plainly labeled, segregated, and stored in a separate room or cabinet away from the edible material or packaging supplies. Caps, parchment papers, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers for frozen desserts or ingredients shall be stored only in sanitary tubes, wrappings, or cartons and kept in a clean, dry place until used and shall be handled in a sanitary manner.
    - c. Raw milk products. Raw products for use in frozen desserts that are conducive to bacterial growth shall be handled and stored to minimize bacterial growth. When stored, raw products shall be maintained at 45° F or lower until processing commences.
    - d. Non-refrigerated products. Products such as non-fat dry milk and other frozen desserts ingredients that do not require refrigeration for proper storing shall be placed in dry storage to be easily accessible for inspection and removal, and for adequate cleaning of the room. Dunnage, pallets or other similar method of elevation shall be used. Frozen desserts or ingredients shall not be stored with any product that would damage them or impair their quality. Opened containers of ingredients shall be protected from contamination.
    - e. Refrigerated products. All products that require refrigeration shall, except as otherwise specified, be stored under conditions of temperature and humidity that best maintain quality and condition. Products shall not be stored directly on wet floors or be exposed to foreign odors or conditions such as dripping or condensation that may cause package or product damage.
  10. Notification of change in products to be manufactured. Any person manufacturing only frozen desserts with butterfat, or only frozen desserts with fats other than butter-

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fat, and uses the other type of fat shall first notify the Dairy Supervisor.

11. Clearing lines and equipment. If the same equipment is used for processing, pasteurizing, and packaging frozen desserts made with dairy products and frozen desserts made with vegetable fats, oils, or proteins, any remaining product shall be completely removed from the lines and equipment and sanitized before introducing another product into the lines and equipment. All equipment and lines shall be sanitized either at the end or beginning of each day's operations.
12. Packaging and containers.
  - a. Frozen desserts shall be packaged in commercial containers using packaging material that protects the product from contamination. The packaging, cutting, molding, dispensing, and other handling or preparation of frozen desserts and their ingredients shall be in a sanitary manner. Frozen dessert containers shall be filled at the place of pasteurization using approved mechanical equipment. Existing manual processes may be permitted if done in a manner that prevents all contact surface contamination and is approved by the Dairy Supervisor.
  - b. Multi-use containers for frozen desserts shall be kept clean and dry. If used for transporting frozen desserts, the containers shall be:
    - i. Rinsed immediately after emptying,
    - ii. Cleaned upon return to the plant, and
    - iii. Protected from contamination during storage.
  - c. Metal cans and containers shall be free from rust and corrosion.
  - d. Paper and plastic containers, liners, covers, or other materials coming in contact with frozen desserts shall be free from contamination.
  - e. Single-service containers shall not be reused.

**B. Personnel.**

1. Plant employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling their hands. Employees shall keep their hands clean and follow good hygienic practices while on duty. Expecting or using tobacco in rooms or compartments where frozen desserts or ingredients are exposed is prohibited. Clean, white, or light-colored, washable outer garments shall be worn by all employees engaged in handling dairy products, mix or frozen desserts. Hair coverings for head and facial hair shall be worn by all employees engaged in the processing, pasteurizing, packaging, handling, and storage of frozen desserts, product containers, and utensils.
2. Frozen desserts shall be handled so that there is no direct contact between an employee's hands and the product.
3. A person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portions of the body shall not work in any plant processing or packaging room or in any capacity resulting in contact with milk products or frozen desserts or equipment used in the processing or handling of milk products or frozen desserts. An employee returning to work following illness from a communicable disease shall provide a certificate from a physician attesting to the employee's complete recovery before processing or handling milk products or frozen desserts.

**C. Quality standards.**

1. Milk products used in the manufacture of frozen desserts shall meet the following standards:

Product	Standard Plate Count	Not to Exceed
Raw Milk	500,000 per ml.	
Pasteurized Milk	50,000 per ml.	
Raw Cream	500,000 per ml.	
Pasteurized Cream	100,000 per ml.	

2. Butter, 80% cream, plastic cream, mixtures of butterfat, sugar or sweetening agent, moisture and flavoring, condensed milk, mixes and all other similar products shall meet the following standards:

Bacterial Standards	Not to Exceed
Standard Plate Count	50,000 per gram
Coliform Count	20 per gram
Yeast	50 per gram
Mold	50 per gram

3. Powdered non-fat dry milk, dry whey, and dry buttermilk shall meet the PMO standards.
4. Fats and oils other than from milk shall meet the standards of the United States Food, Drug and Cosmetic Act as amended, or those of any applicable state regulation for fats and oils of food grade standards.
5. Frozen desserts in broken or opened containers or in containers from which the product has been partially used may be returned to the plant for examination but shall not be used or sold for making frozen desserts.
6. All reconstituted frozen desserts shall be pasteurized before packaging.

**D. Labeling.**

1. All packages of frozen desserts, including cans or other containers of frozen desserts mix but not including frozen desserts packaged in accordance with a customer's request and in the presence of the customer, shall be labeled as prescribed in the federal Food, Drug and Cosmetic Act, as amended.
2. Each frozen dessert package shall contain:
  - a. The code number assigned by the Dairy Supervisor, identifying the specific manufacturing plant; or
  - b. The name and address of the frozen dessert manufacturer.

- E. License suspension. The Dairy Supervisor may suspend the license of a frozen dessert plant whenever the bacteria count, coliform determination, yeast or mold count exceeds the quality standards for frozen desserts in three out of the last five samples taken on separate days. In addition, the Dairy Supervisor may suspend the permit of a frozen dessert plant for failure to comply with any of the provisions of this Section.

**Historical Note**

Adopted effective December 7, 1976 (Supp. 76-5).  
 Amended effective December 5, 1977 (Supp. 77-6). Section R3-2-807 renumbered from R3-5-07 (Supp. 91-4).  
 Amended effective December 2, 1998 (Supp. 98-4).

**R3-2-808. Frozen Desserts Reconstituted from Powdered Mixes**

Except for R3-2-807(A)(8), retail establishments that reconstitute frozen desserts from powdered mixes and dispense the desserts on the premises shall comply with the requirements prescribed in R3-2-807 and the following standards:

1. All equipment, containers, and utensils shall be washed and air-dried after each use and shall be sanitized before each use, in accordance with the sterilization standards established in subsection R3-2-807(A)(7)(b).
2. When not in use, all equipment, utensils, and containers shall be stored above the floor in a clean, dry location free from dust, moisture, insects, rodents, or other possible sources of contamination.

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3. Excess quantities of the reconstituted frozen dessert shall not be made from the powdered mix in advance and stored outside the dispensing machine.
4. Frozen desserts shall be reconstituted according to the directions provided by the powdered mix manufacturer.

**Historical Note**

Adopted effective May 11, 1977 (Supp. 77-3). Section R3-2-808 renumbered from R3-5-08 (Supp. 91-4). Section R3-2-808 renumbered to Section R3-2-809; new Section R3-2-808 adopted effective December 2, 1998 (Supp. 98-4).

**R3-2-809. Medicinal, Chemical, and Radioactive Residues in Milk**

- A.** All dairies shall comply with the following procedures to exclude medicinal, chemical, and radioactive residues from milk intended for human consumption:
1. Identify all cows that have been treated with or have consumed medicinal, chemical, and radioactive agents capable of being secreted in milk;
  2. Maintain a written record of the date of treatment, type, and quantity of the medicine or chemical administered to each cow;
  3. Milk all treated cows last, or with separate equipment to prevent contamination of the wholesome milk supply;
  4. Clean and sanitize all equipment, utensils, and containers used in the handling of milk from the treated cows before the equipment is used in the handling of any milk intended for human consumption; and
  5. Discard all milk from the treated cows for the period of time recommended by the attending veterinarian or as indicated on the package or label of the medicine used in the treatment of the cow.
- B.** Enforcement.
1. When the residue of a chemical, medicinal, or radioactive agent is found in the milk of a dairy and the Dairy Supervisor determines that the residue may be deleterious to human health, the Director shall immediately suspend the dairy from further selling, offering for sale, or distributing milk for human consumption until:
    - a. The Dairy Supervisor determines that the practice causing the contamination of the milk has been corrected and the dairy is in compliance with the procedures established in subsection (A);
    - b. Any milk that has not been excluded from human consumption as required by subsection (A) is appropriately discarded; and
    - c. The first milk shipment following suspension indicates negative test results for medicinal, chemical, or radioactive residues.
  2. If the Dairy Supervisor determines that a dairy is not in compliance with the procedures established in subsection (A), the Dairy Supervisor may suspend the dairy until the prescribed procedures are observed.

**Historical Note**

Section R3-2-809 renumbered from R3-2-808 and amended effective December 2, 1998 (Supp. 98-4).

**R3-2-810. License Fees**

During fiscal year 2020, an applicant shall pay the following fee to obtain or renew a dairy license:

1. For a license to operate a milk distributing plant or business: \$300 plus \$2,500 per pasteurizer.
2. For a license to operate a manufacturing milk processing plant: \$100.

3. For a license to engage in the business of producer-distributor as an interstate milk shipper listed facility: \$150 plus \$2,500 per pasteurizer.
4. For a license to engage in the business of producer-distributor: \$150.
5. For a license to engage in the business of producer-manufacturer: \$25.
6. For a license to engage in the manufacture of trade products: \$100.
7. For a license to engage in the business of selling at wholesale milk or dairy products, or both: \$100.
8. For a license to sample milk or cream: an initial fee of \$50 and a renewal fee of \$30.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3).

**R3-2-811. Dairy Farm Permit**

- A.** A dairy farm, as defined in the PMO, may apply for a PMO milk producer permit by submitting the following information about the dairy farm on a form provided by the Department:
1. Legal name,
  2. Physical and mailing address,
  3. Telephone number,
  4. Owner's name,
  5. Herd size,
  6. Daily milk production,
  7. Water source,
  8. Waste water disposal system,
  9. Number of bulk storage tanks, and
  10. Certification that the dairy farm facilities comply with Grade A requirements.
- B.** An applicant for a dairy farm permit shall demonstrate compliance with the minimum standards set out in the PMO by a Department inspection.
- C.** A permittee shall maintain compliance with the minimum standards set out in the PMO and shall be subject to inspection by the Department in accordance with the PMO.
- D.** The Department may suspend a permit for a permittee's failure to comply with the minimum standards and may revoke a permit if the permittee fails to correct deficiencies within a reasonable time.
- E.** Dairy farm permits are not transferable.

**Historical Note**

New Section made by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired; new Section made by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3).

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**ARTICLE 9. EGG AND EGG PRODUCTS CONTROL**

**R3-2-901. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-701, 3-702, 3-703 and 3-704, the following shall apply to this Article:

“Lot” means any quantity of two or more eggs.

“Spot-check” sample means any sample less than a representative sample described in the chart in R3-2-903(B).

“United Egg Producers Animal Husbandry Guidelines” means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2008 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Ste. 230, Alpharetta, GA 30005.

“United Egg Producers Certified” means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.

“United Egg Producers Certified logo” means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.

**Historical Note**

Former Rule 1; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-01 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-901 (Supp. 82-1). Section R3-6-101 renumbered to R3-2-901 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-902. Standards, Grades, and Weight Classes for Shell Eggs**

All standards, grades, and weight classes for shell eggs shall be as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and the United States Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Ave., S.W., Washington, DC 20250-0259, or online at [www.ams.usda.gov/poultry/standards/index.htm](http://www.ams.usda.gov/poultry/standards/index.htm). “AMS” means Agricultural Marketing Service, United States Department of Agriculture.

**Historical Note**

Former Rule 2; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-02 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-902 (Supp. 82-1). Section R3-6-102 renumbered to R3-2-902 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 14 A.A.R. 892, effective May 3, 2008 (Supp. 08-1).

**R3-2-903. Sampling: Schedule and Methods for Evidence**

- A. An inspector may conduct random spot-check sampling of a lot of eggs to determine whether the lot meets minimum quality and weight standards and is in compliance with R3-2-907(B).
- B. Representative egg sampling, under A.R.S. § 3-710(G), shall be based on the following table. A lot that does not meet minimum quality or weight standards or is not in compliance with R3-2-907(B) shall receive a warning notice hold tag.

Minimum Number of Cases and Cartons Comprising a Representative Sample			
Lot size of cartons	Minimum eggs for inspection	Lot size of 30 doz. per case	Minimum cases for inspection <sup>1</sup>
1 - 4 cartons	All	1 case	1 case
5 - 30 cartons inclusive	50	2 - 10 cases inclusive	2 cases
31 - 120 cartons inclusive	100	11 - 25 cases inclusive	3 cases
120 - 210 cartons inclusive	200	26 - 50 cases inclusive	4 cases
211 - 315 cartons inclusive	300	51 - 100 cases inclusive	5 cases
		101 - 200 cases inclusive	8 cases
		201 - 300 cases inclusive	11 cases
		301 - 400 cases inclusive	13 cases
		401 - 500 cases inclusive	14 cases
		501 - 600 cases inclusive	16 cases
		For each additional 50 cases or fraction of a case in excess of 600 cases	1 case

<sup>1</sup>An inspector shall take 100 eggs from each case for inspection.

- 1. An inspector may draw additional samples to determine whether the lot meets the minimum requirements.
- 2. When loose eggs are out of the case, the sample shall be based on a carton.
- 3. Eggs shall be sampled on a 30-dozen-case basis. When eggs are packed in other lot quantities, an inspector shall convert the quantity of eggs to the equivalent 30-dozen-case basis to establish the official sample size.

**Historical Note**

Former Rule 3; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-03 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-903 (Supp. 82-1). Section R3-6-103 renumbered to R3-2-903 (Supp. 91-4). Section repealed, new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2,

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2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-904. Quarterly Report Periods**

Quarterly reports are due as prescribed in A.R.S. § 3-716(D). The quarterly report periods for inspection fees are:

1. July 1 to September 30,
2. October 1 to December 31,
3. January 1 to March 31, and
4. April 1 to June 30.

**Historical Note**

Former Rule 4; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-04 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-904 (Supp. 82-1). Section R3-6-104 renumbered to R3-2-904 (Supp. 91-4). Section repealed, new Section R3-2-904 renumbered from R3-2-907 and amended effective July 13, 1995 (Supp. 95-3).

**R3-2-905. Inspection Fee Rate**

- A. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per dozen on all shell eggs sold as prescribed in A.R.S. § 3-716(A).
- B. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per pound on all egg products sold as prescribed in A.R.S. § 3-716(A).

**Historical Note**

Former Rule 5; Former Section R3-6-05 renumbered as Section R3-2-905 (Supp. 82-1). Section R3-6-105 renumbered to R3-2-905 (Supp. 91-4). Section repealed, new Section R3-2-905 renumbered from R3-2-908 and amended effective July 13, 1995 (Supp. 95-3). Amended by emergency rulemaking at 12 A.A.R. 4063, effective October 1, 2006 for 180 days (Supp. 06-4). Emergency renewed at 13 A.A.R. 1509, effective April 9, 2007 for 180 days (Supp. 07-2). Amended by final rulemaking at 13 A.A.R. 1639, effective June 30, 2007 (Supp. 07-2).

**R3-2-906. Violations and Penalties**

- A. A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:
  1. Category A:
    - a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
    - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
    - c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;
    - d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container, unless the eggs are exempt under A.R.S. § 3-715(K);
    - e. Failing to maintain records and reports required by this Article;
    - f. Failing to label a carton, case, or container with one size, one grade, one brand name, or, if applicable under R3-2-907(B), the United Egg Producer Certified logo;
    - g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;

- h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
  - i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products.
  - j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907(B).
  - k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907(A).
2. Category B:
    - a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701(10); or
    - b. Advertising, representing, or selling out-of-state eggs as local eggs.
  3. Category C:
    - a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
    - b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower; or
    - c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F.

- B. Any violation of this Article or of A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.
- C. Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is:

Number of Violations	Category A	Category B	Category C
1	Warning	Warning	Warning
2	\$50	\$50	\$100
3	\$100	\$100	\$200
4		\$150	\$400
5		\$200	\$500
6		\$250	
7		\$300	

**Historical Note**

Former Rule 6; Amended effective February 19, 1982. Former Section R3-6-06 renumbered as Section R3-2-906 (Supp. 82-1). Section R3-6-106 renumbered to R3-2-906 (Supp. 91-4). Former Section R3-2-906 renumbered to R3-2-903, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4058, effective October 7, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-907. Poultry Husbandry; Standards for Production of Eggs**

- A. All egg-laying hens in this state shall be raised according to United Egg Producers Animal Husbandry Guidelines.
- B. All eggs sold in this state produced by hens shall be from hens raised according to the United Egg Producers Animal Husbandry Guidelines. All eggs shall display the United Egg Producers Certified logo on their cases, cartons, and containers, or the egg dealer shall annually provide the Department with a copy of a current independent third-party audit that demon-

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strates that the eggs were produced by hens raised according to UEP Animal Husbandry Guidelines.

- C. This rule does not apply to egg producers operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs and also does not apply to any hens that are raised cage-free or any eggs produced by hens that are raised cage-free.

**Historical Note**

Former Rule 7; Former Section R3-6-07 renumbered as Section R3-2-907 (Supp. 82-1). Section R3-6-107 renumbered to R3-2-907 (Supp. 91-4). Section R3-2-907 renumbered to R3-2-904 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-908. Sanitary Standards; Egg Processing**

All egg producers in this state shall meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008. This material is incorporated by reference, does not include any later editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007.

**Historical Note**

Former Rule 8; Amended effective October 1, 1979 (Supp. 79-5). Former Section R3-6-08 renumbered as Section R3-2-908 (Supp. 82-1). Amended effective January 1, 1985 (Supp. 84-6). Amended effective December 30, 1987 (Supp. 87-4). Amended effective March 23, 1990 (Supp. 90-1). Section R3-6-108 renumbered to R3-2-908 (Supp. 91-4). Section R3-2-908 renumbered to R3-2-905 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-909. Repealed****Historical Note**

Former Rule 9; Former Section R3-6-09 renumbered as Section R3-2-909 (Supp. 82-1). Section R3-6-109 renumbered to R3-2-909 (Supp. 91-4). Section repealed effective July 13, 1995 (Supp. 95-3).

**ARTICLE 10. AQUACULTURE****R3-2-1001. Definitions**

In addition to the definitions provided in A.R.S. § 3-2901, the following shall apply unless the context otherwise requires:

1. "Certificate of Aquatic Health" is an official document from an issuing state or an equivalent form published by the United States Fish and Wildlife Service or the United States Department of Agriculture attesting that the live aquatic animals described thereon have been inspected and are free of the diseases and causative agents set forth in R3-2-1009.
2. "Department" means the Arizona Department of Agriculture.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1002. Fees for Licenses; Inspection Authorization and Fees**

- A. License fees are established as follows:
1. Aquaculture facility: \$100 annually.
  2. Fee fishing facility: \$100 annually.
  3. Aquaculture processor: \$100 annually.
  4. Aquaculture transporter: \$100 annually.
  5. Special licenses: \$10 annually.

- B. An expired license may be renewed within 90 days after expiration by payment of a \$50 late fee.
- C. Upon request of the licensee, the Department shall assess the licensed facility and, if applicable, certify the facility is free from infectious diseases and causative agents listed in R3-2-1009 before issuing a Certificate of Aquatic Health. All expenses properly incurred in the certification procedure of the inspection, including time, travel, and laboratory expenses, shall be paid to the Department by the licensee requesting certification.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-1003. General Licensing Provisions**

- A. An applicant for a license to operate an aquaculture facility or a fee fishing facility, or to operate as an aquaculture processor or aquaculture transporter shall provide the following information on a form furnished by the Department:
1. Whether the applicant is an individual, corporation, partnership, cooperative, association, or other type of organization;
  2. The name and address of the applicant;
  3. A corporation shall specify the date and state of incorporation;
  4. The principal name of the business, and all other business names that may be used;
  5. The name, mailing address, and telephone number of the applicant's authorized agent;
  6. The street address or legal description of the location of the facility to be licensed; and
  7. The signature of the person designated in subsection (A)(5), and the date the application is completed for submission to the Department.
- B. The Department shall grant a license when all conditions are met and assign a Department establishment number to each facility.
- C. All licenses expire on December 31 for the year issued.
- D. A licensee shall advise the Department in writing of any change in the information provided on the application during the license year. This information shall be provided within 30 calendar days of the change.
- E. To prevent the spread of diseases and causative agents listed in R3-2-1009, the Department may inspect and take samples from any facility or shipment being transported. A licensee shall notify the Department within 72 hours of becoming aware of the presence of any disease or causative agent listed in R3-2-1009. Aquatic animals found to be infected with a disease or causative agent listed in R3-2-1009 are prohibited from interstate or intrastate movement without prior written Department approval.
- F. The Department shall quarantine or seize aquatic animals, alive or dead, plants, or products for examination or diagnostic study when there is a potential for spread of a disease or causative agent listed in R3-2-1009, or any other disease or causative agent that could constitute a threat to aquatic animals or plants of the state. The Department shall issue a written notice to the licensee specifying:
1. The reason for the Department's action; and
  2. The licensee's right to request a hearing as prescribed in A.R.S. § 3-2906.
- G. A licensee shall conspicuously mark all quarantined aquatic products and quarantined areas in a manner specified by the Department.

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- H. A licensee shall pay all diagnostic, quarantine, and destruction costs.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-1004. Specific Licensing Provisions; Aquaculture Facility; Fee Fishing Facility; Special License Facility**

- A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate an aquaculture facility, a fee fishing facility, or a special license facility under A.R.S. § 3-2908(A) shall provide the following information on a form provided by the Department:
1. Water sources, transmission, and conveyances;
  2. Method used to dispose of tailing waters and solid wastes;
  3. Number and size of ponds, raceways, and tanks, if applicable;
  4. Whether hatchery facilities are included;
  5. A list of all animals and plants to be authorized under the license by genus, species, and common name.
- B. An application to culture or possess an aquatic animal or plant that has not previously occurred in the drainage where the facility is located shall be accompanied by a written proposal. The applicant's proposal shall include:
1. Anticipated benefits from introducing the species;
  2. Anticipated adverse effects from introducing the species, as it may affect indigenous or game fish, including hybridization;
  3. Anticipated diseases inherent to introducing the species;
  4. Suggestions for post-introduction evaluation of status and impacts of the introduced species; and
  5. Structural and operational methods implemented to prevent escape of the species, if applicable.
- C. Each body of water serving a facility shall be contained within the boundaries of the land owned or leased by the licensee.
- D. A facility using public waters having natural or artificial inlets, rivers, creeks, washes, or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals and plants, including eggs and fry, from escaping beyond the aquaculture facility boundaries or into public bodies of water.
- E. An applicant for a special license under A.R.S. § 3-2908(A) shall also provide the following information to the Department at the time of application:
1. A written narrative describing the project in detail, the project purpose, the hypothesis, and the project duration; and
  2. The proposed disposition of the aquatic animals or plants upon completion of the project.
- F. The Department shall consider the recommendations of the Arizona Game and Fish Department, under A.R.S. § 3-2903, when determining whether to issue a license or an import permit under R3-2-1010. The Department may issue a license excluding some of the aquatic animal or plant species listed in the application.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1005. Fee Fishing Facility**

A licensee shall not allow an aquatic animal to be removed from a fee fishing facility unless:

1. The aquatic animal is dead, and

2. The licensee provides the person removing the aquatic animal with written proof of sale identifying the:
  - a. Facility, by name, address, and Department establishment number issued under R3-2-1003(B);
  - b. Date of harvest; and
  - c. Number and species of aquatic animals transported from the facility.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1006. Processor License**

- A. In addition to complying with the application requirements of R3-2-1003, applicants for a license to operate as an aquaculture processor as defined in A.R.S. § 3-2901(12) shall provide the following information on a form furnished by the Department:
1. Water sources, transmission, conveyances, and annual consumption in gallons or acre feet;
  2. Method used to dispose of tailing waters and solid wastes;
- B. A processing facility shall operate in a clean and sanitary condition during all periods of operation. The following are the minimum requirements for such establishments.
1. Each establishment shall have sanitary floors and walls impervious to water.
  2. All outside windows and doors shall be screened.
  3. There shall be a supply of potable water.
  4. There shall be a sewage disposal system of such a type as not to be a breeding place for insects and not to constitute a hazard or to endanger public health.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1007. Transporter License; Transport; Delivery**

- A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate as an aquaculture transporter of live aquatic animals as defined in A.R.S. § 3-2901(15) shall, on a form provided by the Department:
1. Designate whether the license is for interstate or intrastate transport, or both;
  2. List aquatic transporting equipment to be used, including tanks and vehicles, and vehicle license number; and
  3. State prior year volume or anticipated annual tonnage of live aquatic animals transported.
- B. A transporter shall ensure that the aquatic transporting equipment has adequate water and oxygen at a temperature and in a quantity normal for the health of the live aquatic animals and shall be clearly marked, "Live Fish."
- C. In addition to a copy of the Certificate of Aquatic Health, a transporter shall transport each container of live aquatic animals within the state with a document identifying:
1. Consignor's name, address, and telephone number;
  2. Consignee's name, address, and telephone number;
  3. Quantity and size of the aquatic animal being transported;
  4. Genus, species, and common name of the aquatic animal being transported;
  5. Date of shipment; and
  6. Department establishment number.
- D. A transporter shall deliver live aquatic animals only to a retail outlet, as prescribed at A.R.S. § 3-2907(J) or to a person listed in R3-2-1010(B).

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**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1008. Repealed****Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Section repealed by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1009. Disease Certification**

- A.** A licensee requesting and receiving a Certificate of Aquatic Health shall have their facility inspected and all live aquatic animals, fertilized eggs and milt shall be found free of, but not limited to, the following diseases and causative agents:
1. Causative agent: Egtved Virus. Disease: VHS, Viral Hemorrhagic Septicemia of Salmonids.
  2. Causative agent: Infectious Hematopoietic Necrosis Virus. Disease: IHN, Infectious Hematopoietic Necrosis of Salmonids.
  3. Causative agent: Infectious Pancreatic Necrosis Virus. Disease: IPN, Infectious Pancreatic Necrosis of Salmonids.
  4. Causative agent: *Ceratomyxa shasta*. Disease: Ceratomyxosis of Salmonids.
  5. Causative agent: *Rhabdovirus carpio*. Disease: Spring Viremia of carp. Certification is required in this case only when the original origin of the shipment is from outside the United States.
  6. Causative agent: *Renibacterium salmoninarum*. Disease: BKD, Bacterial Kidney Disease of Salmonids.
  7. Causative agent: *Aeromonas salmonicida*. Disease: Furunculosis.
  8. Causative agent: *Myxobolus cerebralis*. Disease: Whirling Disease of Salmonids.
- B.** The Department may require inspection for any disease or causative agent not listed in subsection (A) when there is evidence that the disease or causative agent may constitute a threat to aquatic animals or plants, aquatic wildlife or the aquaculture industry. The Department shall send written notice to all licensees pursuant to this Chapter when implementing this subsection, naming the disease or causative agent of concern. Action to quarantine or seize aquatic animals or plants pursuant to this subsection shall not be subject to delay pending such written notice.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1010. Importation of Aquatic Animals**

- A.** The owner, or owner's agent, importing live aquatic animals into the state shall ensure the animals are accompanied by the following:
1. A Certificate of Aquatic Health as defined in R3-2-1001, based upon an inspection of the originating facility within the 12 months preceding the shipment;
  2. A transporter license issued under R3-2-1007; and
  3. An import permit number issued by the Department under this Section, legibly written or typed on the certificate of aquatic health.
- B.** The owner, or owner's agent, of live aquatic animals, except those imported by a retail outlet as prescribed in A.R.S. § 3-2907(J), shall ensure that the animals are consigned to or in the care of:
1. An Arizona resident;

2. An aquaculture facility, fee fishing facility, or special license holder licensed by the Department;
3. A holder of an aquatic wildlife stocking permit issued by the Arizona Game and Fish Department; or
4. A holder of any aquatic animal license issued by the Arizona Game and Fish Department.

- C.** The owner, or owner's agent, may obtain an import permit number from the Department, Office of the State Veterinarian, by providing the following information:
1. Consignor's name, address, and telephone number;
  2. Consignee's name, address, and telephone number;
  3. Consignee's Department establishment number issued by the Department or a copy of an aquatic wildlife stocking permit or the license issued by the Arizona Game and Fish Department;
  4. Origin of the shipment;
  5. Genus, species, and common name of aquatic animals to be imported; and
  6. Quantity and size classification of aquatic animals to be imported.
- D.** An import permit number remains valid for 15 calendar days from the date of issuance by the Department.
- E.** The Department shall refuse entry to any shipment that does not comply with this rule.
- F.** The Department shall quarantine and require destruction of any shipment, after its arrival, that it determines is infected with or was previously exposed to any causative agent or disease listed in R3-2-1009.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**ARTICLE 11. EXPIRED****R3-2-1101. Expired****Historical Note**

Section R3-2-1101 recodified from R3-2-101 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1102. Expired****Historical Note**

Section R3-2-1102 recodified from R3-2-102 (Supp. 97-1). Amended effective October 8, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1103. Expired****Historical Note**

Section R3-2-1103 recodified from R3-2-103 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1104. Expired****Historical Note**

Section R3-2-1104 recodified from R3-2-104 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1105. Expired**

## CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

**Historical Note**

Section R3-2-1105 recodified from R3-2-105 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1106. Expired****Historical Note**

Section R3-2-1106 recodified from R3-2-106 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1107. Expired****Historical Note**

Section R3-2-1107 recodified from R3-2-107 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1108. Expired****Historical Note**

Section R3-2-1108 recodified from R3-2-108 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1109. Expired****Historical Note**

Section R3-2-1109 recodified from R3-2-109 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

### 3-107. Organizational and administrative powers and duties of the director

A. The director shall:

1. Formulate the program and policies of the department and adopt administrative rules to effect its program and policies.
2. Ensure coordination and cooperation in the department in order to achieve a unified policy of administering and executing its responsibilities.
3. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions of money or property from any public or private source, including the federal government. All contributions shall be included in the annual report under paragraph 6 of this subsection. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from the provisions of section 35-190 relating to lapsing of appropriations.
4. Contract and enter into interagency and intergovernmental agreements pursuant to title 11, chapter 7, article 3 with any private party or public agency.
5. Administer oaths to witnesses and issue and direct the service of subpoenas requiring witnesses to attend and testify at or requiring the production of evidence in hearings, investigations and other proceedings.
6. Not later than September 30 each year, issue a report to the governor and the legislature of the department's activities during the preceding fiscal year. The report may recommend statutory changes to improve the department's ability to achieve the purposes and policies established by law. The director shall provide a copy of the report to the Arizona state library, archives and public records.
7. Establish, equip and maintain a central office in Phoenix and field offices as the director deems necessary.
8. Sign all vouchers to expend money under this title, which shall be paid as other claims against this state out of the appropriations to the department.
9. Coordinate agricultural education efforts to foster an understanding of Arizona agriculture and to promote a more efficient cooperation and understanding among agricultural educators, producers, dealers, buyers, mass media and the consuming public to stimulate the production, consumption and marketing of Arizona agricultural products.

10. Employ staff subject to title 41, chapter 4, article 4 and terminate employment for cause as provided by title 41, chapter 4, article 5.

11. Conduct hearings on appeals by producers regarding the assessed actual costs of the plow up and the penalty of one hundred fifty per cent for unpaid costs pursuant to section 3-204.01. The director may adopt rules to implement this paragraph.

12. 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.

B. The director may:

1. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

2. Construct and operate border inspection stations or other necessary facilities in this state and cooperate by joint agreement with an adjoining state in constructing and operating border inspection stations or other facilities within the boundaries of this state or of the adjoining state.

3. Cooperate with agencies of the United States and other states and other agencies of this state and enter into agreements in developing and administering state and federal agricultural programs regarding the use of department officers, inspectors or other resources in this state, in other states or in other countries.

4. Cooperate with the office of tourism in distributing Arizona tourist information.

5. Enter into compliance agreements with any person, state or regulatory agency. For the purposes of this paragraph, "compliance agreement" means any written agreement or permit between a person and the department for the purpose of enforcing the department's requirements.

6. Abate, suppress, control, regulate, seize, quarantine or destroy any agricultural product or foodstuff that is adulterated or contaminated as the result of an accident at a commercial nuclear generating station as defined in section 26-301, paragraph 1. A person owning an agricultural product or foodstuff that has been subject to this paragraph may request a hearing pursuant to title 41, chapter 6, article 10.

7. Engage in joint venture activities with businesses and commodity groups that are specifically designed to further the mission of the department, that comply with the constitution and laws of the United States and that do not compete with private enterprise.

8. Sell, exchange or otherwise dispose of personal property labeled with the "Arizona grown" trademark. Revenues received pursuant to this paragraph shall be credited to the commodity promotion fund established by section 3-109.02.

3-603. Powers and duties; state dairy supervisor; qualifications; production of papers; formal requirements of complaints

A. The associate director, with the approval of the director, shall employ a state dairy supervisor to enforce the provisions of this article. The supervisor shall recommend to the director for adoption rules deemed necessary or advisable to carry out the provisions thereof.

B. The supervisor shall be a person who has experience in the dairy industry and must possess technical and educational qualifications or practical experience in producing, handling and testing milk and in other matters relating to the dairy industry.

C. If the production of papers, books and records relating to any matter under investigation is deemed advisable, the director may apply to the superior court in any county for an order requiring the production of the papers, books and records. If the court is satisfied that the papers, books and records are pertinent to and helpful in the matter under investigation, their production shall be ordered.

D. A complaint filed with the department charging noncompliance with or violation of any provision of this article shall be in writing and signed by the complainant, but a complaint by a producer relating to the accuracy of a butterfat, bacterial or other test directly affecting the price received by the complainant need not be in writing.

3-605. Federal milk ordinance; health and sanitation provisions; exemption

A. Unless inconsistent with this chapter, the production, transportation, handling and sale of milk and milk products and the inspection of dairy herds, dairies and milk plants shall be regulated in accordance with the terms of the federal milk ordinance.

B. The words "health authority" when used in the federal milk ordinance means the director or the director's authorized representative.

C. Powers and duties in the federal milk ordinance relating to health and sanitation are vested in the director. In addition, the director shall adopt rules necessary to assure that all milk and milk products sold or distributed for human consumption are free from unwholesome, poisonous or other foreign substances and filth, insects or disease-causing organisms. The rules shall prescribe reasonably necessary measurements governing the production, processing, labeling, storing, handling and transportation of milk and milk products. The rules shall prescribe minimum standards for the sanitary facilities and conditions that shall be maintained in any dairy or other facility and in any truck or other vehicle in which milk or milk products are produced, processed, handled 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 rules and minimum standards. This subsection and the rules prescribed pursuant to this subsection do not apply to dispensing and selling frozen desserts at retail.

D. The provisions of the federal milk ordinance apply to this state.

E. The department is exempt from the rulemaking requirements of title 41, chapter 6 for the purpose of adopting and implementing the federal milk ordinance.

3-611. Tuberculin testing of dairy herds; veterinarian's certificate; other diseases; exclusion of animals from herds

A. Except as otherwise provided by law, a tuberculin test of all dairy herds shall be made before milk therefrom is sold. Thereafter, testing shall be conducted and reactors disposed of as prescribed by chapter 12, article 3 of this title. A certificate signed by a licensed veterinarian and filed with the state veterinarian shall be evidence of the test required by this section.

B. A cow showing upon physical examination an extensive or entire induration of one or more quarters of the udder, whether or not secreting abnormal milk, shall be permanently excluded from the milking herd. A cow giving bloody, stringy or otherwise abnormal milk, but with only a slight induration of the udder, shall be excluded from the herd until re-examination shows the milk to have become normal.

C. The associate director, on the recommendation of the state veterinarian, may, for a disease not otherwise provided for, prescribe the tests and examinations to be used. He shall prescribe the times at which the tests shall be given and the methods to be used and shall provide for the disposition of animals reacting to the tests.

### 3-667. Rules and orders; delegation of duties; regulation of interstate products

A. The director shall adopt rules and orders that are necessary to carry out the purposes of this article, and that he determines are necessary to protect the public health and welfare, and to prevent deception or confusion among consumers. For labeling purposes only, the associate director may divide into categories the various trade and real milk products as being fluid milk, manufactured milk or food-predominantly-milk products. Any duties vested in the associate director by this article and delegable under law may be delegated by him to duly authorized employees or agents.

B. Notwithstanding any other provisions of this article, the director shall by rule make provisions for the transportation into the state and subsequent sale of trade products produced outside the state and labeled in accordance with federal law.

C. Notwithstanding any other provisions of this article, the director may by rule waive any of the provisions of this article as they apply to trade products manufactured for sale and distribution exclusively outside of this state, provided that the rules contain provisions ensuring that the products will not be made available or sold to consumers in this state.

D. All rules shall be adopted by the director only after open hearing at which interested parties shall be permitted to be heard. Any person desiring actual notice of the proposed enactment of rules shall notify the department in writing that he desires such notice. Twenty days prior to the date of a hearing on any proposed rule, the director shall send, by certified mail, a copy of the notice prescribed in section 41-1022 to each such person at the address supplied to the department.

### 3-706. Grade tolerances

The tolerance for eggs in a case, half-case, container or carton as determined by count shall conform to the specifications of the grades established by rules adopted by the director.

### 3-710. Powers and duties; state preemption; egg promotion program

A. The department may acquire and distribute to interested persons useful information relative to preparing for market, handling, purchasing, transporting, storing and marketing eggs and egg products, including demonstrating how to classify eggs and egg products in accordance with the uniform standards and grades prescribed pursuant to this chapter.

B. The department may issue in booklet form copies of this article containing complete descriptive terms as to shell, aircell, white, yolk and germ, and may change definitions of terms and grades as they are made and promulgated by the United States department of agriculture.

C. On request of the United States government, and others, the director may negotiate and sign cooperative agreements to provide inspection and grading services and charge and receive payment for the reasonable cost of such services. The monies received for such services shall be deposited in the state egg inspection trust fund established by section 3-717.

D. When the production of papers, books and records relating to any matter under investigation is deemed advisable, the director may apply to the superior court in any county for an order requiring the production of the papers, books and records. If the court is satisfied that the papers, books and records are pertinent to the matter under investigation, their production shall be ordered.

E. A complaint filed with the department charging a noncompliance with or violation of any provision of this article shall be in writing and signed by the complainant.

F. The supervisor and inspectors shall enforce this article in conformity with rules adopted by the director. The refusal of an officer authorized under this article to carry out the orders and directions of the director in the enforcement of this article or prosecutions under this article is neglect of duty. The director shall make and enforce such rules as the director deems necessary to carry out this article.

G. An inspector may enter and inspect any place or conveyance within this state over which the inspector has supervision where eggs are produced, candled, incubated, stored, packed, delivered for shipment, loaded, shipped, transported or sold, and may inspect all invoices and eggs and the cases and containers of the eggs and equipment found in the places or conveyances, and may take for inspection representative

samples of the invoices, eggs and cases or containers for the purpose of determining whether or not any provision of this article has been violated.

H. An inspector, while enforcing this article, may seize and hold as evidence an advertisement, sign, placard, invoice, case or container of eggs or egg products or all or any part of any pack, load, lot consignment or shipment of eggs or egg products packed, stored, delivered for shipment, loaded, shipped, transported or sold in violation of any provisions of this article.

I. The department may prescribe minimum standards for egg processing plants and sanitary standards for processing shell eggs. The department shall establish these standards by rule. Chemicals used in egg processing plants, sanitizers used in egg processing, egg soaps, egg oil and other substances used in processing shell eggs are subject to the approval of the director.

J. The director shall adopt rules for poultry husbandry and the production of eggs sold in this state. This subsection does not apply to egg producers operating or controlling the operation of an egg ranch that has fewer than twenty thousand egg-laying hens producing eggs.

K. Consistency of poultry husbandry practices for the production of eggs is a statewide matter. The regulation of poultry husbandry practices related to the production of eggs is not subject to further regulation by a county, city, town or other political subdivision of this state.

L. The director may:

1. Establish an egg promotion program to provide certification, inspection and grading services and may prescribe, by rule, fees for those services. Except as provided in paragraph 3 of this subsection, monies collected from the fees shall be deposited, pursuant to sections 35-146 and 35-147, in the state egg inspection trust fund established by section 3-717.

2. Adopt rules to administer the egg promotion program, including participation guidelines, use requirements for department trademarks and certification marks and other rules the director deems necessary.

3. Conduct inspections to ensure compliance with the trademark and certification mark rules adopted pursuant to this subsection. The monies collected from fees for an inspection conducted pursuant to this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in the state egg inspection trust fund established by section 3-717.

### 3-739. Violations; civil penalties; exception

A. A retailer, dealer, peddler, shipper, seller or purveyor of shell eggs or egg products, who has received a written notice of violation of this article from the department and who after receipt of the notice commits a subsequent violation of the same provision which was stated in the notice, shall be subject to a civil penalty as follows:

1. For the first subsequent violation, at least fifty but not more than two hundred fifty dollars.
2. For the second and all subsequent violations, at least one hundred but not more than five hundred dollars.

B. The department shall establish by rule criteria for determination of civil penalties imposed under this section. Any civil penalties collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

C. This section does not apply to the regulation of grade and weight standards pursuant to this article, or to tempering of shell eggs or egg products as required in food preparation.

### 3-1203. General powers and duties; civil penalties

A. The director or the director's authorized representative shall exercise general supervision over the livestock interests of the state, protect the livestock industry from theft and the livestock and poultry industries from contagious and infectious diseases and protect the public from diseased and unwholesome meat products.

B. The director, with the advice of the state veterinarian, may make rules to control and govern:

1. Importation of animals and poultry into the state, establishment of quarantine and its boundaries, notice of quarantine and accomplishment of all things necessary to effect the object of the quarantine and to protect the livestock and poultry industries from and prevent the spread of contagious or infectious diseases.
2. Slaughter of animals and poultry affected by contagious or infectious diseases and disposition of carcasses of animals and poultry so slaughtered, when the action

appears necessary to prevent the spread of contagion or infection among livestock and poultry.

3. Importation, manufacture, sale, distribution or use within the state of serums, vaccines and other biologics intended for diagnostic or therapeutic treatment of animals and poultry, and the importation, manufacture or use of virulent blood or living virus of diseases affecting animals and poultry.

C. The director may:

1. Enter into agreements with neighboring states, including agreements regarding the use of livestock officers or livestock inspectors or other agency resources for the purpose of enforcement of livestock laws within this state or within border areas of neighboring states.

2. Waive inspections, service charges or inspection fees under this chapter in cases the director deems advisable.

3. Direct employees or peace officers to execute the director's orders under this chapter.

D. The director may adopt by rule a mandatory self-inspection program for moving livestock from one location to another, and may provide for the private treaty sale of self-inspected livestock. The associate director shall monitor compliance with the requirements of the self-inspection program and shall periodically examine self-inspection records, including livestock inventory records that verify the origin, shipment or sale of livestock. For just cause the director may suspend or modify the self-inspection authorization of feedlots, dairies and producers. A person who knowingly violates the requirements of the self-inspection program shall be placed on administrative probation by the director for a period of one year. If a subsequent violation occurs during the period of probation, the person shall be brought before an administrative law judge and is subject to a civil penalty of two hundred dollars per violation, and the self-inspection authorization shall be revoked for a period of three years. The director may review any order of the administrative law judge and shall review each order involving subsequent violations during a period of probation pursuant to title 41, chapter 6, article 10. The period of a sanction imposed under this subsection begins on the date of determination of the violation at a hearing. Civil penalties imposed under this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

E. The director may establish a central investigation group to investigate reports of crimes related to livestock and other violations of this title and rules adopted pursuant

to this title. Livestock officers and other employees of the department shall report all cases of apparent crimes related to livestock to the associate director. The investigation group shall cooperate and coordinate its activities with appropriate federal, state and local law enforcement agencies in apprehending and prosecuting violators of livestock laws.

### 3-1204. Powers and duties relating to the sheep and goat industries

A. The director or his authorized representative shall exercise general supervision over the sheep and goat industries of the state and shall do all things practicable to protect the industries from and to prevent disease among sheep and goats.

B. The director shall prepare and adopt necessary rules:

1. Governing the importation of sheep and goats into the state by carrier or trail to insure that the animals are free from infection.
2. For quarantine and dipping of sheep and goats infected with or which have been exposed to scab or scabies, or other infectious or contagious disease.
3. For the speedy and effective suppression and eradication of disease among sheep or goats.
4. To prevent spreading or contracting of infectious or contagious diseases among sheep and goats, including requirements for inspection of sheep or goats shipped or transported, or to be shipped or transported by common carrier, contract carrier, private carrier or in any other manner whatever, whether the shipping or transporting is in interstate or intrastate commerce, or both, and to require an owner, before moving sheep or goats in such manner, to furnish an inspection certificate in the form required by the director.

C. The director may establish as and declare to be an infected district any district wherein diseased or infected sheep or goats are found or have recently been grazed or driven. The director may order sheep or goats in the infected district or which are exposed to be moved, treated, disinfected or cured under quarantine regulations provided for by this title.

### 3-1205. Control of animal diseases; violation; classification

A. When advised of the occurrence of a disease of animals or poultry which constitutes a threat to the livestock or poultry industries, the director may issue lawful orders and adopt rules he deems necessary.

B. The state veterinarian may enter any place where a suspected animal or poultry may be and take custody of the animal or poultry for the purpose of determining the presence of a contagious, infectious or communicable disease.

C. The director may direct the state veterinarian and agency employees to:

1. Establish quarantines and define their boundaries.

2. Destroy animals or poultry when necessary to prevent the spread of any infectious, contagious or communicable disease.

3. Appoint appraisers for the purpose of indemnifying owners of animals or poultry destroyed.

4. Control the movement of animals or poultry, animal or poultry products and agricultural products which may be directly related to dissemination of diseases affecting the livestock or poultry industries.

D. Any person who violates any lawful order or rule issued pursuant to the provisions of subsection A, or breaks any quarantine established by the state veterinarian for the prevention and control of disease among livestock or poultry, is guilty of a class 2 misdemeanor.

### 3-2046. Meat inspection rules; violation; classification

A. The director shall adopt reasonable rules necessary to assure that all meat and meat products subject to inspection under this article which are to be sold or distributed for human consumption are free from unwholesome, poisonous or other foreign substances and filth, insects or disease causing organisms. The rules shall provide reasonably necessary measures governing the production, processing, labeling, storing, handling and transportation of such products. The rules shall prescribe minimum standards for the sanitary facilities and conditions which shall be maintained at any plant, packing house or abattoir and in any truck or other vehicle in which meat or meat products are produced, processed, stored, handled or transported.

B. The director upon the advice of the chief veterinary meat inspector shall adopt reasonable rules, including, but not limited to, what the antemortem and postmortem inspection shall consist of, to carry out the purposes of this chapter. The rules shall conform so far as possible to the rules governing meat inspection of the United States department of agriculture. To the extent deemed appropriate by the director the rules may incorporate by reference existing federal meat inspection regulations, but in no case shall the rules exceed the requirements of the United States department of agriculture. All rules adopted to implement this section shall be adopted in compliance with title 41, chapter 6.

**DEPARTMENT OF AGRICULTURE (R20-0401)**

Title 3, Chapter 2, Article 4, Animal Disease Prevention and Control

**New Section:** R3-2-410



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

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**MEETING DATE:** March 31, 2020

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

**FROM:** Council Staff

**DATE:** March 12, 2020

**SUBJECT:** **Arizona Department of Agriculture**  
Title 3, Chapter 2, Article 4, Section 410 - Trichomonas Testing Requirements

**New Section:** R3-2-410

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This regular rulemaking from the Department of Agriculture relates to rules in Title 3, Chapter 2, Article 4, Section 410 regarding trichomonas testing requirements. The Department is seeking to create a new section, R3-2-410, that would require all Arizona origin bulls being sold, leased, gifted, exchanged, or change possession for breeding purposes in Arizona be tested for Trich.

The Department indicates that currently the State of Arizona is fighting Trich, and since 2016 7.2% of Arizona's bulls have tested positive for Trich. Due to the negative impacts associated with the disease, Arizona's cattle producers asked the Animal Service Division to create a rule that would require all bulls, 12 months or older, being sold for breeding purpose be tested for Trich prior to sale.

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

Yes. The Department cites to both general and specific authority for these rules.

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

No. The rules do not establish a new fee or 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?**

Yes, the preamble discloses a reference to a study the agency reviewed.

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

The rule is intended to protect livestock producers and reduce the spread of a bovine disease called *Trichomonas foetus* ("Trich"). From 2016 through May of 2019, 7.2% of Arizona's bulls that were tested were Trich positive. The Department indicates that the average direct cost imposed on a business owner for Trich testing would be roughly \$47 per bull tested. Only bulls 12 months or older being sold for breeding purposes have to be tested; bulls younger than 12 months, or bulls being sold for slaughter are not required to be tested. Stakeholders include the Department, cattle producers and large animal veterinarians.

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

The Department states that of the proposals received by their industry partners, this proposal was the least intrusive method available to achieve the goal. The Department indicates they pursued the least intrusive method in order to keep the costs as low as possible. This version of the rule is the least impactful method that will also combat the spread of Trich.

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

The Department states, that as written, the impact will be on cattle producers and large animal veterinarians within the state. However, this economic cost is outweighed by the benefits of implementing this rule because this rule will prevent the spread of Trich within the state and therefore prevent cattle producers from losing hundreds of thousands of dollars as a result of contracting the disease, not to mention the costs associated with eradicating the disease from a herd of cattle. The Department also indicates that the industry that will bear the costs associated with this rule approached the Department to help in developing this rule and overwhelmingly supports its adoption.

The Department indicates that the rule does not impact political subdivisions or public and private employment. The Department believes there should be little to no cost on private persons and consumers. They also state that people who purchase bulls will have greater confidence that the bull they are purchasing to breed their cattle is not Trich positive. They believe that reducing the spread of Trich will allow Arizona cattle

producers to raise more calves thus giving them a greater ability to profit from the sale. In addition, they state that large animal veterinarians throughout the state will benefit from this rule because there will be an increased demand for Trich testing.

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

No. In response to a public comment and in an effort to prevent confusion, the Department phrase “Trichomonas Test” in subsection E, was replaced with “Official T. foetus bull test.” However, this change does not make the final rulemaking substantially different from the proposed rule as per A.R.S. § 41-1025.

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

Yes, the Department received three comments in favor of the proposed changes. The Department properly adequately responded to the comments.

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 rule does not require a 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?**

Not applicable. There is no corresponding federal law.

11. **Conclusion**

As mentioned above, the Department is seeking to create a new section, R3-2-410, that would require all Arizona origin bulls being sold, leased, gifted, or exchanged for breeding purposes be tested for Trich prior to sale or change of ownership.

The Department accepts the usual 60-day delayed effective date for the new rule. Council staff recommends approval of this rulemaking.



# Arizona Department of Agriculture

1688 W. Adams Street, Phoenix, Arizona 85007  
(602) 542-0990 FAX (602) 542-4290

February 10, 2020

Ms. Nicole Sornsin, Chair  
Governor's Regulatory Review Council  
100 North 15<sup>th</sup> Ave., Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 3. Agriculture  
Chapter 2. Department of Agriculture – Animal Services Division  
Article 4. Animal Disease Prevention and Control  
Section 410. Trichomonas Testing Requirements.**

Dear Ms. Sornsin:

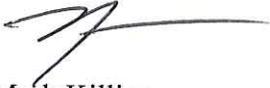
The attached final rule package is submitted for review by the Council. The following information is provided for Council's use in reviewing the rule package:

1. Close of Record Date: The rulemaking record was closed on October 15, 2019 following a period for public comment and an oral proceeding.
2. Relation of the rulemaking to a five-year-review report: This rulemaking does not relate to a Five-Year Review Report.
3. New Fee or Fee Increase: This rulemaking does not establish a new fee or increase an existing fee.
4. Immediate effective date: An immediate effective date is not requested.
5. Certification regarding studies: I certify the preamble discloses a reference to any study relevant to the rule that the Department reviewed and either did or did not rely on when evaluating and justifying the rule.
6. Certification that the preparer of the EIS notified JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that this rule will not require a state agency to employ a new full-time employee. No justification was provided to JLBC.

7. List of documents enclosed:

- a. Cover letter signed by Director Killian;
- b. Notice of Final Rulemaking including the preamble, table of contents, and rule text;
- c. Economic, Small Business, and Consumer Impact Statement;
- d. Comments received regarding the rulemaking;
- e. Copy of A.R.S. §§3-107 & 3-1205

Sincerely,



Mark Killian  
Director

MK; cwm

NOTICE OF FINAL RULEMAKING

TITLE 3 AGRICULTURE

CHAPTER 2: DEPARTMENT OF AGRICULTURE – ANIMAL SERVICES DIVISION

SUBCHAPTER LABEL. HEADING (IF APPLICABLE)

PREAMBLE

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

R3-2-410

New Section

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

Authorizing statute: A.R.S. § 3-107(A)(1)

Implementing statute: A.R.S. §§ 3-1203 & 3-1205

**3. The effective date of the rule:** 60 days after filed with the Secretary of State.

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

**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):** N/A

**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: Volume 25 A.A.R. Page 2372

Notice of Proposed Rulemaking: Volume 25 A.A.R. Page 2223

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

Name: Chris McCormack, Associate Director, ASD

Address: Arizona Department of Agriculture  
1688 W. Adams St.  
Phoenix, AZ 85007

Telephone: (602) 542-7186

Fax: (602) 542-4290

E-mail: [cmccormack@azda.gov](mailto:cmccormack@azda.gov)

Web site: <https://agriculture.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:**

The Animal Services Division (“ASD”) is responsible for exercising general supervision over the livestock

interests of the state, and is authorized to adopt rules necessary to control the spread of disease.

Trichostrongylus (“Trich”) is a disease that is sexually transmitted among cattle that reduces a herd’s overall fertility. One of the most difficult issues associated with Trich is the fact that it presents very few visual symptoms; the main symptom of Trich is the significantly reduced calf crop. A recent model from New Mexico demonstrates that in a herd of 400 cows, Trich costs the producer over \$400 per head; ultimately, this has the effect of putting an otherwise profitable ranch out of business.

Unfortunately, Arizona is currently fighting Trich. Since 2016, 7.2% of Arizona’s bulls that were tested are Trich positive. Many of Arizona’s cattle producers do a fantastic job at keeping a clean herd, but unfortunately, regardless of the precautions a producer takes, one stray bull that is positive for Trich can destroy the productivity of an otherwise healthy herd and potentially bankrupt the producer. Because of the negative impacts associated with this disease, Arizona’s cattle producers asked ASD to adopt a rule that requires all bulls, 12 months or older, sold for breeding purposes to be tested for Trich prior to the sale. For the past two years, ASD has been working with industry to develop an administrative rule that is workable and will reduce the spread of Trich. While this rule will result in a small economic impact for producers, that impact is significantly outweighed by the benefits of managing and preventing the spread of Trich in the state.

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

ECONOMIC IMPACTS OF TRICHOSTRONGYLOSIS by: Wenzel, J, Gifford, C., Hawkes, J. Available at: <https://aces.nmsu.edu/ces/animal/documents/departments-newsletter---september-2017docx.pdf>

**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:**

N/A

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

An assessment of this rulemaking indicates that there would be a cost imposed on Arizona’s cattle producers. However, this economic cost is outweighed by the benefits of implementing this rule because this rule will prevent the spread of Trich within the state and therefore prevent cattle producers from losing hundreds of thousands of dollars as a result of contracting the disease, not to mention the costs associated with eradicating the disease from a herd of cattle. It should be noted that the industry that will bear the costs associated with this rule approached the Department to help in developing this rule and overwhelmingly supports its adoption.

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

There were some changes made to ensure that Italics were used consistently. Also in an effort to prevent confusion, the phrase “Trichomonas Test” that was included in subsection E was replaced with “Official T. foetus bull test.” These changes were in response to a comment submitted by Leatta McLaughlin.

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

This rulemaking is the result of working with stakeholders to address their concerns with Trich. As a result, the Department received 3 positive comments related to this rule package. Also, a public hearing was held on October 15, 2019 in order to give the public the opportunity to comment on the rules; however, no comment was received.

**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:**

The Animal Services Division Advisory Council approved the rule package on February 15, 2019, and the Arizona Department of Agriculture Advisory Council approved the rule package on June, 19, 2019.

**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:**

No permits are issued.

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

There is no federal law related to this particular issue.

**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 received.

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

N/A

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

No rule was filed as an emergency rule.

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

## TITLE 3. AGRICULTURE

### CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

#### ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL

Section

#### **R3-2-410. ~~Repealed~~ Trichomonas Testing Requirements**

#### ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL

#### **R3-2-410 ~~Repealed~~ Trichomonas Testing Requirements**

##### **A.** Definitions.

For purposes of this section, the following definitions shall apply.

“Accredited Veterinarian” means an individual who is currently licensed to practice veterinary medicine in the State of Arizona and is an Accredited Level II by the United States Department of Agriculture, Animal Plant Health Inspection Service.

“Approved Laboratory” means any laboratory designated and approved by the State Veterinarian for examining *T. foetus* samples and reporting all results to the State Veterinarian.

“Bull” means an intact male bovine 12 months of age and older and is not confined to a drylot dairy.

“Change of Ownership” means when a bull is sold, leased, gifted, or exchanged and changes premises for breeding purposes in Arizona.

“Commingle” means cattle of opposite sex in the same enclosure or pasture with a reasonable opportunity for sexual contact.

“Direct to Slaughter” means transporting an animal from site of testing to a sale yard or directly to a slaughter plant without unloading or commingling prior to arrival.

“Official *T. foetus* bull test” means the sampling of a bull by a licensed, accredited veterinarian. Such test must be conducted after at least 7 days separation from all female bovine. The bull and sample must be officially and individually identified and documented for laboratory submission. The official laboratory test shall be a polymerase chain reaction (PCR), or other technologies as approved by the State Veterinarian and adopted through a Director’s Administrative Order. The test is not considered official until results are reported by the testing laboratory.

“Official *T. foetus* laboratory testing” means the laboratory procedures that shall be approved by the State Veterinarian for identification of *T. foetus*.

“Positive *T. foetus* bull” means a bull that has had a positive official *T. foetus* bull test.

“*Trichomonas foetus*” OR “*T. foetus*” means a protozoan parasite that is the causative agent to the contagious venereal disease Trichomoniasis.

##### **B.** Testing requirements for Official *T. foetus*.

1. All Arizona origin bulls sold, leased, gifted, exchanged or otherwise changing possession for breeding purposes in Arizona shall be tested for *T. foetus* via Official *T. foetus* bull test prior to sale or change of ownership in the state, unless going to direct slaughter. *T. foetus* testing shall be performed on bulls prior to change of ownership of that bull.
2. The Official *T. foetus* test shall be collected by an Accredited Veterinarian and performed though an Approved Laboratory.
3. Pooled testing is not an official test.
4. The *T. foetus* negative test is valid for 60 days after the test is performed, providing the bull is kept separated from all female bovine.

### C. Positive bull identification.

1. When a positive *T. foetus* bull is identified, the Accredited Veterinarian shall notify the producer upon receipt of the positive test results.
2. Regardless of R3-2-402, the Accredited Veterinarian and Approved Laboratory shall notify the State Veterinarian of a positive *T. foetus* bull within 24 hours of receiving the results. The State Veterinarian's Office, working in coordination with the regional livestock inspection staff, shall to the best of their ability notify the regional bovine producers about the positive test within 14 days upon notification of positive test. The State Veterinarian and/or livestock inspection staff is not required to reveal any details of the test just that there is a positive test in the region.
3. The Accredited Veterinarian that performed the test shall return to place of testing to verify the Official Identification of the positive bull.
4. The Accredited Veterinarian, or a person under direct supervision of the Veterinarian, shall brand the bull with an official "S" brand adjacent to the tailhead on the right hip.
5. If the bull testing positive is not at the premises where the *T. foetus* testing occurred, the Accredited Veterinarian will immediately notify the State Veterinarian's Office.
6. If an Accredited Veterinarian is unable to return to the premises in a time that is reasonable for sale of the bull, the producer shall take the positive *T. foetus* bull directly to the regional livestock sale yard.
  - i. The producer shall immediately notify the sale yard of the positive *T. foetus* bull. Failure to notify the sale yard of the positive *T. foetus* bull will result in a violation of this rule and the producer shall be subject to the penalties of A.R.S. § 3-1205(D).
  - ii. Prior to sale at the sale yard, a Livestock Officer shall verify the official identification of the positive *T. foetus* test bull.
  - iii. After the official identification is verified, the bull shall be branded with an official "S" brand adjacent to the tailhead on the right hip. The branding shall be done under direct supervision of a Livestock Officer or Livestock Inspector.
7. If a bull arrives at a livestock auction without an Official *T. foetus* bull test, the bull shall be quarantined at the auction and tested at the expense of the owner or shall be branded with an "S" brand and be sold only for slaughter.

### D. Disposal of bull testing positive.

1. A bull testing positive for *T. foetus* or branded with the official "S" brand shall go direct to slaughter or shall be placed under State Quarantine and fed in a restricted feeding pen within a designated feedlot pursuant to A.A.C. R3-2-406.
2. The *T. foetus* positive bull shall not be commingled with any other female bovine. The bull shall go from the testing premises to direct slaughter or to the restricted feeding pen within 30 days of the positive *T. foetus* test.
3. All remaining herd bulls shall be under a Trichomonas Herd Management Program overseen by the Herd Veterinarian until two negative *T. foetus* tests are performed and documented.
4. "S" branded bulls purchased at a sale yard shall go direct to a slaughter plant without unloading or commingling prior to arrival.

### E. Trespassing or Stray Bulls

1. In the event of a trespassing or stray bull, the herd owner who locates the bull, may request an Official *T. foetus* bull test for that bull. In the event of a positive Official *T. foetus* bull test, Sections B and C of this rule shall apply.
2. The cost of the veterinary services and Official *T. foetus* bull test shall be the responsibility of the herd owner. In the event of a stray bull, the animal will be subject to A.R.S. §§ 3-1401 et seq.

# **ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT**

## **TITLE 3. AGRICULTURE**

### **CHAPTER 2. DEPARTMENT OF AGRICULTURE – ANIMAL SERVICES DIVISION**

#### **ARTICLE 4 – ANIMAL DISEASE PREVENTION AND CONTROL**

##### **SECTION 410 – TRICHOMONAS TESTING REQUIREMENTS.**

#### **1. An identification of the rulemaking**

Arizona Revised Statutes (A.R.S) §§ 3-1203 & 3-1205 authorizes the Arizona Department of Agriculture (Department) to adopt rules necessary to address disease of animals that constitute a threat to the livestock industry. Accordingly, the Department is amending Title 3, Chapter 2 to create a rule that is intended to protect livestock producers and reduce the spread of a bovine disease called Trichomonas foetus (“trich”). Unfortunately, Arizona is currently fighting Trich. From 2016 through May of 2019, 7.2% of Arizona’s bulls that were tested were Trich positive. This rule is intended to combat the spread of trich by requiring that all bulls, 12 months or older, being sold for breeding purposes must have a trich test performed by an accredited veterinarian and develops a protocol for addressing trich positive bulls.

#### **2. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking.**

- The Department
- Cattle Producers
- Large Animal Veterinarians

#### **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 Department does not anticipate this rule having a monetary cost to the Department and will not need to hire additional FTEs in order to implement the rule. The most significant impact that the Department will face is that our inspection staff will have to review trich test results before writing inspection papers for livestock that is being sold. There will be some training required in order to make sure that the inspection staff is applying the rule consistently across the state. Additionally, the inspection staff will be on the front line when it comes to educating the livestock producers regarding the new regulations. The Department understands that this will take time and will always educate before enforcing.

The Department does not receive any direct benefit from this rule. This rule was requested by cattle producers to protect cattle producers.

**b. The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.**

None.

**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.**

Based on the research used by the Department, the average direct cost imposed on a small business owner for trich testing would be roughly \$47 per bull tested. However, it is important to remember that not every bull being sold has to be tested. Under the proposed rule, only bulls 12 months or older being sold for breeding purposes have to be tested; bulls younger than 12 months, or bulls being sold for slaughter are not required to be tested. A

large percentage of the bulls being sold in Arizona are being sold for slaughter rather than breeding.

The benefit from implementing this rule is that it helps reduce the spread of Trich in Arizona. Because the cost of purchasing a Trich positive bull ends up being so high, and because of the expense associated with eradicating the disease once your herd is infected, the \$47 for a Trich test is far outweighed by the benefits of preventing the spread of Trich.

Additionally, large animal veterinarians throughout the state will benefit from this rule because there will be an increased demand for Trich testing. Under the proposed rule, the testing must be conducted by an accredited veterinarian. This will create additional opportunities for new veterinarians to find work in this field.

#### **4. Impact on private and public employment**

None.

#### **5. Impact on small businesses**

##### **a. Identification of the small businesses subject to the proposed rulemaking.**

As written, the small businesses impacted by this rule will primarily be cattle producers and large animal veterinarians within the state.

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

The Administrative cost required for compliance would be relatively low. A seller will be required to provide documentation that the particular bull they are selling was tested, and that it was negative.

##### **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.**

This version of the rule is the least impactful method that will also combat the spread of trich. Currently, livestock producers have the option to voluntarily test their bulls before or after being sold, and the decision to trich test is a management decision that each producer can choose to make. Unfortunately with trich, the management decisions of one rancher can negatively impact others. For example, if Rancher A chooses to test for Trich, he is investing the cost of the test into his herd to ensure that he gets the most return from his cattle. If Rancher B does not test bulls that he buys and his herd becomes Trich positive, then he pays the price for that when he has reduced calving rates. Unfortunately cattle are unpredictable, and bulls that want to be with cows are not easily contained. So if Rancher B's trich positive bull sees Rancher A's cows and decides to jump the fence, Rancher A is now going to pay a significant price for Rancher B's management decision. Because of this, the Department does not believe that a less restrictive method would protect Arizona's livestock producers from this disease which is why this version of the rule was selected.

The Department understands that this rule will require changing management practices of some livestock producers. Accordingly, the Department always educates its industry members before taking any type of enforcement action; this will not change and will be even an even larger priority after these rules are implemented. We will also work with the Arizona Cattle Growers and the Arizona Farm Bureau to make sure that the regulated industry is well aware of what is required by this rule.

**d. Probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

There should be little to no cost on private persons and consumers. However, people who purchase bulls within Arizona will have a greater confidence that the bull they are

purchasing to breed their cattle is not trich positive. Reducing the spread of trich will allow Arizona cattle producers to raise more calves thus giving them a greater ability to profit from their sale.

**6. Probable effect on state revenues.**

The Department does not believe this rulemaking will have an impact on state revenue.

**7. Less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

Of the proposals received by our industry partners, this proposal was the least intrusive method available to achieve the goal. Some states have mandatory annual testing requirements for all bulls. This allows them to quickly stamp out the disease. However, there is not likely sufficient support amongst industry partners to impose this requirement. Accordingly, we pursued the least intrusive method in order to keep the costs as low as possible.

**8. Description of any data on which the rule is based.**

The Department reviewed research regarding the economic impact of Trich and has worked with the Arizona Veterinary Diagnostic Lab (“AzVDL”) to understand the prevalence of Trich in Arizona. Based on the testing conducted by AzVDL, of the bulls tested between, 2016 and May, 2019, 7.2% of Arizona’s bulls were Trich positive. Based on that percentage, the potential economic impact of the disease is staggering. The main study that was used by the Department to understand the true impact of Trich is listed below.

ECONOMIC IMPACTS OF TRICHOMONIASIS by: Wenzel, J, Gifford, C., Hawkes, J.  
Available at: <https://aces.nmsu.edu/ces/animal/documents/department-newsletter---september-2017docx.pdf>





Arizona Cattle Grower's Association  
1811 S Alma School Rd Suite 255  
Mesa, AZ 85210

June 19, 2019

Chris McCormack  
Arizona Department of Agriculture  
1688 W. Adams St  
Phoenix, AZ 85007

RE: Trichomoniasis

Dear Mr. McCormack:

Trichomoniasis has been an ongoing issue throughout Arizona and the Department does have rules that facilitate the proper checks of imported bulls. ACGA believes the Department's simplified and unified rules on this particular disease will continue to facilitate management and eradication of the disease.

ACGA also believes that any amendments to current rule should take into consideration the following:

1. ACGA believes the rule's focus should be on testing of breeding bulls 12 months of age or have two permanent teeth at the time of sale.
2. Bulls that are not tested at time of sale shall be for slaughter only and recorded for the Department of Agriculture's records.
3. Any bulls that test positive must be reported to the state veterinarian within 3 business days.
4. The State Veterinarian has the obligation to inform the neighboring ranchers of a Trich infected bull in the area.

Thank you for your assistance on this matter. We appreciate your support of our industry and your consistent efforts to remove regulation and roadblocks that stifle our industry. The Trich rule is one that benefits all of us and has the full support of ACGA and its members.

Best Regards,

Gaither Martin  
Executive Vice President  
Arizona Cattle Growers' Association



*Arizona Farm Bureau Federation*

325 S. Higley Rd, Suite 210  
Gilbert, AZ 85296

October 15, 2019

Arizona Department of Agriculture  
Chris McCormack, Associate Director  
Animal Services Division  
1688 W. Adams Street  
Phoenix, AZ 85007

RE: Notice of Rulemaking Docket on Trichomoniasis Rule

Dear Mr. McCormack,

On behalf of more than 2,500 Arizona Farm Bureau members across Arizona, we appreciate the opportunity to comment on the Arizona Department of Agriculture's ("the Department") proposed rulemaking on trichomoniasis ("trich") testing. Trich is a serious threat to the Arizona beef industry. We appreciate the work the Department has done to develop this rule as a useful tool for controlling the spread of this disease.

The Department's proposed rule is generally consistent with Arizona Farm Bureau policy. We believe it strikes the proper balance between what is necessary to control the disease and what is realistic to enforce on Arizona's rugged ranch terrain. We would recommend that the language requiring livestock officers to notify regional beef producers of a positive trich test "to the best of their ability" be strengthened to affirmatively require notification to the surrounding producers. Moreover, we also urge the Department to collaborate with trade groups, including the Arizona Farm Bureau, to provide training for our member producers on the self-testing of breeding bulls. We highly encourage the formation of an ad-hoc committee to address Arizona's continued response to this disease so that we can not only control it, but eliminate it from our herds altogether.

Thank you for your time and consideration of our recommendations. We look forward to working with the Department in its continued efforts to protect our industry.

Sincerely,

*Stefanie A. Smallhouse*

Stefanie Smallhouse, President  
Arizona Farm Bureau Federation



Christopher McCormack &lt;cmccormack@azda.gov&gt;

---

**Trich rule comments**

2 messages

**Leatta McLaughlin** <leattamc@yahoo.com>

Fri, Sep 13, 2019 at 12:12 PM

To: "cmccormack@azda.gov" &lt;cmccormack@azda.gov&gt;

Chris - My comments on the proposed Trich rule are attached. Thanks so much for making this happen. Please let me know if you have any questions. Thanks. - Leatta

---

 **Leatta McLaughlin's Trich rule comments 9-13-19.pdf**  
287K**cmccormack@azda.gov** <cmccormack@azda.gov>

Fri, Sep 13, 2019 at 12:21 PM

To: Leatta McLaughlin &lt;leattamc@yahoo.com&gt;

Thank you very much!

Chris McCormack  
Associate Director, Animal Services Division  
Arizona Department of Agriculture  
Office: 602-542-7186

Sent from my iPhone

On Sep 13, 2019, at 12:12 PM, Leatta McLaughlin <leattamc@yahoo.com> wrote:

Chris - My comments on the proposed Trich rule are attached. Thanks so much for making this happen. Please let me know if you have any questions. Thanks. - Leatta

<Leatta McLaughlin's Trich rule comments 9-13-19.pdf>

So awesome that this is actually coming to fruition!

Leatha  
9-13-19

TRICH

# THE FOLLOWING IS THE PROPOSED TRICH RULE THAT IS AWAITING PUBLIC COMMENT.

To view the entire notice of proposed rulemaking click here.

## TITLE 3. AGRICULTURE CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

### ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL

Section

- R3-2-401. Definitions
- R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories
- R3-2-403. ~~Expired~~ Trichomonas Testing Requirements
- R3-2-404. Importation, Manufacture, Sale, and Distribution of Biologicals and Semen
- R3-2-405. Depopulation of Animals Infected with a Foreign Disease
- R3-2-406. Disease Control; Feedlots
- R3-2-407. Equine Infectious Anemia
- R3-2-408. Disposition of Livestock Exposed to Rabies
- R3-2-409. Rabies Vaccines for Animals
- R3-2-410. Restricted Swine Feedlots
- R3-2-411. Exhibition Swine R3-2-412. Exhibition Sheep and Goats
- R3-2-413. Sheep and Goats; Intrastate Movement

This might upset producers on the borders who use a vet in another state (e.g. New Mexico), but I guess we're requiring this.

#### R3-2-403 Trichomonas Testing Requirements

##### A. Definitions.

Is this definition needed here since it's already in AAC R3-2-401?

For purposes of this section, the following definitions shall apply.

"Accredited Veterinarian" means an individual who is currently licensed to practice veterinary medicine in the State of Arizona and is an Accredited

Level II by the United States Department of Agriculture, Animal Plant Health Inspection Service.

“Approved Laboratory” means any laboratory designated and approved by the State Veterinarian for examining *T. foetus* samples and reporting all results to the State Veterinarian.

“Bull” means an intact male bovine 12 months of age and older and is not confined to a drylot dairy.

“Change of Ownership” means when a bull is sold, leased, gifted, or exchanged and changes premises for breeding purposes in Arizona.

“Commingle” means cattle of opposite sex in the same enclosure or pasture with a reasonable opportunity for sexual contact.

“Direct to Slaughter” means transporting an animal from site of testing to a sale yard or directly to a slaughter plant without unloading or commingling prior to arrival.

“Official *T. foetus* bull test” means the sampling of a bull by ~~an~~ licensed, accredited veterinarian. Such test must be conducted after at least 7 days separation from all female bovine. The bull and sample must be officially and individually identified and documented for laboratory submission. The official laboratory test shall be a polymerase chain reaction (PCR), or other technologies as approved by the State Veterinarian and adopted through a Director’s Administrative Order. The test is not considered official until results are reported by the testing laboratory.

“Official *T. foetus* laboratory testing” means the laboratory procedures that shall be approved by the State Veterinarian for identification of *T. foetus*.

“Positive *T. foetus* bull” means a bull that has had a positive official *T. foetus* bull test.

“*Trichomonas foetus*” OR “*T. foetus*” means a protozoan parasite that is the causative agent to the contagious venereal disease Trichomoniasis.

→ not necessary since  
an accredited vet.  
has to be  
licensed.  
↓  
Don't you  
need to  
define what  
official FO is?  
Byc 4's not  
defined in  
R3-2-101  
or R3-2-401

B. Testing requirements for Official *T. foetus*.

italics like  
above  
*foetus*

- 1. All Arizona origin bulls sold, leased, gifted, exchanged or otherwise changing possession for breeding purposes in Arizona shall be tested for

- T. foetus via Official T. foetus bull test prior to sale or change of ownership in the state, unless going to direct slaughter. T. foetus testing shall be performed on bulls prior to change of ownership of that bull.
2. The Official T. foetus test shall be collected by an Accredited Veterinarian and performed through an Approved Laboratory.
  3. Pooled testing is not an official test.
  4. The T. foetus negative test is valid for 60 days after the test is performed, providing the bull is kept separated from all female bovine.

C. Positive bull identification.

1. When a positive T. foetus bull is identified, the Accredited Veterinarian shall notify the producer upon receipt of the positive test results.
2. Regardless of R3-2-402, the Accredited Veterinarian and Approved Laboratory shall notify the State Veterinarian of a positive T. foetus bull within 24 hours of receiving the results. The State Veterinarian's Office, working in coordination with the regional Livestock Officer, shall to the best of their ability notify the regional bovine producers about the positive test within 14 days upon notification of positive test. The State Veterinarian and/or Livestock Officer is not required to reveal any details of the test just that there is a positive test in the region.
3. The Accredited Veterinarian that performed the test shall return to place of testing to verify the official ID of the positive bull.
4. The Accredited Veterinarian, or a person under direct supervision of the Veterinarian, shall brand the bull with an official "S" brand adjacent to the tailhead on the right hip.
5. If the bull testing positive is not at the premises where the T. foetus testing occurred, the Accredited Veterinarian will immediately notify the State Veterinarian's Office.
6. If an Accredited Veterinarian is unable to return to the premises in a time that is reasonable for sale of the bull, the producer shall take the positive T. foetus bull directly to the regional livestock sale yard.
  - i. The producer shall immediately notify the sale yard of the positive T. foetus bull. Failure to notify the sale yard of the positive T. foetus

bull will result in a violation of this rule and the producer shall be subject to the penalties of A.R.S. § 3-1205(D).

ii. Prior to sale at the sale yard, a Livestock Officer shall verify the official identification of the positive T. foetus test bull.

iii. After the official identification is verified, the bull shall be branded with an official "S" brand adjacent to the tailhead on the right hip. The branding shall be done under direct supervision of a Livestock Officer or Livestock Inspector.

7. If a bull arrives at a livestock auction without an Official T. foetus bull test, the bull shall be quarantined at the auction and tested at the expense of the owner or shall be branded with an "S" brand and be sold only for slaughter.

D. Disposal of bull testing positive.

1. A bull testing positive for T. foetus or branded with the official "S" brand shall go direct to slaughter or shall be placed under State Quarantine and fed in a restricted feeding pen within a designated feedlot pursuant to A.A.C. R3-2-406.

2. The T. foetus positive bull shall not be commingled with any other female bovine. The bull shall go from the testing premises to direct slaughter or to the within 30 days of positive T. foetus test.

3. All bulls shall be under a Trichomonas Herd Management Program overseen by the Herd Veterinarian until two negative T. foetus tests are performed, documented.

4. "S" branded bulls purchased at a sale yard shall go direct to a slaughter plant without unloading or commingling prior to arrival.

E. Trespassing or Stray Bulls

1. In the event of a trespassing or stray bull, the herd owner who locates the bull, may request an official Trichomonas test for that bull. In the event of a positive official Trichomonas test, Sections B and C of this rule shall apply.

→ T. foetus?

Was this needed to be defined or expanded upon?

*J. fetus?*

2. The cost of the veterinary services and official trichomonas test shall be the responsibility of the herd owner. In the event of a stray bull, the animal will be subject to A.R.S. §§ 3-1401 et seq.

### 3-107. Organizational and administrative powers and duties of the director

A. The director shall:

1. Formulate the program and policies of the department and adopt administrative rules to effect its program and policies.
2. Ensure coordination and cooperation in the department in order to achieve a unified policy of administering and executing its responsibilities.
3. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions of money or property from any public or private source, including the federal government. All contributions shall be included in the annual report under paragraph 6 of this subsection. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from the provisions of section 35-190 relating to lapsing of appropriations.
4. Contract and enter into interagency and intergovernmental agreements pursuant to title 11, chapter 7, article 3 with any private party or public agency.
5. Administer oaths to witnesses and issue and direct the service of subpoenas requiring witnesses to attend and testify at or requiring the production of evidence in hearings, investigations and other proceedings.
6. Not later than September 30 each year, issue a report to the governor and the legislature of the department's activities during the preceding fiscal year. The report may recommend statutory changes to improve the department's ability to achieve the purposes and policies established by law. The director shall provide a copy of the report to the Arizona state library, archives and public records.
7. Establish, equip and maintain a central office in Phoenix and field offices as the director deems necessary.
8. Sign all vouchers to expend money under this title, which shall be paid as other claims against this state out of the appropriations to the department.
9. Coordinate agricultural education efforts to foster an understanding of Arizona agriculture and to promote a more efficient cooperation and understanding among agricultural educators, producers, dealers, buyers, mass media and the consuming public to stimulate the production, consumption and marketing of Arizona agricultural products.

10. Employ staff subject to title 41, chapter 4, article 4 and terminate employment for cause as provided by title 41, chapter 4, article 5.

11. Conduct hearings on appeals by producers regarding the assessed actual costs of the plow up and the penalty of one hundred fifty per cent for unpaid costs pursuant to section 3-204.01. The director may adopt rules to implement this paragraph.

12. 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.

B. The director may:

1. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

2. Construct and operate border inspection stations or other necessary facilities in this state and cooperate by joint agreement with an adjoining state in constructing and operating border inspection stations or other facilities within the boundaries of this state or of the adjoining state.

3. Cooperate with agencies of the United States and other states and other agencies of this state and enter into agreements in developing and administering state and federal agricultural programs regarding the use of department officers, inspectors or other resources in this state, in other states or in other countries.

4. Cooperate with the office of tourism in distributing Arizona tourist information.

5. Enter into compliance agreements with any person, state or regulatory agency. For the purposes of this paragraph, "compliance agreement" means any written agreement or permit between a person and the department for the purpose of enforcing the department's requirements.

6. Abate, suppress, control, regulate, seize, quarantine or destroy any agricultural product or foodstuff that is adulterated or contaminated as the result of an accident at a commercial nuclear generating station as defined in section 26-301, paragraph 1. A person owning an agricultural product or foodstuff that has been subject to this paragraph may request a hearing pursuant to title 41, chapter 6, article 10.

7. Engage in joint venture activities with businesses and commodity groups that are specifically designed to further the mission of the department, that comply with the constitution and laws of the United States and that do not compete with private enterprise.

8. Sell, exchange or otherwise dispose of personal property labeled with the "Arizona grown" trademark. Revenues received pursuant to this paragraph shall be credited to the commodity promotion fund established by section 3-109.02.

### 3-1203. General powers and duties; civil penalties

A. The director or the director's authorized representative shall exercise general supervision over the livestock interests of the state, protect the livestock industry from theft and the livestock and poultry industries from contagious and infectious diseases and protect the public from diseased and unwholesome meat products.

B. The director, with the advice of the state veterinarian, may make rules to control and govern:

1. Importation of animals and poultry into the state, establishment of quarantine and its boundaries, notice of quarantine and accomplishment of all things necessary to effect the object of the quarantine and to protect the livestock and poultry industries from and prevent the spread of contagious or infectious diseases.

2. Slaughter of animals and poultry affected by contagious or infectious diseases and disposition of carcasses of animals and poultry so slaughtered, when the action appears necessary to prevent the spread of contagion or infection among livestock and poultry.

3. Importation, manufacture, sale, distribution or use within the state of serums, vaccines and other biologics intended for diagnostic or therapeutic treatment of animals and poultry, and the importation, manufacture or use of virulent blood or living virus of diseases affecting animals and poultry.

C. The director may:

1. Enter into agreements with neighboring states, including agreements regarding the use of livestock officers or livestock inspectors or other agency resources for the purpose of enforcement of livestock laws within this state or within border areas of neighboring states.

2. Waive inspections, service charges or inspection fees under this chapter in cases the director deems advisable.

3. Direct employees or peace officers to execute the director's orders under this chapter.

D. The director may adopt by rule a mandatory self-inspection program for moving livestock from one location to another, and may provide for the private treaty sale of self-inspected livestock. The associate director shall monitor compliance with the requirements of the self-inspection program and shall periodically examine self-inspection records, including livestock inventory records that verify the origin, shipment or sale of livestock. For just cause the director may suspend or modify the self-inspection authorization of feedlots, dairies and producers. A person who knowingly violates the requirements of the self-inspection program shall be placed on administrative probation by the director for a period of one year. If a subsequent violation occurs during the period of probation, the person shall be brought before an administrative law judge and is subject to a civil penalty of two hundred dollars per violation, and the self-inspection authorization shall be revoked for a period of three years. The director may review any order of the administrative law judge and shall review each order involving subsequent violations during a period of probation pursuant to title 41, chapter 6, article 10. The period of a sanction imposed under this subsection begins on the date of determination of the violation at a hearing. Civil penalties imposed under this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

E. The director may establish a central investigation group to investigate reports of crimes related to livestock and other violations of this title and rules adopted pursuant to this title. Livestock officers and other employees of the department shall report all cases of apparent crimes related to livestock to the associate director. The investigation group shall cooperate and coordinate its activities with appropriate federal, state and local law enforcement agencies in apprehending and prosecuting violators of livestock laws.

### 3-1205. Control of animal diseases; violation; classification

A. When advised of the occurrence of a disease of animals or poultry which constitutes a threat to the livestock or poultry industries, the director may issue lawful orders and adopt rules he deems necessary.

B. The state veterinarian may enter any place where a suspected animal or poultry may be and take custody of the animal or poultry for the purpose of determining the presence of a contagious, infectious or communicable disease.

C. The director may direct the state veterinarian and agency employees to:

1. Establish quarantines and define their boundaries.
2. Destroy animals or poultry when necessary to prevent the spread of any infectious, contagious or communicable disease.
3. Appoint appraisers for the purpose of indemnifying owners of animals or poultry destroyed.
4. Control the movement of animals or poultry, animal or poultry products and agricultural products which may be directly related to dissemination of diseases affecting the livestock or poultry industries.

D. Any person who violates any lawful order or rule issued pursuant to the provisions of subsection A, or breaks any quarantine established by the state veterinarian for the prevention and control of disease among livestock or poultry, is guilty of a class 2 misdemeanor.



Christopher McCormack &lt;cmccormack@azda.gov&gt;

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## Rule Making Authority - Tritrichomonas Testing Prior to Sale Rule

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**Hunter Moore** <hmoore@az.gov>

Wed, Jun 19, 2019 at 4:02 PM

To: Mark Killian &lt;mkillian@azda.gov&gt;

Cc: Chris McCormack &lt;cmccormack@azda.gov&gt;, Gilbert Davidson &lt;gdavidson@az.gov&gt;, Gretchen Conger &lt;gconger@az.gov&gt;, Jeff Grant &lt;jgrant@azda.gov&gt;, Jill Metzinger &lt;jmetzinger@az.gov&gt;, Katie Fischer &lt;kfischer@az.gov&gt;, Robert Smook &lt;rsmook@azda.gov&gt;

Director Killian,

I am sending this message after having reviewed the request by the Arizona Department of Agriculture (Department) dated May 17, 2019 to adopt the Tritrichomonas Testing Prior to Sale Rule. I understand that this request has been submitted based on an industry demand and is intended to insure that Tritrichomonas (Trich) is controlled within the state of Arizona.

In reviewing this request, I believe that the rule falls within the justifications outlined in EO2019-01 by providing a tool that will allow for the economic expansion of the livestock industry. Additionally this rule is necessary for the Department to fulfill their statutory objective of addressing animal disease within the state of Arizona. All of these factors justify the rulemaking under EO2019-01.

Based on authority provided from Gretchen Conger, I am hereby approving the rulemaking exemption so the Department can proceed.

I am available for any questions you may have.

--

Hunter Moore  
Natural Resource Policy Advisor  
Office of Governor Doug Ducey  
State of Arizona  
Email: [hmoore@az.gov](mailto:hmoore@az.gov)

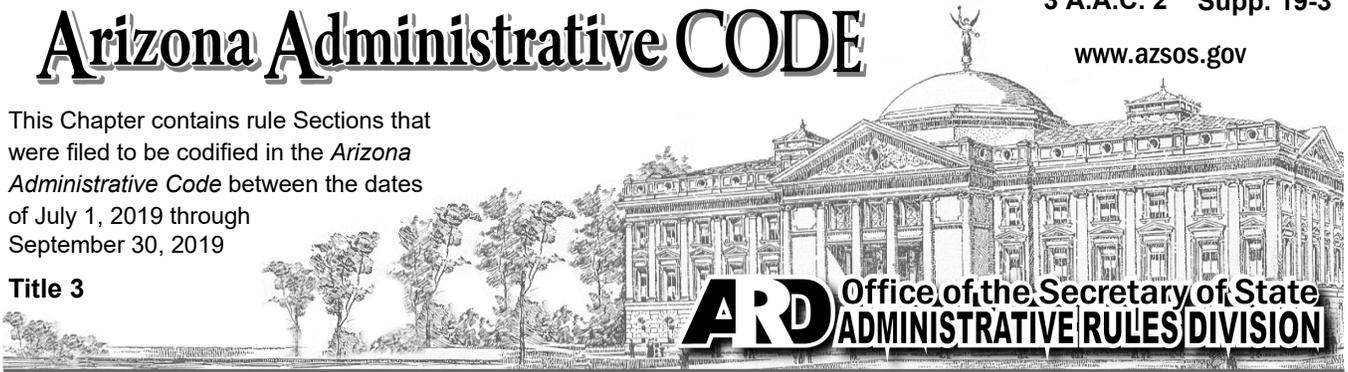
# Arizona Administrative CODE

3 A.A.C. 2 Supp. 19-3

www.azsos.gov

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of July 1, 2019 through September 30, 2019

## Title 3



## TITLE 3. AGRICULTURE

### CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

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.

<a href="#">R3-2-203.</a>	<a href="#">Licenses; Registration; Records .....</a>	<a href="#">6</a>	<a href="#">R3-2-810.</a>	<a href="#">License Fees .....</a>	<a href="#">35</a>
<a href="#">R3-2-701.</a>	<a href="#">Department Livestock Inspection .....</a>	<a href="#">24</a>			

#### Questions about these rules? Contact:

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#### The release of this Chapter in Supp. 19-3 replaces Supp. 18-4, 1-40 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

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### 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.

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### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

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

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

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

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

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

### EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

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



Administrative Rules Division  
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**TITLE 3. AGRICULTURE**

**CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION**

(Authority: A.R.S. §§ 3-1201 et seq., 3-601 et seq., and 3-701 et seq., and 3-2901 et seq.)

Chapter 2, Articles 1 through 7 renumbered from Title 3, Chapter 9, Articles 1 through 7; Article 8, consisting of Sections R3-2-801 through R3-2-808, renumbered from Title 3, Chapter 5, Article 1, Sections R3-5-01 through R3-5-08; Article 9, consisting of Sections R3-2-901 through R3-2-909 renumbered from Title 3, Chapter 6, Article 1, Sections R3-6-101 through R3-6-109 (Supp. 91-4).

Article 1 consisting of Sections R3-9-101 through R3-9-103; Article 2 consisting of Sections R3-9-201 through R3-9-208; Article 3 consisting of Sections R3-9-301 and R3-9-302; Article 4 consisting of Sections R3-9-401 through R3-9-409; Article 5 consisting of Sections R3-9-501 through R3-9-504; Article 6 consisting of Sections R3-9-601 through R3-9-620; Article 7 consisting of Sections R3-9-701 and R3-9-702 adopted effective August 19, 1983.

Former Article 1 consisting of Sections R3-9-01 through R3-9-11; Article 2 consisting of Sections R3-9-16 through R3-9-26; Article 3 consisting of Sections R3-9-22 through R3-9-35; Article 4 consisting of Sections R3-9-46 through R3-9-48 repealed effective August 19, 1983.

**ARTICLE 1. GENERAL PROVISIONS**

Article 1, consisting of Section R3-2-101, adopted effective May 7, 1997 (Supp. 97-2).

Article 1, consisting of Sections R3-2-101 through R3-2-109, recodified to Article 11, Sections R3-2-1101 through R3-2-1109 (Supp. 97-1).

Article 1, consisting of Sections R3-2-101 through R3-2-109, adopted effective September 11, 1996 (Supp. 96-3).

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**ARTICLE 11. EXPIRED**

Article 11, consisting of Sections R3-2-1101 through R3-2-1109, expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

Article 11, consisting of Sections R3-2-1101 through R3-2-1109, recodified from Article 1, Sections R3-2-101 through R3-2-109 (Supp. 97-1).

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**ARTICLE 1. GENERAL PROVISIONS****R3-2-101. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-1201, 3-1451, and 3-1771, the following terms apply to this Chapter:

“Animal” means livestock, bison, dogs, cats, rabbits, rodents, game animals, furbearing and wildlife mammals, and poultry and other birds.

“APHIS” means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

“Breeding swine” means any member of the family Suidae having the potential to procreate, and includes gilts, sows, and boars.

“Cervidae” means the family of cervids that includes, but is not limited to, deer, moose, elk, reindeer, and caribou.

“Dairy cattle” means cattle of dairy breeds or dairy types used for the production of milk or milk products for human consumption.

“Designated feedlot” means a confined drylot area under state quarantine that is approved and licensed by the State Veterinarian, contains a restricted feeding pen, and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Health certificate” means a legible record that is issued by a VS animal health official, state animal health official, or accredited veterinarian at the point of origin of a shipment of animals, conforms to the requirements of R3-2-606, and is written on a form approved by the chief animal health official of the state of origin or an equivalent form of the USDA attesting that the animal described has been inspected and found to meet the Arizona entry requirements.

“Permit number” or “permit” means a serialized number issued by the State Veterinarian’s Office that conforms to the requirements of R3-2-607 and allows the regulated movement of certain animals into Arizona.

“USDA” means the United States Department of Agriculture.

“VS” means the Veterinary Services branch of APHIS.

**Historical Note**

Reserved Section R3-2-101 renumbered from R3-9-101 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-101 recodified to R3-2-1101 (Supp. 97-1). New Section adopted effective May 7, 1997 (Supp. 97-2). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-102. Licensing Time-frames**

**A.** Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.

**B.** Administrative completeness review.

1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.

2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.

3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.

**C.** Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.

1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.

2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant’s right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

**Historical Note**

Reserved Section R3-2-102 renumbered from R3-9-102 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-102 recodified to R3-2-1102 (Supp. 97-1). New Section R3-2-102 adopted effective October 8, 1998 (Supp. 98-4).

**R3-2-103. Recodified****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). R3-2-103 renumbered from Section R3-9-103 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-103 recodified to R3-2-1103 (Supp. 97-1).

**R3-2-104. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-104 recodified to R3-2-1104 (Supp. 97-1).

**R3-2-105. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-105 recodified to R3-2-1105 (Supp. 97-1).

**R3-2-106. Recodified****Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-106 recodified to R3-2-1106 (Supp. 97-1).

**R3-2-107. Recodified**

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**Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-107 recodified to R3-2-1107 (Supp. 97-1).

**R3-2-108. Recodified**

**Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-108 recodified to R3-2-1108 (Supp. 97-1).

**R3-2-109. Recodified**

**Historical Note**

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-109 recodified to R3-2-1109 (Supp. 97-1).

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Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
<b>MEAT AND POULTRY INSPECTION</b>						
License to Slaughter	A.R.S. § 3-2002 A.R.S. § 3-2003 R3-2-208	14	14	30	14	44
Transfer of license without fee	A.R.S. § 3-2009	14	14	30	5	44
State Meat Inspection Service	A.R.S. § 3-2047	14	14	30	14	44
Sale or Exchange of Meat or Poultry	A.R.S. § 3-2081 R3-2-208	14	14	30	14	44
Rendering Facility Certification	A.R.S. § 3-2081 R3-2-205	14	14	30	14	44
Transfer of License	A.R.S. § 3-2086	14	14	30	5	44
Official Slaughter Meat Licenses	A.R.S. § 3-2122 R3-2-208	14	14	30	14	44
<b>FEEDING OF ANIMALS</b>						
Feed Lot License	A.R.S. § 3-1452	14	14	60	14	74
Permit to Feed Garbage to Swine	A.R.S. § 3-2664	14	14	60	14	74
<b>DAIRY PRODUCTS AND CONTROL</b>						
Milk Distributing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28
Milk Processing Plant New Renewal Plant Licensing New Renewal	A.R.S. § 3-607  A.R.S. § 3-665	14 14 14 14	14 14 14 14	14 14 14 14	14 14 14 14	28 28 28 28
Request to market a product as a milk product	A.R.S. § 601.01	14	14	14	14	28
Tester License	A.R.S. § 3-619	7	7	7	7	14
Trade Product Label	A.R.S. § 3-667	14	14	30	30	44
<b>LIVESTOCK INSPECTION</b>						
Equine Trader Permit	A.R.S. § 3-1348	7	7	7	7	14
Ownership and Hauling Certificate for Equines	A.R.S. § 3-1344 A.R.S. § 3-1345	14	14	14	14	28
<b>EGG PRODUCTS AND CONTROL</b>						
Annual Licensing	A.R.S. § 3-714	10	10	10	10	20
<b>AQUACULTURE</b>						
Aquaculture Facility	A.R.S. § 3-2907 R3-2-1004	14	14	30	14	44
Fee Fishing Facility	R3-2-1005	14	14	30	14	44
Processor	R3-2-1006	14	14	30	14	44
Transporter	R3-2-1007	14	14	30	14	44
Special Licenses	A.R.S. § 3-2908 R3-2-1008	14	14	30	14	44

**Historical Note**

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2).

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**ARTICLE 2. MEAT AND POULTRY INSPECTION****R3-2-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-101 and 3-2001 and 9 CFR 301.2 and 9 CFR 381.1, which are incorporated by reference in R3-2-202, the following terms apply to this Article:

1. "Animal" means any steer, heifer, calf, cow, bull, sheep, goat, swine, horse, ass, mule, burro, ratite, or poultry.
2. "Dead animal" means an animal that died other than by slaughter in a place where inspection is performed by the Department or by the United States Department of Agriculture.
3. "Inedible meat" means:
  - a. Meat or meat food product from an animal that died by slaughter or was processed in an inspected slaughterhouse, but which an inspector did not pass as fit for human consumption; or
  - b. Meat condemned by a federal or state inspector.
4. "Rendering" means the conversion of packinghouse waste or dead animal carcasses and parts into industrial fat, oil, or other product unfit for human consumption.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-201 renumbered from Section R3-9-201 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 10 A.A.R. 2661, effective August 7, 2004 (Supp. 04-2).

**R3-2-202. Meat and Poultry Inspection; Slaughtering Standards**

All meat and poultry inspection, slaughtering, production, processing, labeling, storing, handling, transportation and sanitation procedures shall be conducted as prescribed in 9 CFR Chapter III, revised January 1, 2016, as amended by 80 FR 75590-01 (December 2, 2015), except sections 302.2, 307.5, 307.6, 312, 322, 327, 329.7, 329.9, 331, 335, 351, 352, 354, 355, 381.38, 381.39, 381.96 through 381.112, 381.195 through 381.209, 381.218 through 381.225, 390, 391, 392, 590 and 592. This material is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available from the Department and may also be viewed online at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-202 renumbered from Section R3-9-202 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 465, effective January 5, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 10 A.A.R. 1971, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 15 A.A.R. 1890, effective October 21, 2009 for 180 days (Supp. 09-4). Emergency expired; Section amended by final rulemaking at 16 A.A.R. 351, effective April 3, 2010 (Supp. 10-1). Amended by emergency rulemaking at 19 A.A.R. 150, effective January 9, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 1789, effective July 9, 2013 (Supp. 13-3). Amended by final rulemaking at 22 A.A.R. 2167, effective October 2, 2016 (Supp. 16-3).

**R3-2-203. Licenses; Registration; Records**

- A. Any person operating a business in any of the following categories shall obtain the appropriate license from the Department.
  1. Types of slaughter licenses.
    - a. Official slaughter – the slaughtering of animals in a slaughterhouse for sale for human consumption.
    - b. Exempt slaughter.
      - i. Exempt non-mobile slaughter – the slaughtering or dressing of an animal in a stationary building for human consumption, that is not sold or offered for sale.
      - ii. Exempt mobile slaughter – the slaughtering or dressing of an animal for human consumption by using a mobile structure on the property of the animal's owner, that is not sold or offered for sale.
  2. Types of meat licenses.
    - a. Broker – any person, firm or corporation engaged in buying or selling carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments. A broker negotiates purchases or sales of these products other than for the broker's own account, as an employee of another person, and is paid a commission.
    - b. Exempt – any person, firm, or corporation engaged in processing meat or poultry products without meat inspection, for an individual owner of meat that is not for sale.
    - c. Distributor – any person, firm, or corporation engaged in receiving carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments and storing or distributing these products to commercial outlets, processors, or individuals. A distributor does not process any of these products.
    - d. Jobber – any person, firm, or corporation with an established place of business that buys meat or poultry food products and offers the products for sale to someone other than the end-use consumer.
    - e. Pet food manufacturer – any person, firm, or corporation engaged in manufacturing animal food from meat or poultry unfit for human consumption.
    - f. Processor – any person, firm, or corporation that changes meat or poultry food products by cutting, mixing, blending, canning, curing or otherwise preparing meat or meat food products wholesale for human consumption.
    - g. Renderer – any person, firm, or corporation that renders and tallows and any person, firm, or corporation engaged commercially in the hide, hair, or pelt removal, cutting up, or rendering of animals.
- B. Applications for a license or registration pursuant to A.R.S. § 3-2081(A), shall be made on forms provided by the Department and shall contain the following:
  1. The name of the applicant and the applicant's partners, officers or directors of the business, if any;
  2. The business name, mailing address, telephone number, and Social Security number of the applicant;
  3. The exact location of the business, if different from subsection (B)(2).
- C. All persons licensed or registered under this Section, and all other persons described in A.R.S. § 3-2081, shall maintain the records required under A.R.S. § 3-2081 for a minimum of one year. In addition, all registered dead animal haulers, licensed rendering and tallow plants, and pet food manufacturing plants shall prepare and submit the reports required under A.R.S. § 3-

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2695 and shall include copies of those reports as part of records maintained under this Section and A.R.S. § 3-2081.

- D. During fiscal year 2020, the fee to obtain or renew a license to slaughter is:
1. For not to exceed 45 head of cattle, and not to exceed 55 head of sheep, goats or swine in one calendar year: \$250.
  2. For more than 45 and not to exceed 150 head of cattle and more than 45 and not to exceed 160 head of sheep, goats or swine in one calendar year: \$300.
  3. For more than 150 head of cattle and more than 160 head of sheep, goats or swine in any one calendar year: \$450.
- E. During fiscal year 2020, the fee to obtain or renew a meat license is:
1. For a broker, \$450.
  2. For exempt processing, \$300.
  3. For a distributor, \$500.
  4. For a jobber, \$450.
  5. For a pet food manufacturer, \$300.
  6. For a processor, \$300.
  7. For meat storage, \$450.
  8. For transportation, \$300.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-208 renumbered from Section R3-9-208 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-203 renumbered to R3-2-208; new Section R3-2-203 renumbered from Section R3-2-208 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3).

**R3-2-204. Official Slaughter Establishment**

In addition to the requirements in A.R.S. § 3-2051, the following shall be provided when slaughtering cattle, calves, sheep, and hogs:

1. Cattle.
  - a. A metal knocking box or concrete box with metal door to confine the animals prior to stunning;
  - b. A separately drained, dry landing area at least five feet wide in front of the knocking box;
  - c. A curbed-in bleeding area at least eight feet wide and seven feet long, located so that blood will not splash upon stunned animals lying in the dry landing area or upon carcasses being skinned on the siding bed. Curbing shall be at least six inches high and six inches wide;
  - d. A separately drained area at least five feet from the curbed-in bleeding area to the siding bed;
  - e. A distance of at least 14 feet from the vertical of the dropoff to the vertical of the hoist where carcasses are eviscerated. For multiple-bed plants, this distance shall be increased to 16 feet;
2. Calves and sheep.
  - a. A bleeding rail with its top approximately 11 feet from the floor. The floor of the bleeding area shall be curbed and separately drained;
  - b. Dressing and cooler rails of such height as to provide a clearance of at least eight inches from the carcasses to the floor. Calves which are of such size that there is not a clearance of at least eight inches above the floor, or whose viscera cannot be transferred manually and unaided to the inspection stand, shall be skinned and eviscerated as cattle;
  - c. Facilities for washing hides of calves before any incision is made (except the sticking wound) when carcasses are dressed hide on. The heads of calves and veal slaughtered by the Kosher method shall be skinned prior to the washing of the carcasses;
  - d. Facilities for flushing, washing, and inspecting calf heads, including head-flushing cabinet and head inspection rack with removal calf loops;
  - e. Facilities for the inspection of the viscera. A hopped metal stand shall be provided which accommodates two removal inspection pans. One inspection pan is for the thoracic viscera; the other is for the abdominal viscera. The pans shall have perforated bottoms and handles or hand holes for removal. A sterilizing receptacle shall be provided for sterilization of contaminated pans;
  - f. Facilities for washing sheep carcasses after removal of the pelt. Calves and sheep shall be washed again after they have been eviscerated.
3. Hogs.
  - a. Facilities for bleeding hogs in a hanging position, over a separately drained, curbed-in bleeding area;
  - b. A scalding vat and gambreling table, including the platforms, of metal construction;
  - c. A shaving rail to assure that carcasses are cleaned;

- f. A distance of at least 14 feet between the vertical of the hoist where carcasses are eviscerated and the header rail leading to the cooler. This distance may be shortened when a single rail hang-off is used;
- g. A distance of at least three feet from the header rail to the adjacent wall;
- h. A bleeding rail with its top at least 16 feet above the floor or a traveling hoist on an I-beam which will provide an equivalent distance of the carcass from the floor;
- i. Floor space for a head-flushing cabinet and head inspection rack with removable hooks;
- j. When hides are dropped to a room below, a hide chute near the point where hides are removed from the carcasses. The chute shall have a vented hood with a self-closing, push-in door. The vent shall be approximately 10 inches in diameter and extend to a point above the roof. Additional chutes, which meet the requirements of this subsection, for inedible and condemned materials shall be provided separate from the hide chutes;
- k. A two-level viscera inspection truck for evisceration, except when a moving top viscera inspection table is used;
- l. An area for washing and shrouding carcasses which shall be curbed and sloped to a separate drain or have a slope of approximately 1/2 inch to the foot leading to a separate drain;
- m. Dressing rails and cooler rails at least 11 feet in height.

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- d. A hopped metal stand for the inspection of viscera. A sterilizing receptacle shall be provided at a convenient location for the sterilization of contaminated pans;
  - e. Dressing and cooler rails at least nine feet high or of such height as to provide a clearance of at least eight inches between the lowest point of the carcass, or head if left attached, and the floor.
4. Coolers. A chill cooler and separate holding coolers may be provided or both may be combined in one room. The chill cooler shall have floors of concrete sloped to a drain. The walls shall be smooth, light colored, impervious, and the room shall be sealed. The other coolers shall have floors of concrete; the walls shall be smooth, free of cracks, light colored, impervious, and the room shall be sealed. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant metal. Rails shall be spaced at least two feet from walls, columns, refrigerating equipment, or other fixed equipment to prevent contact with the carcasses. Header rails shall be three feet from the walls. When overhead refrigerating facilities are provided, insulated drip pans must be installed beneath them and the pans connected to the drainage system. If wall coils are installed, a drip gutter of impervious material and connected with the drainage system shall be installed beneath the coils. When edible offal is chilled or stored in a cooler other than a separate offal cooler, that area shall be separately drained.
  5. Other edible products departments.
    - a. Floors, walls, and ceilings in the various edible products departments of the plant shall be constructed of material that can be readily kept clean. Wooden structures and equipment shall be kept at a minimum. Floors requiring drainage shall be constructed of dense concrete or floor brick laid on a concrete base. The interior walls and, where practical, ceiling surfaces shall be smooth and flat. Walls shall be constructed of glazed tile, smooth cement plaster, or other USDA-approved impervious material. Walls shall be free of cracks and crevices, and, where brick or tile is used, the mortar joints shall be flush with the surface of the walls. Walls shall be light colored.
    - b. The floors of the plant shall be well-drained; a slope of not less than 1/4 inch to the foot to drainage inlets is required. The floors shall be smooth, impervious, and in good repair; they shall be free from cracks and depressions which could hold floor liquids. Wooden floors are not permitted. Junctions of floors and walls shall be covered.
    - c. Walls, ceilings, beams, and hangers shall be cleaned. Rails may be oiled instead of painted. Rust and scale shall be removed from hangers and meat trolleys. Smooth Portland cement plaster walls shall not be painted.
  6. Hide room. The floor of the hide room, if provided, shall be of concrete and drained. Walls shall be smooth and impervious to at least the highest point of the hide pile. The hide room shall not connect with the slaughtering department except for one opening which shall be equipped with a tight-fitting, self-closing door. The hide room shall not connect with any other room in which edible products are stored, processed, or handled.
  7. Disposal of blood. When blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises or blown to the blood drier in a manner that will not mask odors or create a harborage for pests.
  8. Other inedible products departments.
    - a. An inedible products department, completely separate and apart from edible products departments, shall be provided. Walls shall be of smooth, finished, Portland cement plaster, glazed tile, or other USDA-approved material impervious to moisture. Floors shall be constructed of dense concrete or floor tile, sloped to drain. Hot and cold water connections shall be provided. With the exception of one opening to the slaughtering department, there shall be no openings between an inedible products department and an edible products department. This one opening shall be approximately five feet in width to allow the free passage of materials and shall be equipped with a close-fitting, self-closing door of solid construction. This door shall be kept closed at all times, except when in actual use, to prevent the entrance of undesirable odors to the slaughtering department. The area at the loading dock shall be paved, drained, and of sufficient size to accommodate the largest truck used. If inedible offal is stored in an edible products department, the room is classed as an inedible products department. Paunches may be opened in the slaughtering department only when a hydraulic mechanically operated paunch lift table is provided and used for this purpose. Otherwise, the paunches shall be opened in the inedible offal rooms.
    - b. Requests for permission for rendering of shop scraps and outside dead animals shall be made to the inspector who shall grant or deny the request pursuant to Article 2.
  9. Pens.
    - a. Holding pens shall be surfaced with an impervious material, sloped to drains. A curb shall be installed around the outside of the pens to prevent the wash from escaping. Water under pressure shall be available for washing out the pens. Feeding pens shall be at least 300 feet from the plant and shall not be located in front of the plant.
    - b. Holding and shackling pens shall be located outside of, or separated from, the slaughtering department.
  10. Drainage
    - a. Floors which require flushing during operations shall have sloped floor drains to carry off the floor drainage. Each floor drain shall be equipped with a deep-seal trap; the drainage lines shall be vented to the outside in accordance with local plumbing codes. In no case shall a drain line be less than four inches in diameter.
    - b. Sewage may be disposed of into a municipal sewer system, if permitted by local ordinance, or it may be disposed of into a stream or other similar body of water, provided that:
      - i. This method is acceptable to local health authorities having jurisdiction over sewage disposal, and
      - ii. The flow of the stream or other body of water is sufficient to carry the sewage away from the plant at all seasons of the year. When cesspools are used, they shall be of sufficient size to receive the sewage from the plant at all times; they shall be so constructed that they do not create a nuisance by breeding flies or other insects.

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- c. Grease recovery basins shall not mask odors or create a harborage for pests.
11. Equipment and utensils.
- a. Equipment shall be constructed of metal and shall be so constructed that it can be easily cleaned. Cutting boards may be of hard wood or synthetic material, but equipment, such as the framework of boning or cutting tables, scalding vats, offal racks and trees, product storage racks, and product trucks shall be of metal construction. Rusty or worn-out equipment shall be replaced.
- b. All equipment shall be thoroughly cleaned following each day's operations. The use of a clear, colorless, odorless, tasteless, edible mineral oil may be used on metal equipment, such as choppers, grinders, mixers, tables, meat trucks, offal racks, hooks, and trolleys. Scale shall not be permitted to accumulate on metal equipment.
- c. Sterilizing receptacles equipped with drains to permit draining and cleaning shall be placed at convenient locations in the slaughtering department for the cleaning and sterilization of contaminated tools and equipment. Water wasting from equipment shall not flow across the floor.
- d. Shovels used for transferring ice or other edible materials from one container to another shall not touch the floor.
12. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to assure the absence of dust, masking odors, or steam vapors. Points where inspection is conducted may require special lighting. The glass area shall be at least 1/4 of the floor area in all nonrefrigerated work rooms. To assure adequate lighting at all times and at all places, natural lighting must be supplemented by well-distributed artificial lighting.
13. Water supply, wash basins, sterilizing facilities.
- a. Hot and cold running water, under pressure, shall be available at all parts of the establishment and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
- b. Foot-pedal operated wash basins shall be placed in or near dressing rooms. These wash basins shall be equipped with running hot and cold water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The drainage outlet shall lead directly into the sewage lines. Soap and towels, and a receptacle for dirty paper towels or other trash, shall be convenient to the wash basin.
- c. One or more wash basins shall be located in the slaughtering department, and one or more in the sausage manufacturing room and at any other place in the establishment essential to ensure cleanliness of all persons handling products. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
- d. Water for sterilizing purposes shall be maintained at a temperature of at least 180° F. One or more sterilizing receptacles of rust-resisting, impervious material shall be placed at convenient locations in the slaughtering department for the sterilization of all implements that have been contaminated or used on a diseased carcass or part of a diseased carcass. The sterilizer shall be equipped with a cold water and steam line, or other means to maintain water at a temperature of at least 180° F during slaughtering operations. The sterilizer shall contain a drain so that water may be completely drained out for daily cleaning. Boilers and water heaters shall not be located in the slaughtering department or in any edible products department. To prevent possible back siphonage, vacuum breakers shall be provided on all steam and water lines when open ends are submerged or connected to equipment.
14. Protection against flies, rodents, or other vermin.
- a. Plants must be kept free of flies, rats, mice, roaches, and other pests or vermin. The plant shall be constructed to prevent entrance of rodents to the premises and to eliminate their breeding places from the surrounding areas and in the establishment. Construction of the plant shall be such as to eliminate roach and other insect harbors. Windows, doors, and other openings to the plant shall be provided with insect screens, or other measures to prevent entrance of flies or other insects. The screens shall be kept in good repair. Sprays containing residual-acting chemicals shall not be used in edible products departments.
- b. Animal-handling facilities such as stock pens and runways shall be cleaned as often as necessary and the manure or other waste materials removed shall not be permitted to accumulate at or near the plant.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-204 renumbered from Section R3-9-204 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

**R3-2-205. Expired****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-205 renumbered from Section R3-9-205 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**R3-2-206. Purchase, Sale, Collection, Transportation, Disposition, and Use of Meat or Meat Food Products; Dead Animals; Animal Bone, Animal Fat, Animal Offal**

- A. A person shall not buy, sell, offer for sale, store, transport, receive, or collect any meat or meat food product except as provided in this subsection.
1. Any of the following meat or meat food products may be bought, sold, or offered for sale as animal food and may be stored, transported, received, or collected anywhere within the state:

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- a. Any meat or meat food product that is processed in an animal food manufacturing plant licensed by the Department;
  - b. Any meat or meat food product that comes from an animal that died by slaughter or is approved or passed for animal food by either state or federal meat inspectors;
  - c. Any meat or meat food product that is thoroughly cooked at a minimum temperature of 180° F for 30 minutes and is certified by a state or a federal meat inspector having jurisdiction at the place of processing.
2. A carcass with the hide, hair, or pelt still on the carcass may be bought, sold, offered for sale, collected and transported to or received by the following only:
    - a. A rendering or tallow plant;
    - b. A state or county diagnostic laboratory, a veterinarian's clinic, or crematory;
    - c. An animal food manufacturing plant;
    - d. A landfill regulated by the Arizona Department of Environmental Quality;
    - e. An out-of-state landfill regulated by that state's landfill regulatory authority; or
    - f. A landfill located on a Native American reservation that is regulated by equivalent standards to those prescribed by the Arizona Department of Environmental Quality.
  3. Any meat or meat food product described in subsection (A)(1) or a carcass with the hide, hair, or pelt still on the carcass from an official state or federal slaughter establishment shall be denatured with a denaturant that will not leave a toxic residue and is removable when steam-distilled at atmospheric pressure.
  4. Any meat or meat food product that has been condemned by state or federal meat inspectors shall be treated as provided in 9 CFR 314.3, which has been incorporated by reference in R3-2-202, and may be disposed of as provided in that rule or may be collected and transported to or received by a rendering or tallow plant or a state or county diagnostic laboratory or crematory.
- B.** A person engaged commercially in the collection or transportation of dead animal carcasses or inedible meat shall register with the Department as a dead animal hauler as prescribed in R3-2-203(B) and shall maintain and keep all records for the time required by R3-2-203(C).
- C.** A vehicle or other means of conveyance used to transport a dead animal carcass or inedible meat shall be:
1. Leak-proof,
  2. Constructed of impervious materials that permit thorough cleaning and sanitizing,
  3. Equipped to control insects and odors and prevent the spread of disease, and
  4. Comply with the Department of Environmental Quality vehicle requirements prescribed in R18-13-310(A) and (B).
- D.** Except as provided in subsection (E), a dead animal carcass may be rendered or made into animal food only at a licensed rendering or animal food manufacturing plant as prescribed in A.R.S. § 3-2088 and this Article.
- E.** Dead animals diagnosed with anthrax or an animal disease foreign to the United States shall be handled as directed by the State Veterinarian.
- F.** Discarded animal bone, animal fat, and animal offal generated by a wholesale food manufacturer shall be transported to and received by only a:
1. Licensed rendering plant, or
  2. Landfill, as prescribed in subsections (A)(2)(d), (A)(2)(e), and (A)(2)(f).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-206 renumbered from Section R3-9-206 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Citation in subsection (B) corrected to R3-2-203(C) from R3-2-208(C) under R1-1-109(C) (Supp. 01-2). Amended by final rulemaking at 8 A.A.R. 3015, effective July 10, 2002 (Supp. 02-3).

**R3-2-207. Meat from Dead Animals Processed and Decharacterized for Use as Animal Food**

- A.** The following are minimum requirements for animal food manufacturing plants:
1. Hot and cold water shall be provided with facilities for its distribution in the plant which shall conform with the minimum requirements of the state Department of Health Services. The hot water shall be at least 180° F and shall be used for the cleaning of equipment, floors, and walls.
  2. There shall be a drainage and plumbing system and a sewage disposal system that will not serve as a breeding place for flies, constitute a hazard, or endanger public health. Both systems shall meet the minimum requirements of the state Department of Health Services.
  3. The floors, walls, ceilings, partitions, posts, doors, and other parts of all structures shall be of materials, construction, and finish that are capable of being thoroughly cleaned. The floors shall be tile, cement or other material impervious to water and shall have sufficient drainage to preclude stagnant accumulations of moisture.
  4. All outside windows and doors shall be screened.
  5. All rooms shall have natural or artificial lighting and well-distributed ventilation sufficient to prevent uncontrolled mold growth and filth or bacteria that may endanger health.
  6. The plant shall be kept free from flies, rats, mice, and other vermin. Dogs and cats shall be excluded from the plants.
  7. Tables, benches, and other equipment shall be provided so that processing can be performed free from filth or bacteria that may endanger health.
  8. Each plant shall provide toilets, wash basins, towels, hot and cold running water, and soap for the employees with separate facilities when both sexes are employed. Toilets and wash basins shall be kept free from filth or bacteria that may endanger health. The rooms in which the toilet facilities are located shall be ventilated and shall be separated from the rooms in which the animal food is manufactured.
  9. Coolers shall be maintained below 40° F. Freezers shall be maintained below 10° F.
- B.** Decharacterizing or denaturant agents: The following USDA-approved denaturant agents may be used: Charcoal (finely powdered) with a minimum 1 lb. per 100 lbs. meat, F-D & C Blue 1, F-D & C Blue 2, F-D & C Green 3, or liquid charcoal.
1. In addition to the application of the denaturing agents listed, meat or meat products shall be identified with the following information:
    - a. The kind of animal,
    - b. The following phrases:
      - i. For pet food only from dead animals,
      - ii. Denatured with \_\_\_\_\_,
    - c. The correct statement of net weight, and
    - d. The name and address of processor or manufacturer.

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2. Before the denaturing agents are applied to pieces more than four inches in diameter, the pieces shall be freely slashed or sectioned. The application of any of the denaturing agents listed in this Section to the outer surfaces of molds or blocks of boneless meat, meat by-products, or meat food products shall not be considered adequate. The denaturing agent shall be mixed thoroughly with all of the material to be denatured and shall be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. Denaturant shall be used to give the meat, meat by-products, raw animal fat, or rendered animal fats and oils, a distinctive color, odor, or taste so that such material cannot be confused with an article of human food.
  3. All denaturing shall be done immediately upon condemnation of the meat or product, or immediately after the meat or product is prepared or during preparation.
  4. True containers shall be legibly marked with the words "Beef or horse meat from dead animals for pet food only and not for human consumption" in letters at least 3/4 inch in height, on all sides and in at least two places if the container has less than four sides.
  5. Every carrying container in which meat obtained from a dead animal is packaged shall have an exterior surface sufficiently absorbent so that the markings on at least two sides, in letters two inches high "Pet food only," will not become illegible during handling, storage, or transportation of the container.
- C.** Sales of meat obtained from a dead animal are permitted only to kennels, zoos, and animal food manufacturing plants registered by the Department, and records of sales shall be maintained by the purchaser and animal food manufacturing plant.
- D.** Each vehicle used for the transportation of fresh or frozen pet food shall be clearly and legibly marked with the name of the manufacturer in letters not less than four inches in height on both sides of the cab or body.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-207 renumbered from Section R3-9-207 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3).

**R3-2-208. Diseased and Injured Animals**

- A.** Diseased animals.
1. No meat from any diseased animal shall be processed, sold or stored at premises where food is sold or prepared for human consumption, unless it is decharacterized and clearly identified "Not for Human Consumption."
  2. Subsection (A)(1) does not apply to meat from animals affected by any disease that does not render the meat unfit for human consumption if the affected animals are slaughtered in establishments where meat inspection is maintained under A.R.S. § 3-2051 and 9 CFR, Chapter III, Subchapter A, which is incorporated by reference in R3-2-202(A).
- B.** Injured animals. An injured animal may be slaughtered by:
1. The animal's owner at the owner's premises if the meat is used solely for consumption by the owner, the owner's immediate family, or employees. The owner shall keep the animal's hide until it has been inspected and marked or tagged by a livestock officer under A.R.S. § 3-2011.
  2. An official slaughter establishment, if:
    - a. The animal is inspected by a livestock officer at origin; or
    - b. The animal is transported to the official slaughter establishment with a self-inspection certificate; or
    - c. The animal is transported to an official slaughter establishment with a waiver from the Associate Director and the waiver is documented by the livestock officer.
  3. An exempt slaughterer, if the meat is used solely for consumption by the animal's owner, the owner's immediate family or employees, and if:
    - a. The animal's body temperature is 103° F or less and except for the injury its condition appears normal; and
    - b. The animal is inspected by a livestock officer at origin who verifies the temperature and condition of the animal and approves it for slaughter; or
    - c. The Associate Director waives the inspection and the waiver is documented by the livestock officer, and the exempt slaughterer verifies the temperature and condition of the animal.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-203 renumbered from Section R3-9-203 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-208 renumbered to R3-2-203; new Section R3-2-208 renumbered from Section R3-2-203 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

**R3-2-209. Exempt Non-mobile Slaughter Establishments**

In addition to A.R.S. § 3-2050 and the material incorporated in R3-2-202(A), the following shall be provided when slaughtering animals in an exempt non-mobile slaughter establishment:

1. General.
  - a. A metal knocking box or concrete box with metal door to confine the animal before stunning;
  - b. A distance of at least three feet from the header rail to the adjacent wall;
  - c. A bleeding rail with its top at least 16 feet above the floor; and
  - d. Dressing rails and cooler rails placed so the lowest part of the carcass is at least 12 inches from the floor.
2. Coolers. A chill cooler and separate holding cooler may be provided or both may be combined in one unit. The walls shall be light colored, smooth, free from cracks, and impervious to moisture. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant material. Rails shall be spaced at least two feet from walls, columns, refrigeration equipment, or other fixed equipment to prevent contact with the carcasses.
3. Disposal of blood. If blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises.
4. Drainage.
  - a. Floors that require flushing during operations shall have sloped floor drains to carry off the effluent. Drainage systems shall conform to state and local plumbing codes.
  - b. Grease recovery systems shall not mask odors or create a harborage for pests.
5. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to ensure the absence of dust, masking odors, or steam vapors. To ensure adequate lighting at all times and at all places, natural lighting shall be supplemented by well-distributed artificial lighting.
6. Potable water supply, wash basins, sterilizing facilities.

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- a. Hot and cold running water, under pressure, shall be available in all parts of the plant and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
  - b. One or more wash basins shall be located in the slaughtering department. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
  - c. The tool sterilizer shall be maintained at 180° F and be in operation at all times during slaughter activities.
7. Protection against flies, rodents, or other vermin.
- a. Establishments shall be free of flies, rats, mice, roaches, and other pests or vermin. The establishment shall be constructed and maintained to prevent entrance of pests to the premises and to eliminate breeding places from the surrounding area and in the establishment.
  - b. Animal handling facilities such as stock pens and runways shall be clean and manure or other waste materials removed shall not accumulate at or near the establishment.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

**ARTICLE 3. FEEDING OF ANIMALS****R3-2-301. Operation of Beef Cattle Feedlots**

- A. An operator shall manage a feedlot under the standards prescribed in A.R.S. § 3-1454(A) and R3-2-406.
- B. An operator shall comply with applicable federal, state, and local laws.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-301 renumbered from Section R3-9-301 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-302. Permit to Feed Garbage to Swine; Requirements**

A swine garbage feeding permit holder or applicant for a permit to feed garbage to swine shall comply with the following requirements:

1. An approved cooker is installed and in operating condition on the premises, and fenced off from all swine.
2. A concrete slab, trough, other easily cleanable area, and equipment for feeding garbage is provided.
3. Premises utilized for swine garbage feeding are reasonably clean, free of litter, adequately drained, and provide for removal of animal excrement and garbage not consumed.
4. Individually operated swine garbage feeding premises are separated from other swine premises by a minimum distance of 200 feet in all directions and constructed to prevent the escape of any swine.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-302 renumbered from Section R3-9-302 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL****R3-2-401. Definitions**

The following terms apply to this Article:

“Accredited veterinarian” means a veterinarian approved by the State Veterinarian and the Deputy Administrator of VS to perform functions required by cooperative State-Federal animal disease control and eradication programs.

“Biologicals” means medical preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.

“Designated feedlot” means a confined drylot area under state quarantine that is approved and licensed by the State Veterinarian, contains restricted feeding pens, and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Equine infectious anemia” or “EIA” means a viral disease, also known as Swamp Fever, of members of the family equidae.

“Restricted feeding pen” means an enclosed area in a designated feedlot, located at least eight feet from other pens, where cattle are maintained for feeding in a drylot without provisions for pasturing or grazing.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-401 renumbered from Section R3-9-401 (Supp. 91-4). Former Section R3-2-401 renumbered to R3-2-402; new Section R3-2-401 adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories**

All veterinarians and laboratories performing diagnostic services on animals shall:

1. Notify the State Veterinarian at (602) 542-4293, within four hours of diagnosing or suspecting any Office of International Epizootics List A disease, Eighth Edition, 1999, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State, chronic wasting disease, or the following List B diseases:
  - Anthrax
  - Aujeszky’s disease
  - Babesiosis
  - Bovine brucellosis
  - Bovine spongiform encephalopathy
  - Bovine tuberculosis
  - Caprine and ovine brucellosis
  - Contagious caprine pleuropneumonia
  - Contagious equine metritis
  - Dourine
  - Enterovirus encephalomyelitis

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Epizootic lymphangitis  
 Equine infectious anaemia  
 Equine piroplasmiasis  
 Equine viral arteritis  
 Equine viral encephalomyelitis  
 Fowl typhoid  
 Glanders  
 Heartwater  
 Horse pox  
 Infectious haematopoietic necrosis of fish  
 Nairobi sheep disease  
 Ovine epididymitis  
 Paratuberculosis  
 Porcine brucellosis  
 Pullorum disease  
 Q fever  
 Rabies  
 Scrapie  
 Screwworm  
 Spring viraemia of carp  
 Surra  
 Theileriosis  
 Trypanosomiasis  
 Viral haemorrhagic septicaemia of fish

2. Notify the State Veterinarian by facsimile at (602) 542-4290 by the end of the month, after diagnosing any Office of International Epizootics List B disease, Eighth Edition, 1999, not specified in subsection (1). This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
3. Follow the reporting criteria listed in the National Animal Health Reporting system Manual, January 1, 1999 when making an Epizootics List B notification specified in subsection (2). This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-402 renumbered from Section R3-9-402 (Supp. 91-4). Former Section R3-2-402 renumbered to R3-2-403; new Section R3-2-402 renumbered from R3-2-401 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-403. Expired****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-403 renumbered from Section R3-9-403 (Supp. 91-4). Former Section R3-2-403 repealed; new Section R3-2-403 renumbered from Section R3-2-402 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**R3-2-404. Importation, Manufacture, Sale, and Distribution of Biologicals and Semen**

- A. Any person importing, manufacturing, selling, or distributing any biological intended for diagnostic or therapeutic treatment of animals shall request, in writing, permission from the State Veterinarian.
- B. The State Veterinarian shall deny approval of the importation, manufacture, sale, or distribution of any biological that will interfere with the State disease control program.
- C. A person shall import semen only from boars in pseudorabies Stage IV or V states.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-404 renumbered from Section R3-9-404 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-405. Depopulation of Animals Infected with a Foreign Disease**

When a foreign animal disease is diagnosed, the State Veterinarian shall order the owner to immediately depopulate and dispose of all infected and exposed animals on the premises if necessary to prevent the spread of the disease among animals.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-405 renumbered from Section R3-9-405 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-406. Disease Control; Feedlots**

- A. A restricted feeding pen shall:
  1. Be isolated from all other pens,
  2. Have separate loading and unloading chutes, alleys, and handling facilities from all other pens,
  3. Not share water or feeding facilities accessible to other areas,
  4. Be posted at all corners with permanently affixed signs stating "Restricted Feeding Area,"
  5. Have a minimum of eight feet between restricted and other pens and facilities, and
  6. Have no common fences or gates with other pens.
- B. An operator may place cattle in a restricted feeding pen as follows:
  1. All cattle, except steers and spayed heifers, shall be branded with an "F", at least two inches in height, on the jaw or adjacent to the tailhead before entering the pen; and
  2. Imported cattle, any age and from any area if accompanied by a permit number and an official health certificate; or
  3. Native Arizona cattle accompanied by an Arizona live-stock inspection certificate.
- C. An operator may remove cattle from a restricted feeding pen as follows:
  1. All animals, except steers and spayed heifers, shall be moved only to slaughter, to another designated feedlot, or

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to an auction market approved by the State Veterinarian or APHIS for sale to slaughter.

2. A steer or spayed heifer may be moved to any location.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-406 renumbered from Section R3-9-406 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-407. Equine Infectious Anemia**

- A. The Arizona official test for EIA is either the agar-gel immunodiffusion test, known as the Coggins Test, or the Competitive Enzyme-Linked Immunosorbent Assay test, known as the CELISA test. The test shall be performed in a laboratory approved by APHIS, and required samples shall be drawn by an accredited veterinarian, the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
- B. Disposal of equine testing positive.
  1. When an Arizona equine tests positive to EIA, the testing laboratory shall immediately notify the State Veterinarian by telephone or fax.
  2. The EIA-positive equine shall be quarantined to the premises where tested, segregated from other equine, and shall not be moved unless authorized by the State Veterinarian. The equine shall be retested by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian within two weeks of the notification.
  3. Within 14 days of being notified by the testing laboratory of a positive test conducted under subsection (B)(2), the State Veterinarian or the State Veterinarian's designee shall brand the equine on the left side of its neck with "86A" not less than two inches in height.
  4. Within 10 days after being branded, the EIA-positive equine shall be:
    - a. Humanely destroyed,
    - b. Confined to a screened stall marked "EIA Quarantine" that is at least 200 yards from other equine, or
    - c. Consigned to slaughter at a slaughtering establishment. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
  5. Offspring of mares testing EIA-positive shall be quarantined, segregated from other equine, and tested for EIA at six months of age. Offspring testing positive shall be handled as prescribed in subsections (B)(3) and (B)(4).
  6. If an EIA-positive equine is located on premises other than those of the owner at the time a quarantine under this Section is effective, the State Veterinarian may authorize movement of the EIA-positive equine to the owner's premises if requested by the owner. Movement shall be under the direct supervision of the State Veterinarian or the State Veterinarian's designee. If the owner lives in another state, the owner may move the equine to that state with the permission of the chief livestock health official of the state and APHIS.
- C. The State Veterinarian shall require testing of any equine located in the same facility as the EIA-positive equine or any equine considered exposed to the EIA-positive equine. The owner of the equine tested shall pay the expenses for the testing.
- D. The owner of any equine found to be EIA-positive shall not be indemnified by the state for any loss caused by the destruction or loss of value of the equine.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-407 renumbered from Section R3-9-407 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-408. Disposition of Livestock Exposed to Rabies**

Livestock bitten by a known or suspected rabid animal shall be handled using the methods prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 1999, Part III, Section 5. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-408 renumbered from Section R3-9-408 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-409. Rabies Vaccines for Animals**

All animals in Arizona vaccinated against rabies shall be vaccinated as prescribed in the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Control, 1999, Part II. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-409 renumbered from Section R3-9-409 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-410. Restricted Swine Feedlots**

- A. The State Veterinarian shall approve restricted swine feedlots for feeding swine from herds not known to be infected with pseudorabies and not tested for pseudorabies before importation if the imported swine meet all requirements in Article 6. Swine moved from a restricted swine feedlot shall be transported directly to a state or federal slaughter facility for immediate slaughter.
- B. No breeding swine shall be located on or within 1/4 mile of a restricted swine feedlot.
- C. If pseudorabies is diagnosed in swine at a restricted swine feedlot, the feedlot shall be immediately quarantined and shall not receive any additional shipments of swine until the herd at the feedlot is declared free of pseudorabies or all swine are depopulated from the premises and the premises are cleaned and disinfected.
- D. A restricted swine feedlot owner or agent shall submit monthly feedlot records to the State Veterinarian, listing the animal's origin, health certificate number, permit number, slaughter destination, and shipping date.

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**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-411. Exhibition Swine**

An exhibit official shall deny entry to any swine not individually identified by the following:

1. Imported swine:
  - a. The health certificate prescribed in R3-2-606 and individual permanent identification by a method prescribed in R3-2-606(A)(5)(c)(i), and
  - b. The import permit prescribed in R3-2-607.
2. Native Arizona swine. Individual permanent identification by a method prescribed in R3-2-606(A)(5)(c)(i).

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3).

**R3-2-412. Exhibition Sheep and Goats**

An exhibit official shall deny entry to any sheep or goat not individually identified by the following:

1. Imported sheep or goat.
  - a. The health certificate prescribed in R3-2-606 and the animal identification required in R3-2-614, and
  - b. The import permit prescribed in R3-2-607.
2. Native Arizona sheep or goat. A method prescribed in 9 CFR 79.2(a)(2) for a non-neutered sheep or goat, and a neutered sheep or goat more than 18 months of age.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3).

**R3-2-413. Sheep and Goats; Intrastate Movement**

- A. Before intrastate movement of a sheep more than 18 months of age, or a sheep or goat of any age not in a slaughter channel, the producer shall identify the animal to the flock of birth before leaving the flock of birth. A sheep or goat not in a slaughter channel includes an animal not for sale, transfer, or movement to:
  1. A slaughter facility,
  2. Custom slaughter, or
  3. A feeding operation before movement to slaughter.
- B. Subsection (A) does not apply if:
  1. The first point of commingling with animals other than those in the flock of birth is an Arizona auction market, and
  2. The auction market acts as the owner's agent to identify the sheep or goat to the flock of birth.
- C. This Section is effective January 1, 2003.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective January 1, 2003 (Supp. 02-3).

**ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM****R3-2-501. Tuberculosis Control and Eradication Proce-****dures**

- A. Procedures for tuberculosis control and eradication in cattle, bison, and goats shall be as prescribed in the USDA publication, Bovine Tuberculosis Eradication – Uniform Methods and Rules, effective February 3, 1989. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B. Cattle or bison willfully exposed to quarantined cattle or bison are not eligible for the tuberculosis depopulation indemnity provided in A.R.S. § 3-1745.
- C. Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in the USDA publication, Tuberculosis Eradication in Cervidae – Uniform Methods and Rules, effective May 15, 1994, including 1995 amendments. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended subsection (A) effective October 16, 1986 (Supp. 86-5). Section R3-2-501 renumbered from Section R3-9-501 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1).

**R3-2-502. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-502 renumbered from Section R3-9-502 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-503. Brucellosis Control and Eradication Procedures**

- A. Procedures for brucellosis control and eradication in cattle and bison shall be as prescribed in the USDA publication Brucellosis Eradication – Uniform Methods and Rules, effective February 1, 1998. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
- B. Procedures for brucellosis control and eradication in swine shall be as prescribed in the USDA publication, Swine Brucellosis Control/Eradication, State-Federal-Industry – Uniform Methods and Rules, revised February 1995. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
- C. Procedures for brucellosis control and eradication in Cervidae not listed as restricted live wildlife in A.A.C. R12-4-406, shall be as prescribed in the USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective September 30, 1998, and the May 14, 1999 revision. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-503 renumbered from Section R3-9-503 (Supp. 91-4). Amended March 5, 1997 (Supp. 97-1). Amended by

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final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-504. Pseudorabies Procedures for Eradication**

Procedures for pseudorabies control and eradication in swine shall be as prescribed in the USDA publication, Pseudorabies Eradication, State-Federal-Industry Program Standards, effective January 1, 1999. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

Adopted effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-505. Scrapie Procedures for Eradication**

The Department controls and eradicates scrapie using the procedures outlined in 9 CFR 54; 66 FR 43963-44003, August 21, 2001. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the Office of the Secretary of State.

**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3).

**ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS****R3-2-601. Definitions**

The following terms apply to this Article:

“Animal” means livestock, feral swine, ratite, bison, water buffalo, oxen, llama, and any exotic mammal not regulated as restricted live wildlife by the Arizona Game and Fish Department.

“Certified copy” means a copy of an official health certificate that includes an additional original signature from the authorizing veterinarian.

“Macaque” means any monkey of the genus *Macaca* in the family *Ceropithecidae*.

“Official eartag” means an identification tag providing unique identification for individual animals. An official eartag that contains or displays an AIN with an 840 prefix must bear the US shield. The design, size, shape, color, and other characteristics of the official eartag will depend on the needs of the users, subject to the approval of the USDA. The official eartag must be tamper-resistant and have a high retention rate in the animals. Official eartags must adhere to one of the following number systems:

National Uniform Eartagging System,  
Animal identification number (AIN),  
Premises-based number system. The premises-based number system combines an official premises identification number (PIN) with a producer’s livestock production numbering system to provide a unique identification number. The PIN and the production number must both appear on the official tag, or

Any other numbering system approved by the Administrator of APHIS for the identification of animals in commerce.

“Specifically approved stockyard” means a stockyard specifically approved by VS and the State Veterinarian for receiving from other states cattle and bison that are not brucellosis-reactor, brucellosis-suspect, or brucellosis-exposed.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-601 renumbered from Section R3-9-601 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1).

Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-602. Importation Requirements**

- A. All animals and poultry transported or moved into the state of Arizona, unless otherwise specifically provided for in this Article, must be accompanied by:
  1. An official health certificate from the state of origin or a permit number, or both; and
  2. The health documentation shall be attached to the waybill or in the possession of the driver of the vehicle or person in charge of the animals.
- B. When a single health certificate and permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall retain the original or a certified copy of the health certificate and permit number.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-602 renumbered from Section R3-9-602 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-603. Importation of Diseased Animals**

- A. An animal affected with or recently exposed to any infectious, contagious, or communicable disease, or which originates in a state or federal quarantine area, shall not be transported or moved into the state of Arizona unless a permit for the entry is first obtained from the Arizona State Veterinarian’s Office. All conditions for the movement of animals from a quarantined area established by the quarantining authority or APHIS shall be met.
- B. The owner or owner’s agent shall obtain prior permission from the State Veterinarian to ship or move into Arizona any animal from a lot or herd from which an animal shows a suspicious or positive reaction to a test required for admission to Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-603 renumbered from Section R3-9-603 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emer-

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agency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-604. Livestock Permit Requirements; Exceptions**

- A.** Livestock may not enter the state of Arizona unless accompanied by an Arizona permit. Except as discussed in subsection (B), this requirement applies regardless of the species, breed, sex, class, age, point of origin, place of destination, or purpose of the movement of the livestock entering the state.
- B.** Exceptions:
1. Horses, mules, and asses; or
  2. Livestock consigned directly to slaughter at a state or federally licensed slaughter establishment.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-604 renumbered from Section R3-9-604 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-605. Quarantine for Animals Entering Illegally**

- A.** Animals entering the state without a valid health certificate or permit number, or both if required, or in violation of any Section under 3 A.A.C. 2, shall be held in quarantine at the risk and expense of the owner until released by an authorized representative of the State Veterinarian. Animals under quarantine for noncompliance with this Article may be released only after the State Veterinarian is satisfied by testing, dipping, or observation over time, that the animals are not a threat to the livestock industry.
- B.** The State Veterinarian may request that an imported animal failing to meet entry requirements be returned to the state of origin, consigned directly to slaughter, confined to a designated feedlot, or consigned to a feedlot in another state within two weeks of the request. Any extension to this time-frame shall be approved in writing by the State Veterinarian.
- C.** If the owner or owner's agent fails to comply with a request to return an animal to the state of origin within the time-frame required in subsection (B), the Department shall require that the animal be immediately gathered at the owner's risk and expense to avoid exposure of Arizona animals. The owner shall pay the expenses no later than five days after receipt of the bill, or an auction of sufficient livestock to pay the just expenses shall be held within 10 days at a livestock auction market. If additional expenses occur due to lack of cooperation by the owner or the owner's agent, the Director shall order the further sale of livestock.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Former Section R3-9-605 renumbered to R3-2-605 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-606. Health Certificate**

- A.** A health certificate is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article, and shall contain:

1. The name and address of the shipper and receiver;
2. The origin of the animal;
3. The animal's final destination;
4. Cattle.
  - a. The number of animals covered by the health certificate, an accurate description and, except for steers, spayed heifers, or "F" branded heifers consigned to a designated feedlot identified by brand, one of the following individual identifications:
    - i. The official eartag number that, for dairy cattle, identifies the herd of birth, or
    - ii. The registration tattoo number and the registration brand of a breed association recognized by VS.
  - b. The health status of the animals, including date and result of an inspection, dipping, test, or vaccination required by Arizona;
  - c. The method of transportation; and
  - d. For bulls subject to testing under R3-2-612(J), a statement that the bulls:
    - i. Tested negative for *Tritrichomonas foetus* within one month prior to shipment using a polymerase chain reaction test or three cultures collected at intervals of no less than seven days apart; and
    - ii. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
5. Swine.
  - a. Evidence that the swine have been inspected by the veterinarian issuing the health certificate within 10 days before the shipment,
  - b. A statement that:
    - i. The swine have never been fed garbage, and
    - ii. The swine have not been vaccinated for pseudorabies;
  - c. Except for feeder swine consigned to a restricted swine feedlot:
    - i. A list of the individual permanent identification for each exhibition swine, using an ear notch that conforms to the universal swine-ear notch system or for each commercial swine, using other individual identification, and the premises identification using a tattoo or producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System;
    - ii. The validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd;
    - iii. The pseudorabies status of the state of origin; and
    - iv. The pseudorabies qualified negative herd number, if applicable;
  - d. Except for feeder swine consigned to a restricted swine feedlot, swine moving directly to an exhibition, and swine from a farm of origin in a state recognized by APHIS as a pseudorabies Stage V state, a statement that the swine shall be quarantined on arrival at destination and kept separate and apart from all other swine until tested negative for pseudorabies no sooner than 15 days nor later than 30 days after entry into Arizona; and
  - e. Feeder swine consigned to a restricted swine feedlot shall be identified by premises of origin using a tattoo or producer-furnished tamper-proof eartag that

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- conforms to the USDA National Premises Identification System;
6. Sheep and goats.
    - a. Individual identification prescribed in R3-2-614;
    - b. A statement that:
      - i. The sheep or goats are not infected with blue-tongue, or exposed to scrapie, and do not originate from a scrapie-infected or source flock;
      - ii. Breeding rams have been individually examined and are free of gross lesions of ram epididymitis; and
    - c. A statement that the sheep or goat test negative for *Brucella ovis* if a test is required by R3-2-614(B); and
  7. Equine.
    - a. An accurate identification for each equine covered by the health certificate including age, sex, breed, color, name, brand, tattoo, scars, and distinctive markings; and
    - b. A statement that the equine has a negative test for EIA, as required in R3-2-615, including:
      - i. The date and results of the test;
      - ii. The name of the testing laboratory; and
      - iii. The laboratory accession number.
  - B. Additions, deletions, and unauthorized or uncertified changes inserted or applied to a health certificate renders the certificate void. Uncertified photocopies of health certificates are invalid.
  - C. The veterinarian issuing a health certificate shall certify that the animals shown on the health certificate are free from evidence of any infectious, contagious, or communicable disease or known exposure.
  - D. An accredited veterinarian shall inspect animals for entry into the state.
  - E. The Director may limit the period for which a health certificate is valid to less than 30 days if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-606 renumbered from Section R3-9-606 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-607. Permit Number**

- A. A permit number may be obtained from the Office of the State Veterinarian, by calling (602) 542-4293. Any person applying for a permit number shall provide the following information:
  1. The name and address of the shipper and receiver;
  2. The number and kind of animals;
  3. The origin of shipment;
  4. The shipment's final destination;
  5. The method of transportation; and
  6. Any other information required by the State Veterinarian.

- B. A permit number is valid for 15 calendar days from the date of issuance unless otherwise specified.
- C. A permit number shall be issued if the animals listed on the permit are in compliance with this Article. To cope with changing disease conditions, the State Veterinarian may refuse to issue a permit number or may require additional conditions not specifically established in this Article if necessary to protect animal health in Arizona.
- D. The permit number issued shall be affixed or written on the health certificate, brand inspection certificate, and any other official documents as follows: "Arizona Permit No. \_\_\_\_\_" followed by the serialized number.
- E. The State Veterinarian shall refuse to grant a permit number to any person who repeatedly commits the following:
  1. Giving false information concerning a permit number for transportation of animals,
  2. Failing to fulfill the conditions of a permit number, or
  3. Failing to obtain a permit number.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-607 renumbered from Section R3-9-607 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-608. Consignment of Animals**

The owner, or owner's agent, of an animal transported or moved into Arizona, except an exhibition or show animal, shall consign the animal to or place it in the care of an Arizona resident or an entity authorized to do business in Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-608 renumbered from Section R3-9-608 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-609. Diversion; Prohibitions**

A person consigning, transporting, or receiving an animal into the state of Arizona shall not authorize, order, or carry out diversion of the animal to a destination or consignee other than as set forth on the health certificate and permit, if required, without first obtaining permission from the State Veterinarian.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-609 renumbered from Section R3-9-609 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-610. Tests; Official Confirmation**

A state or federal animal diagnostic laboratory or APHIS-approved laboratory shall perform or confirm any animal testing required by a state or federal authority as a condition for entry into Arizona.

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**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-610 renumbered from Section R3-9-610 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-611. Transporter Duties**

- A. All owners and operators of railroads, trucks, airplanes, or other conveyances transporting animals into or through the state shall possess a valid health certificate under R3-2-606, and a permit number issued by the State Veterinarian, if required by R3-2-607. These documents shall be attached to the waybill, or be in the possession of the vehicle driver, or person in charge of the animals. When a single health certificate or permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall possess the original or a certified copy of the health certificate containing the permit number, if required.
- B. The owner of a railroad car, truck, airplane, or other conveyance used to transport animals into or through the state shall maintain the conveyance in a clean and sanitary condition.
- C. The owners and operators of railroads, trucks, airplanes, or other conveyances who transport animals into the state in violation of this Section shall clean and disinfect the conveyance in which the animals were illegally brought into the state before using the conveyance for transporting more animals. The cleaning and disinfection shall be performed under the supervision of an authorized representative of the State Veterinarian or the USDA.
- D. The owners and operators of railroads, trucks, airplanes, or other conveyances shall follow the USDA requirements, Department and Arizona Commerce Commission rules, and Arizona statutes in the humane transport of animals into, within, or through the state.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-611 renumbered from Section R3-9-611 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-612. Importation of Cattle and Bison**

- A. The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in R3-2-602 through R3-2-611 and the following conditions:
  1. Pay the expenses incurred to quarantine, test, and retest the imported cattle or bison or return them to the state of origin.
  2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies an official eartag to each animal.
- B. Arizona shall not accept:
  1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:
    - a. Steers and spayed females, and

- b. Animals shipped directly for immediate slaughter to an official state or federal slaughter establishment;
  2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot;
  3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class-Free State, or without tuberculosis status comparable to an Accredited-Free State;
  4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;
  5. Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.
- C. Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
    1. The owner or owner's agent shall ensure that an official calfhood vaccinate is tested negative for brucellosis within 30 days before entering Arizona if the official calfhood vaccinate is:
      - a. 18 months or older,
      - b. Cutting the first set of permanent incisors, or
      - c. Parturient or postparturient.
    2. The owner or owner's agent shall ensure that bulls and non-vaccinated heifers test negative for brucellosis if 12 months of age or older, unless consigned for feeding purposes to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand upon arrival. All "F" branded cattle or bison that leave the designated feedlot shall be shipped directly to:
      - a. An official state or federal slaughter establishment for immediate slaughter,
      - b. Another designated feedlot, or
      - c. Another state if shipping is permitted by the State Veterinarian in the state of destination.
    3. If cattle or bison originate from a Certified Brucellosis-Free Herd and the herd certification number is documented on the health certificate and import permit, no brucellosis test is required.
    4. If native ranch cattle are from a brucellosis Class-Free State that does not have free-ranging brucellosis infected bison or wildlife, no brucellosis test is required as long as:
      - a. The native ranch cattle are moved directly from the ranch of origin to an Arizona destination and the official eartag numbers are listed on a health certificate; or
      - b. The native ranch cattle are from a state that has a brand inspection program approved by the State Veterinarian and the owner's brand is listed on a brand inspection certificate or health certificate.
    5. Health and brand inspection certificates issued for the movement shall be forwarded to the State Veterinarian in Arizona within two weeks of issue.
    6. The owner or owner's agent:
      - a. Shall ensure that beef breeding cattle or breeding bison from a Class A State remain under import quarantine and isolation until the cattle test negative for brucellosis. The test shall be performed no earlier than 45 days and no later than 120 days after entry.

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- b. Shall retest dairy cattle if the State Veterinarian determines there is a potential risk of the introduction of brucellosis in the state.
- c. Is not required to quarantine or test for brucellosis official calfhood vaccinates less than 18 months of age, if permission is granted by the State Veterinarian.
7. The owner or owner's agent:
- a. Shall notify the State Veterinarian within seven days of moving cattle or bison that are under import quarantine from the destination listed on the import permit and health certificate.
- b. Shall notify the State Veterinarian at the time animals are retested for brucellosis, if the animals are under import quarantine and are not moved from the destination listed on the import permit and health certificate.
- c. Is not required to notify the State Veterinarian if the cattle or bison are shipped directly to an official state or federal slaughter establishment for immediate slaughter.
8. Beef breeding cattle, breeding bison, and dairy cattle meeting the criteria of subsections (C)(1) or (C)(2) and not meeting the criteria of subsection (C)(3) may be imported without a brucellosis test if moved to a specifically approved stockyard and tested before sale or movement from the stockyard. The owner or owner's agent shall not commingle these cattle or bison with other cattle or bison until these cattle or bison are tested and found to be brucellosis negative.
9. Within seven days after importation, the owner or owner's agent shall ensure that the individual official eartag identification for imported dairy cattle is the same as that listed on the health certificate and. The owner or the owner's agent shall report any discrepancies between the official eartag and the health certificate to the State Veterinarian. Any dairy cattle shipped into Arizona not documented on the health certificate shall be tested for brucellosis and tuberculosis by the receiver within one week of arrival.
- D.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.
1. Before entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, January 1, 2007, edition. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
2. The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis. The test shall not be performed earlier than 60 days nor later than 120 days after entry into Arizona. The test shall be performed again on breeding cattle and breeding bison 30 days after calving, unless the animals were consigned to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official eartag identification records are kept on all incoming consignments and then submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.
- E.** Except for the following, all female dairy cattle four months of age or older, imported into Arizona, shall be official calfhood vaccinates, properly identified, certified, and legibly tattooed:
- Show cattle for exhibition,
  - Cattle from a Certified Brucellosis-Free Herd with permission of the State Veterinarian,
  - Cattle from a brucellosis-free state or country with permission of the State Veterinarian,
  - Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and
  - Cattle consigned for feeding purposes to a designated feedlot under import permit.
- F.** When imported breeding cattle, breeding bison, or dairy cattle under import quarantine and isolation are sold at a specifically approved stockyard, the owner or owner's agent shall, at the time of the sale, identify those cattle to the new owner as being under import quarantine. If market cattle identification testing for brucellosis is conducted at the auction, the owner or owner's agent shall ensure that the cattle or bison are tested before the sale. The new owner shall segregate the cattle or bison and retest for brucellosis 45 to 120 days after the animals entered the state.
- G.** Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
- No tuberculosis test is required for:
    - Beef breeding cattle, breeding bison, or dairy cattle from an accredited herd if the herd accreditation number is documented on the health certificate and import permit;
    - Native commercial and purebred beef breeding cattle from an Accredited-Free State if its accredited-free status is documented on the health certificate; and
    - Steers and spayed heifers.
  - Unless from an accredited herd, prescribed in subsection (G)(1), the owner or owner's agent shall ensure that purebred beef breeding cattle from modified accredited states, breeding bison, dairy females, and bulls for breeding dairy cattle test negative for tuberculosis within 60 days before entry into Arizona.
- H.** Tuberculosis testing requirements for cattle and bison imported into Arizona from Mexico.
- Before entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, incorporated by reference in subsection (D)(1).
  - Steers and spayed heifers from states or regions in Mexico shall not enter the state if they have not been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico.
  - Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico shall not be imported into Arizona without permission of the State Veterinarian.
  - Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully

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implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:

- a. Tested negative for tuberculosis in accordance with procedures equivalent to the Bovine Tuberculosis Eradication – Uniform Methods and Rules within 60 days before entry into the United States, or
  - b. Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
5. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single group and not commingled with other cattle before arriving at the border.
  6. Beef breeding cattle and breeding bison from states or regions in Mexico may be imported into Arizona if the State Veterinarian determines the Eradication or Free Phase of the bovine tuberculosis eradication program of Mexico has been fully implemented and the breeding cattle and breeding bison remain under import quarantine and isolation until retested negative for tuberculosis in accordance with the Bovine Tuberculosis Eradication - Uniform Methods and Rules. The test shall be performed not earlier than 60 days but not later than 120 days after entry unless consigned to a designated feedlot for feeding purposes only. Unless neutered, all beef breeding cattle or breeding bison consigned to a designated feedlot shall be branded with an “F” adjacent to the tail head before entry into Arizona, unless permission is granted by the State Veterinarian to apply the “F” brand on arrival. All beef breeding cattle or breeding bison leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official eartag identification records are kept on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all beef breeding cattle and breeding bison leaving the designated feedlot. A copy of the form shall accompany the cattle and bison to slaughter and a copy shall be submitted to the State Veterinarian.
- I. Bovine scabies requirements.**
1. The owner or owner’s agent shall ensure that no cattle or bison affected with or exposed to scabies is shipped, trailed, driven, or otherwise transported or moved into Arizona except cattle or bison identified and moving under permit number and seal for immediate slaughter at an official state or federal slaughter establishment.
  2. The owner or owner’s agent of cattle or bison from an official state or federal scabies quarantined area shall comply with the requirements of 9 CFR 73, Scabies in Cattle, January 1, 2007, edition, before moving the cattle or bison into Arizona. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
  3. The State Veterinarian may require that breeding and feeding cattle and bison from known scabies infected areas and states be dipped or treated even if the animals

are not known to be exposed. The State Veterinarian shall require that dairy cattle be dipped only if the animals are known to be exposed; otherwise a veterinarian’s examination and certification shall be sufficient.

- J. Trichomoniasis requirements for bulls imported into Arizona from other states.**
1. The owner or owner’s agent shall ensure bulls:
    - a. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test or three cultures collected at intervals of no less than seven days apart, except for bulls:
      - i. Less than one year of age,
      - ii. Consigned directly to a state or federal licensed slaughter facility,
      - iii. Consigned directly to a dairy,
      - iv. Consigned directly to an exhibition or rodeo,
      - v. Consigned directly to a licensed feedlot for castration on arrival,
      - vi. Branded with an “F” adjacent to the tailhead and consigned directly to a designated feedlot for feeding and later movement directly to slaughter, and
    - b. Have no breeding activity during the interval between the collection of a sample and the date of shipment.
  2. An accredited veterinarian approved to collect samples for *Tritrichomonas foetus* testing by the state animal health official in the state of origin shall collect the *Tritrichomonas foetus* test samples.
  3. A laboratory approved to conduct tests for *Tritrichomonas foetus* by the state animal health official in the state of origin shall perform the test for *Tritrichomonas foetus*.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-612 renumbered from Section R3-9-612 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-613. Swine**

- A.** The owner of swine entering Arizona, or the owner’s agent, shall comply with the requirements of Article 6 and the following conditions:
1. Pay the expenses incurred to quarantine, test, and retest the imported swine; and
  2. Obtain an official health certificate specified in R3-2-606 and permit specified in R3-2-607.
- B.** Brucellosis test requirements. Breeding swine imported into Arizona from other states shall:
1. Originate from a validated swine brucellosis-free herd or from a swine brucellosis-free state; or
  2. Test negative for brucellosis within 30 days before entry.
- C.** Pseudorabies test requirements. Swine imported into Arizona from other states shall:
1. Be shipped directly from:
    - a. The farm of origin in a state recognized by USDA-APHIS as a pseudorabies Stage IV or Stage V state,
    - b. The farm of origin in a state recognized by USDA-APHIS as a pseudorabies Stage III state if the swine are:
      - i. Consigned directly to a terminal exhibition of only neutered swine,

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- ii. Tested negative within 15 days before entry, and
  - iii. Transported directly to a state or federally inspected slaughter facility immediately after the exhibition in a truck sealed by the State Veterinarian or agent;
  - c. A pseudorabies monitored feeder pig herd in a pseudorabies Stage II or Stage III state if the swine is consigned to a restricted swine feedlot; or
  - d. A sale in a state recognized by USDA-APHIS as a pseudorabies Stage IV or Stage V state if all swine entered in the sale are from a state recognized by USDA-APHIS as a pseudorabies Stage IV or Stage V state.
2. Except for feeder swine consigned to a restricted swine feedlot, swine moving directly to exhibition, and swine from a farm of origin in a state recognized by USDA-APHIS as a pseudorabies Stage V state, remain under import quarantine and isolation at the location specified on the import permit and health certificate, with the following restrictions, until tested negative for pseudorabies no sooner than 15 days or later than 30 days after entry:
- a. The isolation pen shall be at least 200 feet from straying pigs, other livestock, pets, or working dogs, and not be accessible to normal traffic flow;
  - b. Equipment, tools, and implements shall not be moved from an isolation pen and used at another pen;
  - c. Workers shall disinfect their shoes and clothing before working with other livestock or the main herd; and
  - d. The distance between an isolation pen barrier and another swine pen barrier shall be at least 200 feet and the isolation pen shall be double-fenced to prevent exposure to accidental strays.
  - e. Imported quarantined swine testing positive after entry shall be shipped directly to a state or federal slaughter establishment within 15 days after the positive identification and shall be accompanied by a USDA-VS Form 1-27. The remainder of exposed animals shall be quarantined until the herd is declared free of the disease, or all exposed animals are depopulated and the premises cleaned and disinfected.
3. If swine move directly to exhibition from a herd in a Stage IV state, and remain in the state, the swine shall be held under import quarantine at a location disclosed by the exhibitor. The exhibitor shall disclose the location of the quarantine facility to the Department within three days of the end of the exhibition. The swine shall be quarantined according to the restrictions identified in subsections (C)(2)(a) through (C)(2)(e) until tested negative for pseudorabies no sooner than 15 days or later than 30 days after entry into the state.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 29, 1984 (Supp. 84-3). Section R3-2-613 renumbered from Section R3-9-613 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of

State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-614. Sheep and Goats**

- A. The owner of a sheep or goat entering Arizona, or the owner's agent, shall comply with the requirements of:
- 1. Article 6 and pay the expenses incurred to quarantine, test, and retest the sheep or goat; and
  - 2. Animal identification prescribed in 9 CFR 79, January 1, 2007, edition. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
- B. A breeding ram six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis-free flock. An exhibition ram that returns to the out-of-state flock of origin within five days of the conclusion of the exhibit is exempt from the testing requirement of this subsection.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-614 renumbered from Section R3-9-614 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-615. Equine Importation**

- A. Except for R3-2-607, an equine may enter the state as prescribed in R3-2-602 through R3-2-611.
- B. A person shall not import an equine with fistulous withers or poll evil.
- C. All equine six months of age or older shall, using a test established in R3-2-407(A), be tested negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-615 renumbered from Section R3-9-615 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3).

**R3-2-616. Cats and Dogs**

A dog or cat shall be accompanied by a health certificate that documents the animal is currently vaccinated against rabies according to the requirements of the National Association of State Public Health Veterinarians' Compendium of Animals Rabies Control, incorporated by reference in R3-2-409.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-616 renumbered from Section R3-9-616 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-617. Poultry**

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The Department has no entry requirements on poultry provided the poultry appear healthy, do not originate from a poultry quarantine area, comply with all interstate requirements of APHIS, and are accompanied by a health certificate or Form 9-3 from the National Poultry Improvement Program.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-617 renumbered from Section R3-9-617 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-618. Psittacine Birds**

- A. The owner or the owner's agent of a psittacine bird entering Arizona shall obtain a health certificate issued by a veterinarian within 30 days of entry, certifying:
1. The bird is not infected with the agent that causes avian chlamydiosis, and
  2. The bird was not exposed to birds known to be infected with avian chlamydiosis within the past 30 days.
- B. The health certificate shall accompany the psittacine bird at the time of entry into Arizona.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-618 renumbered from Section R3-9-618 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

**R3-2-619. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-619 renumbered from Section R3-9-619 (Supp. 91-4). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

**R3-2-620. Zoo Animals**

- A. An owner or owner's agent may transport or move zoo animals into the state of Arizona if the animals are accompanied by an official health certificate, and consigned to a zoo or in the charge of a circus or show.
- B. The owner, or owner's agent, of an animal in a "Petting Zoo" shall have the animal tested for tuberculosis within 12 months before importation. A negative test result is required for entry into Arizona.
- C. A business that transports or exhibits zoo animals shall be licensed by the Arizona Game and Fish Department.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-620 renumbered from Section R3-9-620 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final

rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1).

**R3-2-621. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**R3-2-622. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

**ARTICLE 7. LIVESTOCK INSPECTION****R3-2-701. Department Livestock Inspection**

- A. A Division employee shall inspect range cattle, as defined in R3-2-702(A), at a ranch if the owner or agent is:
1. Moving cattle out-of-state,
  2. Transferring cattle ownership, or
  3. Shipping cattle for custom slaughter.
- B. A Division employee shall inspect cattle at a feedlot or dairy if the cattle are being shipped for custom slaughter.
- C. The Department shall not issue a self-inspection certificate to an owner, agent, or operator of a ranch, dairy, or feedlot if that individual has been convicted of a felony under A.R.S. Title 3 within the three-year period before the date on the self-inspection application. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.
- D. During fiscal year 2020, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of \$10 plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-701 renumbered from Section R3-9-701 (Supp. 91-4). Section R3-2-701 repealed; new Section R3-2-701 adopted effective February 4, 1998 (Supp. 98-1). Error in subsection (A)(3) corrected under R1-1-109, filed with the Office of the Secretary of State October 18, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking

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at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3).

**R3-2-702. Livestock Self-inspection****A. Definitions.**

“Description” means sex, breed, color, and markings, as applicable to the type of livestock.

“Exhibition” means an event including a fair, show, or field day that has as its primary purpose the opportunity for a member of a youth livestock organization, including 4-H and FFA, to display an animal raised by the youth in a judged competition.

“Identification” means brand, back tag number, ear mark, tattoo, metal eartag, plastic eartag, and premises identification number, as applicable to the type of livestock.

“Livestock” means cattle, sheep, goats, and exhibition swine.

“Range” means every character of lands, enclosed or unenclosed, outside of cities and towns, upon which livestock is permitted by custom, license or permit to roam and feed. A.R.S. § 3-1201(7)

“Range cattle” means cattle customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes. A.R.S. § 3-1201(8)

**B. Application.**

1. Movers of livestock and an owner or operator of a dairy or feedlot shall request a book of self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:

- a. Name, mailing address, physical address, telephone number, and fax;
- b. Name of ranch, dairy, or business and type of operation;
- c. Whether the applicant has been convicted of a felony under A.R.S. Title 3 within the past three years, and if so, the case number, court, charge, and sentence;
- d. Recorded brand and brand location;
- e. Individual designated to sign self-inspection certificates, if applicable; and
- f. Signature and date.

2. The holder of a self-inspection book shall advise the Department by phone within 30 days of any change to the information provided on an application form.

3. The holder of a self-inspection book shall renew registration with the Department every two years from the date the initial or renewal application form is signed.

4. Prior to a department employee issuing a book of self-inspection certificates, the owner shall submit the following payment amount and the department shall receive the payment in full prior to issuing the book:

- a. \$25.00 for a twenty five page feedlot book;
- b. \$20.00 for a twenty page dairy book; or
- c. \$10.00 for a ten page non-range, range, sheep, goat, or swine book.

**C. Self-inspection certificate.**

1. An owner, agent, or operator shall provide the following information, as applicable, on a self-inspection certificate

whenever livestock subject to self-inspection are moved or ownership is transferred:

- a. Name, address, and signature of the owner or agent;
- b. Date of the shipment or transfer of ownership;
- c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
- d. Name of transporter;
- e. Number and description of livestock;
- f. Official identification of each dairy cattle and sexually intact cattle over 18 months of age shipped out of state and back tag numbers of culled dairy cattle;
- g. Brand number, expiration date, and location;
- h. Name and address of buyer;
- i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238.

2. The owner or owner's agent of livestock or the owner or operator of a dairy or feedlot shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute copies of the certificate as follows:

- a. One copy and any fees that are owed under subsection (C)(1)(j) shall be sent to the Department within 10 days after the end of the month in which ownership is transferred;
- b. If the livestock are shipped, the original certificate shall accompany the livestock whenever they are in transit and one copy shall be retained by the person transporting the livestock; or
- c. If ownership of the livestock is transferred without shipment, two copies shall be provided to the new owner or agent; and one copy shall be retained by the seller.

3. A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void. The owner, agent, or operator shall complete a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month in which the certificates are issued or voided.

4. An owner, agent, or operator shall use a self-inspection certificate only with a shipment of livestock matching the description for which the certificate is issued and only for the self-inspection issued date. If any of the information on the self-inspection certificate changes, the certificate is void and the owner, agent, or operator shall complete a new certificate.

5. An altered, erased, completed but unused, or defaced self-inspection certificate is void. A voided certificate shall be returned to the Department within 10 days after the end of the month in which it is voided.

6. Upon request, unused certificates shall be returned to the Department by the owner, agent, or operator. If a commercial operation licensed for self-inspection is sold, leased, transferred, or otherwise disposed of, the owner, agent, or operator shall notify the Department and return all self-inspection certificates to the Department within 30 days of the transaction.

**D.** Sale of livestock. A seller shall document a sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.

**E.** Feedlot receiving form.

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1. The operator of a feedlot shall document receipt of incoming cattle on a form obtained from the Department. The operator shall include the following information on the form:
    - a. Name of feedlot and location;
    - b. Month and year for which report is made;
    - c. Number of cattle received, date received, and name and address of owner;
    - d. Description of the cattle;
    - e. If not Arizona native cattle, the import permit and health certificate numbers;
    - f. If native Arizona cattle, self-inspection form number or Department inspection certificate number; and
    - g. Pen number to which cattle are initially assigned.
  2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.
- F. Quarantine.** Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.
- G. Violations.** The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).

**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-702 renumbered from Section R3-9-702 (Supp. 91-4). Section R3-2-702 repealed; new Section R3-2-702 adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3).

**R3-2-703. Seasonal Self-inspection Certificate**

- A. Exhibition cattle, sheep, goats, and swine.**
1. An applicant for a seasonal self-inspection certificate prescribed under A.R.S. § 3-1346 shall call the Department at (602) 542-6407 to request a seasonal self-inspection certificate. The applicant shall provide the answers to the following questions, as applicable:
    - a. Name, mailing address, physical address if different from mailing address, telephone number, and fax;
    - b. Name of 4-H or FFA group, and group leader;
    - c. Description and identification of the animal;
    - d. Permit number and health certificate number for an animal imported from another state; and
    - e. Name of seller and self-inspection certificate number for an animal purchased from an Arizona seller.
  2. The Department employee who records the information required in subsection (A)(1) shall advise the applicant of the required fee prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.
  3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever an animal subject to seasonal self-inspection is moved or ownership is transferred:
    - a. Name, address, telephone number, and signature;
    - b. Date of movement;
    - c. Name of exhibition and location;
    - d. Final disposition of the animal (sale, death, or retention) and date of occurrence; and
    - e. If the animal is sold, name of purchaser (person or slaughter plant).
  4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the animal or at the end of the show season if the animal is retained.

**Historical Note**

Adopted effective November 27, 1987 (Supp. 87-4). Section R3-2-703 renumbered from Section R3-9-703 (Supp. 91-4). Section R3-2-703 repealed; new Section R3-2-703 adopted effective February 4, 1998 (Supp. 98-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3).

**EMERGENCY RULEMAKING****R3-2-704. Determining Original and Subsequent Brands**

- A. Application of this rule.** This rule is to be used to address brands that may have been adopted improperly as a result of the Arizona Supreme Court ruling in *Stambaugh v. Killian*, 398 P.3d 574 (Ariz. 2017). The rule shall only be used by the Department to evaluate existing recorded brands to determine if it has the “same design or figure” as another recorded brand. If there is a determination that two brands are of the same design or figure, the Department shall use this rule to determine which brand will remain a valid brand and which brand will become invalid.
- B. Definitions.** The following definitions shall be used for interpreting this rule:
- “Arrangement” means the placement and orientation of the characters within the brand.
- “Brand” means a design or figure that is recorded with the Department and applied to livestock in a manner that leaves a permanent mark used to identify the owner of the livestock.
- “Chain of ownership” means the period of time from the date the brand was recorded, until present and begins each time a brand is abandoned, if applicable.
- “Design or figure” means the brand’s image as a whole, including the font, size, and arrangement of the characters.
- “Font” means the style or type variation of a character.
- “Original brand” means as the brand that is deemed to be of the same design or figure as another brand, but has the longer continuous chain of ownership.
- “Size” means the height, length, or width of the characters relative to the other characters within the brand.
- “Subsequent brand” means all brands that are deemed to be of the same design or figure, but are not the original brand.
- C. Brands that are the same.** Brands with a design or figure that have no visible distinctions from another brand’s design or figure shall be deemed a brand of the same design or figure. This determination shall be made by comparing the images printed on the current brand certificates recorded with the Department. Neither the location of the brand on the livestock, nor the species of livestock shall be considered when determining if a brand is of the same design or figure.
- D. Original Brands.** In the event that two or more recorded brands are determined to be of the same design or figure, an evaluation must be conducted to determine which is the original brand, and which are subsequent brands. To determine which brand is the original brand, the individual brand files must be reviewed to determine which brand has the longest chain of ownership. In the event that a brand is deemed to be abandoned pursuant to A.R.S. § 3-1265, the chain of ownership

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breaks; a new chain of ownership begins the next time the brand is recorded. The original brand is deemed to be properly recorded with the Department. Any brand determined to be a subsequent brand is deemed to be unlawfully recorded with the Department and therefore is not valid.

**Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Section made by emergency rulemaking at 24 A.A.R. 3589, with an immediate effective date of December 13, 2018, valid for 180 days (Supp. 18-4).

**R3-2-705. Repealed****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-706. Repealed****Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

**R3-2-707. Ownership and Hauling Certificate for Equines; Fees**

The fee for a new, transferred, or replacement Ownership and Hauling Certificate for Equines as prescribed under A.R.S. §§ 3-1344(B) and 3-1345(B) is \$10 per certificate.

**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 3932, effective August 22, 2002 (Supp. 02-3).

**R3-2-708. Equine Rescue Facility Registration**

- A.** "Arizona Equine Rescue Standards" means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition. This material, which includes the Veterinary Checklist for Rescue/Retirement Facilities, is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, Arizona 85007. A copy of this material may also be obtained from the American Association of Equine Practitioners web site at [http://www.aaep.org/pdfs/rescue\\_retirement\\_guidelines.pdf](http://www.aaep.org/pdfs/rescue_retirement_guidelines.pdf). The American Association of Equine Practitioners is located at 4075 Iron Works Parkway, Lexington, Kentucky 40511.
- B.** An equine rescue facility shall pay the annual registration fee and file the following documents with the Department's Animal Services Division for the facility to be included on the Department's registry of equine rescue facilities:
1. An application form containing the facility's name, address, and contact person and the contact person's phone number.
  2. A copy of documents filed with the Arizona Corporation Commission demonstrating the facility's current status as a nonprofit corporation in good standing in this state.
  3. A letter from a licensed veterinarian, dated within 15 days of filing, certifying that the facility is not inadequate with respect to any of the Arizona Equine Rescue Standards and attaching a signed copy of the completed Arizona Equine Rescue Standards' veterinary checklist.

- C.** Registration is valid for one year. Registration may be renewed annually by complying with subsection (B).
- D.** The annual registration fee is \$75.
- E.** A nonprofit corporation owning multiple equine rescue facilities must file the letter and checklist described in subsection (B)(3) and pay the annual registration fee for each location it wants included on the registry.
- F.** The Department shall remove a facility from the registry if it determines that the facility is not presently incorporated as a nonprofit corporation in this state or is inadequate with respect to any of the Arizona Equine Rescue Standards.

**Historical Note**

New Section made by final rulemaking at 16 A.A.R. 876, effective July 3, 2010 (Supp. 10-2).

**ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL****R3-2-801. Definitions**

In addition to the definitions in A.R.S. §§ 3-601 and 3-661, the following terms apply to this Article:

"3-A Sanitary Standards" and "3-A Accepted Practices," as published by the International Association for Food Protection, amended May 31, 2002, means the criteria for cleanliness of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and is also available at <http://www.3-A.org>.

"C-I-P" means a procedure by which equipment, pipelines, and other facilities are cleaned-in-place as prescribed in the 3-A Accepted Practices.

"Converted" means the process by which a frozen dessert is changed from a frozen to semi-frozen form without any change in the ingredients.

"Fluid trade product" means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates milk, lowfat milk, chocolate milk, half and half, or cream.

"Food establishment" means any establishment, except a private residence, that prepares or serves food for human consumption, regardless of whether the food is consumed on the premises.

"Frozen desserts mix" or "mix" means any frozen dessert before being frozen.

"Grade A raw milk" means raw milk produced on a dairy farm that conforms to Section 7 of the PMO and the requirements of R3-2-805.

"Parlor" and "milk room" mean the facilities used for the production of Grade A raw milk for pasteurization.

"Plant" means any place, premise, or establishment, or any part, including specific areas in retail stores, stands, hotels, restaurants, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:

"Manufacturing plant" means a location where frozen desserts are manufactured, processed, pasteurized, and converted.

"Handling plant" means a location that is not equipped or used to manufacture, process, pasteurize, or convert fro-

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zen desserts, but where frozen desserts are sold or offered for sale other than at retail.

“PMO” means the Grade A Pasteurized Milk Ordinance, 2013 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007. A copy of the incorporated material may also be viewed at <http://agriculture.az.gov>.

“Retail food store” means any establishment offering packaged or bulk goods for human consumption for retail sale.

**Historical Note**

Former Regulations 1-11. Section R3-2-801 renumbered from R3-5-01 (Supp. 91-4). R3-2-801 renumbered to R3-2-803; new Section R3-2-801 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 2215, effective May 9, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 3030, effective September 30, 2006 (Supp. 06-3). Amended by final rulemaking at 14 A.A.R. 889, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired. Amended by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3).

**R3-2-802. Milk and Milk Products Standards**

Unless specifically mentioned in A.R.S. Title 3, Chapter 4, Article 1, or in this Article, all milk and milk products, except frozen desserts, sold or distributed for human consumption shall meet the PMO standards for production, processing, storing, handling, and transportation.

**Historical Note**

Former Regulations 1, 2. Section R3-2-802 renumbered from R3-5-02 (Supp. 91-4). Section repealed; new Section adopted effective December 2, 1998 (Supp. 98-4).

**R3-2-803. Milk and Milk Products Labeling**

- A. The manufacturer or processor shall ensure that milk and milk products listed in A.R.S. § 3-601(10), and Sections 1 and 2 of the PMO are designated by the name of the product and shall conform to its definition.
- B. The manufacturer or processor of milk and milk products shall conform with the labeling requirements in A.R.S. §§ 3-601.01 and 3-627, Section 4 of the PMO, and 21 CFR 101, 131, and 133, amended April 1, 2002. This CFR material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department and the Office of the Secretary of State.
- C. The name of the manufacturer or processor shall be on all cartons or closures where it can be easily seen. A manufacturer or processor that has plants in other states shall use a code number or letter to designate the state in which a carton or closure is manufactured or processed. If a manufacturer or processor has a plant within Arizona, the Dairy Supervisor shall issue a code number or letter for each plant and shall keep a record of the number or letter issued. Manufacturers and processors shall include the Arizona code, 04, with the plant code assigned by the Dairy Supervisor.
- D. If milk or milk products are manufactured or processed and packaged at a plant for other retailers and the container or closure is not labeled the same as the manufacturer’s or processor’s like product, the manufacturer or processor shall include

the statement “Manufactured or Processed at (name and address of plant or code number or letter)” on the carton or closure. The carton or closure may also contain the statement, “Distributed by: (name of person or firm).”

- E. Any person planning to use a new or modified label on a container shall submit the proposed label to the Dairy Supervisor for review.
  1. If the proposed label does not meet labeling standards specified in subsection (B), the Dairy Supervisor shall note the required changes on the proposed label, and sign and return the proposed label to the applicant.
  2. A person who requests additional time to use the inventory amounts of slow moving cartons or closures before using a modified label shall submit a written request to the Dairy Supervisor. The Dairy Supervisor may approve continued use of the existing cartons and closures if:
    - a. The use does not present a public health issue, and
    - b. The information on the cartons and closures is not misleading.

**Historical Note**

Former Regulations 1 - 21; Amended effective August 4, 1978 (Supp. 78-4). Section R3-2-803 renumbered from R3-5-03 (Supp. 91-4). R3-2-803 renumbered to R3-2-804; new Section R3-2-803 renumbered from R3-2-801 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2).

**R3-2-804. Trade Products**

- A. Any fluid trade product containing milk solids shall be regulated as a fluid milk product.
- B. Advertising, display, and sale:
  1. Any retail food store may submit its methods and techniques for the advertising, display, and sale of trade products and real products to the Dairy Supervisor to determine compliance with this Section.
  2. No food establishment shall sell or provide any patron or employee, for use as food, any trade product or food whose main ingredient is a trade product, unless one of the following disclosures is posted for each trade product, in a prominent place on the premises, or is plainly visible on each menu where other food items are described:
    - a. “\_\_\_\_\_ served here  
(brand or common name of trade product)  
instead of \_\_\_\_\_.”  
(common name of dairy product)
    - b. “Nondairy products served here.”
  3. No food establishment shall advertise or otherwise represent to the public that it serves, or uses in the preparation of a food, a real product when it actually serves or uses a trade product.
- C. Labeling: Except as follows, all labels shall comply with the PMO and 21 CFR 101, 131, and 133.
  1. The Dairy Supervisor shall approve a new or modified trade product label before the label is used. The applicant shall file a written request with duplicate copies of the proposed label and any supporting materials necessary to establish the truthfulness, reasonableness, relevancy, and completeness of the label.
  2. Unless each ingredient of a trade product is homogenized or pasteurized, the whole product shall not be labeled or advertised as an homogenized or pasteurized product. Individual ingredients that are homogenized or pasteurized may be identified as homogenized or pasteurized in the listing of ingredients.

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3. Except for combined ingredients constituting less than 1% of the whole product or unless each ingredient of a trade product qualifies as grade A, the whole product shall not be labeled or advertised as a grade A product. Ingredients that qualify as grade A may be identified as grade A in the listing of ingredients.
4. Any trade product produced outside the state and labeled as prescribed in R3-2-802, may be sold within the state provided that the product meets the requirements of A.R.S. §§ 3-663 and 3-665.

**Historical Note**

Former Regulations 1 - 8; Amended effective December 7, 1976 (Supp. 76-5). Correction, subsection (A)(2) through (H) omitted, Supp. 76-5 (Supp. 79-4). Section R3-2-804 renumbered from R3-5-04 (Supp. 91-4). R3-2-804 renumbered to R3-2-805; new Section R3-2-804 renumbered from R3-2-803 and amended effective December 2, 1998 (Supp. 98-4).

**R3-2-805. Grade A Raw Milk For Consumption**

- A. All cattle from which Grade A raw milk is produced shall be tested and found free of tuberculosis before any milk is sold. All herds shall be tested for tuberculosis at least every 12 months. All cattle from which Grade A raw milk is produced shall be tested and found free of brucellosis before any milk is sold, and shall be tested every 12 months or have negative ring tests for brucellosis, or both, as determined by the State Veterinarian.
- B. Grade A raw milk shall be cooled immediately after completion of milking to 45° F or less and shall be maintained at that temperature until delivery.
- C. Grade A raw milk shall be bottled on the farm where it is produced. Bottling and capping shall be done in a sanitary manner on approved equipment. Hand-capping is prohibited. Caps and cap stock shall be kept in sanitary containers until used.
- D. All vehicles used for the distribution of Grade A raw milk shall prominently display the distributor's name.
- E. Grade A raw milk shall be labeled as prescribed in R3-2-803.

**Historical Note**

Former Regulations 1, 2. Section R3-2-805 renumbered from R3-5-05 (Supp. 91-4). Section R3-2-805 repealed; new Section R3-2-805 renumbered from R3-2-804 and amended effective December 2, 1998 (Supp. 98-4).

**R3-2-806. Parlors and Milk Rooms**

- A. Construction Plans.
  1. Any person constructing or extensively altering a parlor or milk room shall submit the plans and specifications to the Dairy Supervisor for written approval before work begins. The Dairy Supervisor shall approve or deny the plans within 10 business days.
  2. Plans shall consist of a scaled plot design with elevations and pertinent dimensions.
  3. Any deviations from the requirements in this Section and from approved plans and specifications may be made only after written approval of the Dairy Supervisor.
- B. Site.
  1. The parlor and milk room shall be located in a place free from contaminated surroundings.
  2. Feed racks, calf pens, bull pens, hog pens, poultry pens, horse stables, horse corrals, and shelter sheds shall not be closer than 100 feet to the milk room or closer than 50 feet to the parlor.
- C. Surroundings.
  1. Dirt or unpaved corrals and unpaved lanes shall not be closer than 25 feet to the parlor or closer than 50 feet to

the milk room; corrals shall be constructed to remove runoff from the lowest point of the grade.

2. A paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the parlor. This paved area shall be curbed sufficiently high enough to contain waste material and water used to clean this area.
- D. Drains and waste disposal systems shall be adequate to drain the volume of water used in rinsing and cleaning, as well as the waste created by animals in the parlor. Instead of natural drainage, automatic pumps or other means shall be provided for drainage disposal.
- E. Milk room.
  1. The milk room shall consist of one or more rooms for the handling of the milk and the cleaning, sanitization, and storage of the milk-handling equipment. Hot and cold running water outlets shall be provided as needed for sanitation. There shall be a minimum of five feet between a farm milk tank at the widest point and the milk room wall where the wash vats are installed. Except for currently installed milk tanks, there shall be at least three feet between any farm tank or farm tank appurtenance and the milk room walls.
  2. Passageway. The passageway between the milk room and parlor shall have at least a 3-foot clearance for ingress and egress. Equipment such as milk receivers, dump tanks, or coolers that are part of an enclosed milk line system may be installed in the passageway if:
    - a. A 3-foot clearance is allowed for the walkway;
    - b. Space is provided between walls and equipment to permit the disassembly of equipment for cleaning or inspection;
    - c. The passageway between the parlor and the milk room may be closed at one end. The parlor may be separated from the passageway by a pipe rail fence if the slope of the parlor floor is away from the passageway. If the slope of the parlor floor is toward the passageway, a concrete wall between the passageway and parlor floor of at least 12 inches in height shall be provided.
    - d. Rustless pipe sleeves with tight-fitting flanges and protective closures shall be installed where the milk lines, hoses for tankers, and wash lines go through the walls of the passageway.
  3. Floors.
    - a. The floors of the milk room, and passageway, if provided, shall be constructed of four-inch thick concrete, or other impervious material troweled smooth. The milk room floor shall slope at least 1/4 inch per 12 inches to a vented trapped drain. The passageway floor shall slope at least one inch per 10 feet toward a drain or gutter. All floor and wall junctions shall have at least a two-inch radius cove.
    - b. Drainage from the milk room may be independent from or connected to the parlor drainage. Floor drains shall be vented, have a water trap, and a clean-out plug. All floor drains and pipes under the milk room and parlor floor shall meet all applicable plumbing codes.
  4. Walls and ceilings.
    - a. All walls and ceilings shall be constructed of a light colored, impervious material with a smooth finish. If concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete.

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- b. The main ceiling height shall allow sufficient room for access to, and sampling from, the bulk milk storage tank.
- 5. Doors and windows.
  - a. All opening windows shall have at least 16-inch mesh screen.
  - b. Exterior doors of the milk room shall open outward, be solid, self-closing, and tight fitting. Any door from the passageway shall be a solid door, metal covered on both sides of the bottom half. Wooden door jambs or frames shall terminate six inches above the floor, and the concrete floor cove shall extend to the jambs or frames.
  - c. All working areas in the milk room shall contain at least 30 foot-candles of natural and/or artificial lighting.
- 6. Ventilation. The milk room shall provide adequate ventilation to minimize condensation on ceilings, walls and equipment. Vents shall be protected from the penetration of insects, dust and other contaminants. The milk room shall contain one or more ceiling vents. Ceiling vents shall not be installed directly above bulk milk storage tanks.
- 7. Tanker loading area. A tanker-loading area, at least 10 feet by 12 feet, paved, curbed, and sloped to drain, shall be provided adjacent to the milk room where milk is transferred from a farm tank to a milk tanker. If a tanker is used instead of a farm tank, a tanker shelter shall be provided that complies with the construction, light, drainage, and general maintenance requirements of the milk room.
- 8. Farm tank installations. All farm tanks for the cooling and storing of milk shall be installed in the milk room. Bulk milk tanks equipped with agitator shaft opening seals may, if approved by the Dairy Supervisor, be bulk-headed through a wall.
- F. Parlor.
  - 1. Floors.
    - a. The floors shall be constructed of four-inch thick concrete or other, light-colored, impervious material, finished smooth. The floors, alleys, gutters, mangers, and curbs shall slope lengthwise toward a drain or gutter. The cow standing platform in the elevated stall parlor shall slope sufficiently to provide for adequate drainage and cleaning.
    - b. Floor and wall junctions shall have at least a two-inch radius cove and shall be an integral part of the floor.
    - c. The cow standing platform, litter alley, holding corral and concrete lane shall be treated to prevent slipping.
  - 2. Walls. All walls shall be constructed of a light-colored, impervious material. If necessary, means shall be provided to prevent the entrance of swine, fowl and other prohibited animals. All walls shall be finished smooth on the inside with the top ledge rounded on open walls. If a parlor wall forms a part of the holding corral or an entrance or exit lane, it shall be finished smooth on the outside. If a concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete. In elevated stall parlors, the wall under the cow standing platform adjacent to the milking area shall be finished smooth and designed to prevent leakage.
  - 3. Stalls. A tandem stall and a herringbone stall shall have a smooth, flat, non-absorbent splash panel behind each cow.
    - 4. Light. Natural and/or artificial light shall be at least 30 foot-candles at the floor level and located to minimize shadows in the milking area.
    - 5. Gutters.
      - a. All parlors shall have gutters to catch the defecation of cows while in the stall and for any water used for rinsing.
      - b. Pipe used for parlor gutter drainage shall be at least four inches in diameter and meet applicable plumbing codes.
    - 6. Curbs.
      - a. In elevated stall parlors, the cow standing platform shall be curbed on the side next to the milking alley and the curb shall be at least six inches in height with the top rounded to retain the elevated stall floor washings. This curb may be lowered to not less than two inches at the area where the milking machines are applied. Metal curbs shall be free of voids and sealed to stall and floor or wall.
      - b. Floor level parlors shall contain a curb under the stanchion line at least six inches wide, 12 inches high from the stall floor, except if metal mangers are used the top of this curb shall be rounded.
    - 7. Stanchions.
      - a. The stanchion shall be metal or other impervious, easily cleanable material.
      - b. Mangers and feed boxes in all types of parlors shall be constructed of impervious materials, finished smooth, and provided with drainage outlets at low points.
    - 8. Ventilation. Adequate ventilation shall be provided in the parlor, holding corral, and wash area, if roofed.
  - G. Roof drainage from parlors and milk rooms shall not drain into a corral unless the corral is paved and properly drained.
  - H. If animals are fed in the parlor, feed storage facilities shall be provided. Feed storage rooms, when installed, shall be partitioned from the parlor and shall be fly and rodent proof. The feed discharge area of the bulk feed storage shall be concrete or other impervious material that is curbed and drained. Bulk feed may discharge directly into the parlor. A bulk feed tank located opposite the passageway shall be at least six feet from the milk room. Overhead feed storage is permissible if it is fly, rodent, and dust tight. Feed shall be conveyed to the manger or feed box in a tightly closed dust-free system. Overhead metal feed tanks may be used.
  - I. Facilities to store dairy supplies shall be provided. Only supplies that come in contact with the milk or milk contact surface of the milk-handling equipment may be stored in the milk room and shall be protected from toxic materials, vectors, and dust.

**Historical Note**

Former Regulations 1 - 11. Section R3-2-806 renumbered from R3-5-06 (Supp. 91-4). Section amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3).

**R3-2-807. Frozen Dessert Plant and Processing Standards****A. Plant and Processing Standards.**

- 1. The plant area shall be clean, orderly and free from refuse, rubbish, smoke, dust, air pollution and strong or foul odors originating on the premises. A drainage system shall be provided for the rapid drainage of water away from the building. If unsatisfactory conditions occur in the plant area, with respect to smoke, dust, air pollution,

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- or odors, provision shall be made to protect the frozen desserts and ingredients from contamination.
2. Sewage and industrial waste shall be disposed in accordance with the provisions of the state or county environmental laws. Refuse, unless in appropriate containers, shall not accumulate on the premises.
  3. Roads, driveways, yards, and parking areas adjacent to the plant shall be paved or treated to prevent dust and shall be smooth and well drained to prevent accumulation of stagnant liquid.
  4. Buildings.
    - a. The building exterior and interior shall be kept clean and in good repair.
    - b. In processing and packaging areas, outside doors, windows, skylights, transoms, or other openings shall be protected and operated to preclude the entrance of dust, insects, vermin, rodents, and other animals. Outside doors shall be self-closing whenever practical. Window sills on new construction shall slope inward at least 45-degrees. Outside conveyor openings and other outside openings shall be protected by doors, screens, flaps, fans, or tunnels. Pipes shall be sealed where they extend through exterior walls. Outside pipe openings shall be covered when not in use.
    - c. Rooms. All rooms, compartments, coolers, freezers, and dry storage space in which any raw material, packaging or ingredient supplies, or finished products are handled, processed, manufactured, packaged, or stored shall be constructed to ensure clean and orderly operations.
      - i. Boiler and tool rooms shall be separate from rooms where milk products are received, where processing and packaging is done, or where equipment, facilities, and containers are washed and stored.
      - ii. Toilets and dressing rooms shall be conveniently located and toilets shall not open directly into any room where milk products, ingredients, or frozen desserts are handled, processed, packaged, or stored. Toilet and dressing room doors shall be self-closing. Toilets and dressing rooms shall be well vented to the outer air, and contain hand-washing facilities, hot and cold running water, soap, single-service towels or air dryers. Hand-washing signs shall be posted. Fixtures shall be kept clean and in good repair.
      - iii. Rooms for receiving milk and other raw ingredients and materials shall be separated from the processing area to avoid contamination of frozen desserts in the processing operations, except that products in cans or other closed containers may be received and transferred to a cooler or other storage without being received in a separate room.
      - iv. If tank truck deliveries of milk, milk products, or frozen desserts mix are made, other than occasional deliveries, a tank truck room large enough to accommodate the entire truck shall be provided with equipment for cleaning. A covered outside unloading pad may be used for truck tankers with filter dome vents, if washing and sanitizing facilities are provided. If a tank truck room is not located on the premises of an existing plant, facilities for washing and sanitizing tank trucks shall be provided at another location where the washing and sanitizing facility is free from dust and extreme weather conditions.
    - v. Except for existing processing and packaging rooms, there shall be at least three feet clearance between installations and the wall to prevent overcrowding and to facilitate cleaning. Existing facilities not meeting this requirement shall be permitted if cleaning can be accomplished and permission is obtained from the Dairy Supervisor or the Dairy Supervisor's designee. All processing and packaging rooms shall be equipped with hand-washing facilities including hot and cold running water, soap, single-service towels, or air-dryer.
    - vi. Refrigeration rooms and units shall be constructed of impervious material and shall be kept clean and sanitary.
    - vii. Separate rooms shall be provided so that the manufacturing, processing, and packaging are separate from the cleaning and sterilizing of utensils and containers.
    - viii. No person shall reside or sleep in a frozen desserts plant or in any room connected with it. No animal shall be kept or permitted in a frozen desserts plant.
  - d. Walls and ceilings shall be constructed of smooth, washable, impervious material. They shall be light-colored, kept clean and sanitary, and refinished when discolored. A darker color material may be used to a height not exceeding 60 inches from the floor.
  - e. Floors shall be an impervious, smooth-surfaced material that may be flushed clean with water. Except for hardening rooms, floors shall slope 3/16 to 1/4 inch per foot to one or more trapped outlets. No open channel drainage is permitted in new construction or in extensive remodeling of existing plants. Floor drains are not required in freezers used for storing frozen desserts or frozen ingredients. However, the floors shall be sloped to drain to at least one exit and shall be kept clean. Floors in new construction or extensive remodeling shall be joined and coved with the walls to form water-tight joints. Smooth wood floors may only be permitted in rooms where there will be no spillage of product or ingredients, such as rooms where wrapped or packaged frozen products are packed in multiple-pack containers. Toilets and dressing rooms shall have impervious floors and smooth walls.
  - f. Plumbing shall be installed to prevent back-up of sewage or odors into the plant.
  - g. All rooms and compartments, including storage space for materials, ingredients, and packages, and toilets and dressing rooms, shall be ventilated to maintain sanitary conditions, and to minimize or eliminate condensation and odors.
  - h. Lighting, whether natural or artificial, shall be well distributed in all rooms and compartments. Light bulbs and fluorescent tubes shall be protected so that broken glass cannot fall into any product or equipment.
    - i. Rooms where frozen desserts are handled, processed, manufactured, or packaged, or where equipment or utensils are washed, shall have at

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- least 30 footcandles of light on all working surfaces;
- ii. Areas where dairy products are examined for condition and quality shall have at least 50 footcandles of light; and
  - iii. All other rooms shall have at least 20 footcandles of light 30 inches above the floor.
- i. Containers for collecting and holding waste other than dry waste paper and other dry packaging material shall be constructed of metal or other impervious material, covered with tight-fitting lids or covers, and emptied or disposed of daily or at least once during the shift. Clothing, tools, equipment, and other material not used with the frozen desserts operations shall not accumulate in the work areas or in the storage rooms.
  - j. A room or other space separate from any room or space where milk products or frozen desserts are received, handled, processed, packaged, or stored, shall be provided where employees may change and store clothing. This area shall contain hand-washing facilities, with hot and cold running water, soap or other detergents, and single-service towels or air dryers. Self-closing containers shall be provided for used towels and other wastes.
  - k. Approval of plans. The Dairy Supervisor may allow variances to the requirements in this Section, if protection from contamination is provided for all products handled.
5. Water and steam.
    - a. Potable hot and cold water shall be available in sufficient quantity for all plant operations and facilities. Non-potable water may be used for boiler feed and condenser water, if the water lines are separated from the water lines carrying the potable water supply and the equipment is constructed to preclude contamination of any product or product contact surface. If water for washing frozen desserts equipment and utensils and for use in rehydration or as an ingredient in any frozen desserts is obtained from other than a regulated municipal supply, a bacteriological examination shall be made of the water supply at least once every six months by a bacteriologist to determine potability. If the examination indicates contamination of the water supply, a device shall be installed to eliminate the contamination.
    - b. If steam is used, it shall be provided in sufficient volume and pressure for the operation of equipment or for sterilization, or both. Steam that comes in contact with frozen desserts, ingredients, or with the product contact surface, shall be steam of culinary quality as prescribed in Appendix H, Part III, Culinary Steam – Milk and Milk Products, of the PMO.
  6. Equipment and utensils.
    - a. New equipment shall meet applicable 3-A Sanitary Standards. All equipment, including connections, coming in contact with frozen desserts or ingredients during processing, manufacturing, handling, or packaging, shall be made of stainless steel. No equipment shall be permitted that is rusted, corroded, or in any other condition that may result in contamination of the frozen desserts. Non-metallic parts with product contact surfaces shall consist of material that meets 3-A Sanitary Standards for Plastic or Rubber and Rubber-like Materials or shall be of plastic approved by the United States Food and Drug Administration. Equipment, apparatus, and piping shall be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Stationary equipment, including welded sanitary lines and apparatus that permit in-place-cleaning, may be used if prior approval from the Dairy Supervisor has been obtained. C-I-P piping and welded sanitary pipeline systems shall be permitted if engineered and installed according to 3-A Accepted Practices for Permanently Installed Sanitary Product and Solution Pipelines and Cleaning Systems. If rigid pipelines are not practical, plastic pipelines listed in the 3-A Accepted Practices may be used. Product pumps shall be sanitary and easily dismantled for cleaning or shall be constructed to allow C-I-P procedures. All parts of interior surfaces of equipment, pipes (except C-I-P piping), or fittings, including valves and connections shall be accessible for inspection. The Dairy Supervisor may require other equipment, apparatus or piping if stationary equipment, apparatus or piping cannot or is not being effectively cleaned-in-place.
  - b. Equipment for storage and distribution of liquid sweetening agents shall be constructed of metals, alloys, or other material that will withstand corrosive action by the ingredient. The equipment and the ingredients shall be protected from contamination.
  - c. Pasteurizing equipment shall meet the standards prescribed in 3-A Accepted Practices for Sanitary Construction, Installation, Testing and Operation of High-Temperature-Short-Time Pasteurizers and 3-A Sanitary Standards for Non-Coiled Type Batch Pasteurizers. Batch-type pasteurizers shall be provided with close-coupled outlet valves protected against leakage and shall be equipped with thermometers that record the information of each day's operation on separate charts. Air space thermometers and indicating thermometers shall be provided to check the recording thermometers. The recording thermometer chart shall contain the date, the identity of the pasteurizing number, the batch and product name, and the signature of the employee responsible for this information. The record shall be kept on file at the plant for at least six months. The accuracy of the thermometer shall be checked weekly and the date and name of the person responsible for the weekly accuracy check shall be recorded.
  - d. Every plant shall contain hardening rooms, refrigerating rooms, or refrigerated cabinets with space for storage of frozen desserts and perishable ingredients.
  - e. All utensils used in the receiving, storing, processing, manufacturing, packaging, and handling of frozen desserts or any ingredients shall be of smooth, stainless steel, or plastic listed in the 3-A Accepted Practices and shall have flush seams. Utensils that are badly worn, rusted, or corroded or that cannot be rendered clean and sanitary by washing shall not be used. Lead solder shall not come in contact with milk or milk products or frozen desserts.
7. Cleaning and sanitizing.
    - a. Cleaning and sanitizing. Equipment, sanitary piping and utensils used in receiving, storing, processing, manufacturing, packaging, and handling frozen desserts and ingredients, and all product contact surfaces of homogenizers, high pressure pumps,

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- packing glands on agitators, pumps and vats, and lines shall be kept clean. Before use, all equipment coming in contact with milk products or frozen desserts shall have a bactericidal or sanitizing treatment. Equipment not designed for C-I-P cleaning shall be disassembled, thoroughly cleaned and sanitized. Biodegradable dairy cleaners, wetting agents, detergents, sanitizing agents, or other similar material that does not adversely affect or contaminate the frozen desserts or ingredients may be used. Steel wool or metal sponges shall not be used to clean any equipment or utensils with product contact surfaces. C-I-P cleaning shall be used only on equipment and pipeline systems designed, engineered, and installed for that type of cleaning. Other equipment and areas in the plant shall be thoroughly cleaned with a commercial vacuum cleaner or other means and the material obtained shall be burned or disposed of so that any insects are destroyed and milk products and frozen desserts will not be contaminated. Exhaust stacks, elevators and elevator pits, conveyors and similar facilities shall be inspected and cleaned regularly.
- b. Equipment shall be sanitized by using one of the following methods:
    - i. Using 180° F water for at least two minutes.
    - ii. Using steam under pressure for at least two minutes or until all parts of the equipment being sanitized have reached 180° F, or the condensate off the equipment remains at 180° F for at least two minutes.
    - iii. Using chlorine with a residual of at least 50 ppm after one minute contact with equipment, or if sprayed, with a residual of at least 100 ppm after five minutes.
    - iv. Using any other sanitizing substance prescribed in Appendix F of the PMO.
8. Pasteurization and cooling.
    - a. All frozen desserts mix, except for flavoring agents used in frozen desserts, shall be pasteurized.
    - b. Frozen desserts mix shall be pasteurized by heating every particle to:
      - i. 155° F for 30 minutes,
      - ii. 160° F for 15 minutes,
      - iii. 165° F for 10 minutes,
      - iv. 175° F for 25 seconds,
      - v. 180° F for 15 seconds,
      - vi. 200° F for three seconds, or
      - vii. 210° F with no holding time.
    - c. High-temperature-short-time pasteurizers shall have the thermal limit controller set and sealed so that forward flow of the product cannot start unless the temperature at the controller sensor is above the required temperature and forward flow of the product cannot continue during descending temperatures if the temperature is below the required temperature. The seal shall be applied by the Dairy Supervisor or the Supervisor's designee after testing and shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee. The system shall be designed so that no product can bypass the controller sensor. The controller sensor shall not be removed from its proper position during the pasteurization process.
    - d. After pasteurization all mix shall be cooled immediately to 45° F or less and shall be maintained at that temperature until frozen. Milk, cream, and other fluid milk products other than sterilized, evaporated or sweetened condensed milk in hermetically sealed containers shall be stored at 45° F or less.
      - i. Refrigerated vehicles or approved insulated containers shall be used when transporting frozen desserts mix from the manufacturing or other plant to a retail manufacturer, and
      - ii. Mix shall be moved from coolers or refrigeration units in a manufacturing plant to freezers by using pipes, tubing, or other means listed in the Permanently Installed Product and Solution Pipelines and Cleaning Systems Used in Milk and Milk Product Processing Plants section of the 3-A Accepted Practices.
  9. Storage.
    - a. Utensils and equipment. Utensils and portable equipment used in processing, handling, or packaging of frozen desserts shall be stored above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious, corrosion-resistant material.
    - b. Supplies and containers. Whenever possible, supplies shall be kept in a room separate from the processing, handling, and packaging of frozen desserts and under conditions that result in keeping the materials clean and free from dust, moisture, insects, rodents, or other possible contamination. Supplies shall be arranged to permit cleaning of the area and easy inspection and access. Insecticides and rodenticides shall be plainly labeled, segregated, and stored in a separate room or cabinet away from the edible material or packaging supplies. Caps, parchment papers, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers for frozen desserts or ingredients shall be stored only in sanitary tubes, wrappings, or cartons and kept in a clean, dry place until used and shall be handled in a sanitary manner.
    - c. Raw milk products. Raw products for use in frozen desserts that are conducive to bacterial growth shall be handled and stored to minimize bacterial growth. When stored, raw products shall be maintained at 45° F or lower until processing commences.
    - d. Non-refrigerated products. Products such as non-fat dry milk and other frozen desserts ingredients that do not require refrigeration for proper storing shall be placed in dry storage to be easily accessible for inspection and removal, and for adequate cleaning of the room. Dunnage, pallets or other similar method of elevation shall be used. Frozen desserts or ingredients shall not be stored with any product that would damage them or impair their quality. Opened containers of ingredients shall be protected from contamination.
    - e. Refrigerated products. All products that require refrigeration shall, except as otherwise specified, be stored under conditions of temperature and humidity that best maintain quality and condition. Products shall not be stored directly on wet floors or be exposed to foreign odors or conditions such as dripping or condensation that may cause package or product damage.
  10. Notification of change in products to be manufactured. Any person manufacturing only frozen desserts with butterfat, or only frozen desserts with fats other than butter-

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fat, and uses the other type of fat shall first notify the Dairy Supervisor.

11. Clearing lines and equipment. If the same equipment is used for processing, pasteurizing, and packaging frozen desserts made with dairy products and frozen desserts made with vegetable fats, oils, or proteins, any remaining product shall be completely removed from the lines and equipment and sanitized before introducing another product into the lines and equipment. All equipment and lines shall be sanitized either at the end or beginning of each day's operations.
12. Packaging and containers.
  - a. Frozen desserts shall be packaged in commercial containers using packaging material that protects the product from contamination. The packaging, cutting, molding, dispensing, and other handling or preparation of frozen desserts and their ingredients shall be in a sanitary manner. Frozen dessert containers shall be filled at the place of pasteurization using approved mechanical equipment. Existing manual processes may be permitted if done in a manner that prevents all contact surface contamination and is approved by the Dairy Supervisor.
  - b. Multi-use containers for frozen desserts shall be kept clean and dry. If used for transporting frozen desserts, the containers shall be:
    - i. Rinsed immediately after emptying,
    - ii. Cleaned upon return to the plant, and
    - iii. Protected from contamination during storage.
  - c. Metal cans and containers shall be free from rust and corrosion.
  - d. Paper and plastic containers, liners, covers, or other materials coming in contact with frozen desserts shall be free from contamination.
  - e. Single-service containers shall not be reused.

**B. Personnel.**

1. Plant employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling their hands. Employees shall keep their hands clean and follow good hygienic practices while on duty. Expecting or using tobacco in rooms or compartments where frozen desserts or ingredients are exposed is prohibited. Clean, white, or light-colored, washable outer garments shall be worn by all employees engaged in handling dairy products, mix or frozen desserts. Hair coverings for head and facial hair shall be worn by all employees engaged in the processing, pasteurizing, packaging, handling, and storage of frozen desserts, product containers, and utensils.
2. Frozen desserts shall be handled so that there is no direct contact between an employee's hands and the product.
3. A person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portions of the body shall not work in any plant processing or packaging room or in any capacity resulting in contact with milk products or frozen desserts or equipment used in the processing or handling of milk products or frozen desserts. An employee returning to work following illness from a communicable disease shall provide a certificate from a physician attesting to the employee's complete recovery before processing or handling milk products or frozen desserts.

**C. Quality standards.**

1. Milk products used in the manufacture of frozen desserts shall meet the following standards:

**Product Standard Plate Count Not to Exceed**

Raw Milk	500,000 per ml.
Pasteurized Milk	50,000 per ml.
Raw Cream	500,000 per ml.
Pasteurized Cream	100,000 per ml.

2. Butter, 80% cream, plastic cream, mixtures of butterfat, sugar or sweetening agent, moisture and flavoring, condensed milk, mixes and all other similar products shall meet the following standards:

**Bacterial Standards Not to Exceed**

Standard Plate Count	50,000 per gram
Coliform Count	20 per gram
Yeast	50 per gram
Mold	50 per gram

3. Powdered non-fat dry milk, dry whey, and dry buttermilk shall meet the PMO standards.
4. Fats and oils other than from milk shall meet the standards of the United States Food, Drug and Cosmetic Act as amended, or those of any applicable state regulation for fats and oils of food grade standards.
5. Frozen desserts in broken or opened containers or in containers from which the product has been partially used may be returned to the plant for examination but shall not be used or sold for making frozen desserts.
6. All reconstituted frozen desserts shall be pasteurized before packaging.

**D. Labeling.**

1. All packages of frozen desserts, including cans or other containers of frozen desserts mix but not including frozen desserts packaged in accordance with a customer's request and in the presence of the customer, shall be labeled as prescribed in the federal Food, Drug and Cosmetic Act, as amended.
2. Each frozen dessert package shall contain:
  - a. The code number assigned by the Dairy Supervisor, identifying the specific manufacturing plant; or
  - b. The name and address of the frozen dessert manufacturer.

- E. License suspension. The Dairy Supervisor may suspend the license of a frozen dessert plant whenever the bacteria count, coliform determination, yeast or mold count exceeds the quality standards for frozen desserts in three out of the last five samples taken on separate days. In addition, the Dairy Supervisor may suspend the permit of a frozen dessert plant for failure to comply with any of the provisions of this Section.

**Historical Note**

Adopted effective December 7, 1976 (Supp. 76-5).  
 Amended effective December 5, 1977 (Supp. 77-6). Section R3-2-807 renumbered from R3-5-07 (Supp. 91-4).  
 Amended effective December 2, 1998 (Supp. 98-4).

**R3-2-808. Frozen Desserts Reconstituted from Powdered Mixes**

Except for R3-2-807(A)(8), retail establishments that reconstitute frozen desserts from powdered mixes and dispense the desserts on the premises shall comply with the requirements prescribed in R3-2-807 and the following standards:

1. All equipment, containers, and utensils shall be washed and air-dried after each use and shall be sanitized before each use, in accordance with the sterilization standards established in subsection R3-2-807(A)(7)(b).
2. When not in use, all equipment, utensils, and containers shall be stored above the floor in a clean, dry location free from dust, moisture, insects, rodents, or other possible sources of contamination.

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3. Excess quantities of the reconstituted frozen dessert shall not be made from the powdered mix in advance and stored outside the dispensing machine.
4. Frozen desserts shall be reconstituted according to the directions provided by the powdered mix manufacturer.

**Historical Note**

Adopted effective May 11, 1977 (Supp. 77-3). Section R3-2-808 renumbered from R3-5-08 (Supp. 91-4). Section R3-2-808 renumbered to Section R3-2-809; new Section R3-2-808 adopted effective December 2, 1998 (Supp. 98-4).

**R3-2-809. Medicinal, Chemical, and Radioactive Residues in Milk**

- A.** All dairies shall comply with the following procedures to exclude medicinal, chemical, and radioactive residues from milk intended for human consumption:
1. Identify all cows that have been treated with or have consumed medicinal, chemical, and radioactive agents capable of being secreted in milk;
  2. Maintain a written record of the date of treatment, type, and quantity of the medicine or chemical administered to each cow;
  3. Milk all treated cows last, or with separate equipment to prevent contamination of the wholesome milk supply;
  4. Clean and sanitize all equipment, utensils, and containers used in the handling of milk from the treated cows before the equipment is used in the handling of any milk intended for human consumption; and
  5. Discard all milk from the treated cows for the period of time recommended by the attending veterinarian or as indicated on the package or label of the medicine used in the treatment of the cow.
- B.** Enforcement.
1. When the residue of a chemical, medicinal, or radioactive agent is found in the milk of a dairy and the Dairy Supervisor determines that the residue may be deleterious to human health, the Director shall immediately suspend the dairy from further selling, offering for sale, or distributing milk for human consumption until:
    - a. The Dairy Supervisor determines that the practice causing the contamination of the milk has been corrected and the dairy is in compliance with the procedures established in subsection (A);
    - b. Any milk that has not been excluded from human consumption as required by subsection (A) is appropriately discarded; and
    - c. The first milk shipment following suspension indicates negative test results for medicinal, chemical, or radioactive residues.
  2. If the Dairy Supervisor determines that a dairy is not in compliance with the procedures established in subsection (A), the Dairy Supervisor may suspend the dairy until the prescribed procedures are observed.

**Historical Note**

Section R3-2-809 renumbered from R3-2-808 and amended effective December 2, 1998 (Supp. 98-4).

**R3-2-810. License Fees**

During fiscal year 2020, an applicant shall pay the following fee to obtain or renew a dairy license:

1. For a license to operate a milk distributing plant or business: \$300 plus \$2,500 per pasteurizer.
2. For a license to operate a manufacturing milk processing plant: \$100.

3. For a license to engage in the business of producer-distributor as an interstate milk shipper listed facility: \$150 plus \$2,500 per pasteurizer.
4. For a license to engage in the business of producer-distributor: \$150.
5. For a license to engage in the business of producer-manufacturer: \$25.
6. For a license to engage in the manufacture of trade products: \$100.
7. For a license to engage in the business of selling at wholesale milk or dairy products, or both: \$100.
8. For a license to sample milk or cream: an initial fee of \$50 and a renewal fee of \$30.

**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3).

**R3-2-811. Dairy Farm Permit**

- A.** A dairy farm, as defined in the PMO, may apply for a PMO milk producer permit by submitting the following information about the dairy farm on a form provided by the Department:
1. Legal name,
  2. Physical and mailing address,
  3. Telephone number,
  4. Owner's name,
  5. Herd size,
  6. Daily milk production,
  7. Water source,
  8. Waste water disposal system,
  9. Number of bulk storage tanks, and
  10. Certification that the dairy farm facilities comply with Grade A requirements.
- B.** An applicant for a dairy farm permit shall demonstrate compliance with the minimum standards set out in the PMO by a Department inspection.
- C.** A permittee shall maintain compliance with the minimum standards set out in the PMO and shall be subject to inspection by the Department in accordance with the PMO.
- D.** The Department may suspend a permit for a permittee's failure to comply with the minimum standards and may revoke a permit if the permittee fails to correct deficiencies within a reasonable time.
- E.** Dairy farm permits are not transferable.

**Historical Note**

New Section made by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired; new Section made by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3).

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**ARTICLE 9. EGG AND EGG PRODUCTS CONTROL**

**R3-2-901. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-701, 3-702, 3-703 and 3-704, the following shall apply to this Article:

“Lot” means any quantity of two or more eggs.

“Spot-check” sample means any sample less than a representative sample described in the chart in R3-2-903(B).

“United Egg Producers Animal Husbandry Guidelines” means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2008 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Ste. 230, Alpharetta, GA 30005.

“United Egg Producers Certified” means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.

“United Egg Producers Certified logo” means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.

**Historical Note**

Former Rule 1; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-01 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-901 (Supp. 82-1). Section R3-6-101 renumbered to R3-2-901 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-902. Standards, Grades, and Weight Classes for Shell Eggs**

All standards, grades, and weight classes for shell eggs shall be as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and the United States Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Ave., S.W., Washington, DC 20250-0259, or online at [www.ams.usda.gov/poultry/standards/index.htm](http://www.ams.usda.gov/poultry/standards/index.htm). “AMS” means Agricultural Marketing Service, United States Department of Agriculture.

**Historical Note**

Former Rule 2; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-02 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-902 (Supp. 82-1). Section R3-6-102 renumbered to R3-2-902 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 14 A.A.R. 892, effective May 3, 2008 (Supp. 08-1).

**R3-2-903. Sampling: Schedule and Methods for Evidence**

- A. An inspector may conduct random spot-check sampling of a lot of eggs to determine whether the lot meets minimum quality and weight standards and is in compliance with R3-2-907(B).
- B. Representative egg sampling, under A.R.S. § 3-710(G), shall be based on the following table. A lot that does not meet minimum quality or weight standards or is not in compliance with R3-2-907(B) shall receive a warning notice hold tag.

Minimum Number of Cases and Cartons Comprising a Representative Sample			
Lot size of cartons	Minimum eggs for inspection	Lot size of 30 doz. per case	Minimum cases for inspection <sup>1</sup>
1 - 4 cartons	All	1 case	1 case
5 - 30 cartons inclusive	50	2 - 10 cases inclusive	2 cases
31 - 120 cartons inclusive	100	11 - 25 cases inclusive	3 cases
120 - 210 cartons inclusive	200	26 - 50 cases inclusive	4 cases
211 - 315 cartons inclusive	300	51 - 100 cases inclusive	5 cases
		101 - 200 cases inclusive	8 cases
		201 - 300 cases inclusive	11 cases
		301 - 400 cases inclusive	13 cases
		401 - 500 cases inclusive	14 cases
		501 - 600 cases inclusive	16 cases
		For each additional 50 cases or fraction of a case in excess of 600 cases	1 case

<sup>1</sup>An inspector shall take 100 eggs from each case for inspection.

- 1. An inspector may draw additional samples to determine whether the lot meets the minimum requirements.
- 2. When loose eggs are out of the case, the sample shall be based on a carton.
- 3. Eggs shall be sampled on a 30-dozen-case basis. When eggs are packed in other lot quantities, an inspector shall convert the quantity of eggs to the equivalent 30-dozen-case basis to establish the official sample size.

**Historical Note**

Former Rule 3; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-03 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-903 (Supp. 82-1). Section R3-6-103 renumbered to R3-2-903 (Supp. 91-4). Section repealed, new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2,

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2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-904. Quarterly Report Periods**

Quarterly reports are due as prescribed in A.R.S. § 3-716(D). The quarterly report periods for inspection fees are:

1. July 1 to September 30,
2. October 1 to December 31,
3. January 1 to March 31, and
4. April 1 to June 30.

**Historical Note**

Former Rule 4; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-04 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-904 (Supp. 82-1). Section R3-6-104 renumbered to R3-2-904 (Supp. 91-4). Section repealed, new Section R3-2-904 renumbered from R3-2-907 and amended effective July 13, 1995 (Supp. 95-3).

**R3-2-905. Inspection Fee Rate**

- A. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per dozen on all shell eggs sold as prescribed in A.R.S. § 3-716(A).
- B. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per pound on all egg products sold as prescribed in A.R.S. § 3-716(A).

**Historical Note**

Former Rule 5; Former Section R3-6-05 renumbered as Section R3-2-905 (Supp. 82-1). Section R3-6-105 renumbered to R3-2-905 (Supp. 91-4). Section repealed, new Section R3-2-905 renumbered from R3-2-908 and amended effective July 13, 1995 (Supp. 95-3). Amended by emergency rulemaking at 12 A.A.R. 4063, effective October 1, 2006 for 180 days (Supp. 06-4). Emergency renewed at 13 A.A.R. 1509, effective April 9, 2007 for 180 days (Supp. 07-2). Amended by final rulemaking at 13 A.A.R. 1639, effective June 30, 2007 (Supp. 07-2).

**R3-2-906. Violations and Penalties**

- A. A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:
  1. Category A:
    - a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
    - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;
    - c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;
    - d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container, unless the eggs are exempt under A.R.S. § 3-715(K);
    - e. Failing to maintain records and reports required by this Article;
    - f. Failing to label a carton, case, or container with one size, one grade, one brand name, or, if applicable under R3-2-907(B), the United Egg Producer Certified logo;
    - g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;

- h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
  - i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products.
  - j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907(B).
  - k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907(A).
2. Category B:
    - a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701(10); or
    - b. Advertising, representing, or selling out-of-state eggs as local eggs.
  3. Category C:
    - a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
    - b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower; or
    - c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F.

- B. Any violation of this Article or of A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.
- C. Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is:

Number of Violations	Category A	Category B	Category C
1	Warning	Warning	Warning
2	\$50	\$50	\$100
3	\$100	\$100	\$200
4		\$150	\$400
5		\$200	\$500
6		\$250	
7		\$300	

**Historical Note**

Former Rule 6; Amended effective February 19, 1982. Former Section R3-6-06 renumbered as Section R3-2-906 (Supp. 82-1). Section R3-6-106 renumbered to R3-2-906 (Supp. 91-4). Former Section R3-2-906 renumbered to R3-2-903, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4058, effective October 7, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-907. Poultry Husbandry; Standards for Production of Eggs**

- A. All egg-laying hens in this state shall be raised according to United Egg Producers Animal Husbandry Guidelines.
- B. All eggs sold in this state produced by hens shall be from hens raised according to the United Egg Producers Animal Husbandry Guidelines. All eggs shall display the United Egg Producers Certified logo on their cases, cartons, and containers, or the egg dealer shall annually provide the Department with a copy of a current independent third-party audit that demon-

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strates that the eggs were produced by hens raised according to UEP Animal Husbandry Guidelines.

- C. This rule does not apply to egg producers operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs and also does not apply to any hens that are raised cage-free or any eggs produced by hens that are raised cage-free.

**Historical Note**

Former Rule 7; Former Section R3-6-07 renumbered as Section R3-2-907 (Supp. 82-1). Section R3-6-107 renumbered to R3-2-907 (Supp. 91-4). Section R3-2-907 renumbered to R3-2-904 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-908. Sanitary Standards; Egg Processing**

All egg producers in this state shall meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008. This material is incorporated by reference, does not include any later editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007.

**Historical Note**

Former Rule 8; Amended effective October 1, 1979 (Supp. 79-5). Former Section R3-6-08 renumbered as Section R3-2-908 (Supp. 82-1). Amended effective January 1, 1985 (Supp. 84-6). Amended effective December 30, 1987 (Supp. 87-4). Amended effective March 23, 1990 (Supp. 90-1). Section R3-6-108 renumbered to R3-2-908 (Supp. 91-4). Section R3-2-908 renumbered to R3-2-905 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2).

**R3-2-909. Repealed****Historical Note**

Former Rule 9; Former Section R3-6-09 renumbered as Section R3-2-909 (Supp. 82-1). Section R3-6-109 renumbered to R3-2-909 (Supp. 91-4). Section repealed effective July 13, 1995 (Supp. 95-3).

**ARTICLE 10. AQUACULTURE****R3-2-1001. Definitions**

In addition to the definitions provided in A.R.S. § 3-2901, the following shall apply unless the context otherwise requires:

1. "Certificate of Aquatic Health" is an official document from an issuing state or an equivalent form published by the United States Fish and Wildlife Service or the United States Department of Agriculture attesting that the live aquatic animals described thereon have been inspected and are free of the diseases and causative agents set forth in R3-2-1009.
2. "Department" means the Arizona Department of Agriculture.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1002. Fees for Licenses; Inspection Authorization and Fees**

- A. License fees are established as follows:
1. Aquaculture facility: \$100 annually.
  2. Fee fishing facility: \$100 annually.
  3. Aquaculture processor: \$100 annually.
  4. Aquaculture transporter: \$100 annually.
  5. Special licenses: \$10 annually.

- B. An expired license may be renewed within 90 days after expiration by payment of a \$50 late fee.
- C. Upon request of the licensee, the Department shall assess the licensed facility and, if applicable, certify the facility is free from infectious diseases and causative agents listed in R3-2-1009 before issuing a Certificate of Aquatic Health. All expenses properly incurred in the certification procedure of the inspection, including time, travel, and laboratory expenses, shall be paid to the Department by the licensee requesting certification.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-1003. General Licensing Provisions**

- A. An applicant for a license to operate an aquaculture facility or a fee fishing facility, or to operate as an aquaculture processor or aquaculture transporter shall provide the following information on a form furnished by the Department:
1. Whether the applicant is an individual, corporation, partnership, cooperative, association, or other type of organization;
  2. The name and address of the applicant;
  3. A corporation shall specify the date and state of incorporation;
  4. The principal name of the business, and all other business names that may be used;
  5. The name, mailing address, and telephone number of the applicant's authorized agent;
  6. The street address or legal description of the location of the facility to be licensed; and
  7. The signature of the person designated in subsection (A)(5), and the date the application is completed for submission to the Department.
- B. The Department shall grant a license when all conditions are met and assign a Department establishment number to each facility.
- C. All licenses expire on December 31 for the year issued.
- D. A licensee shall advise the Department in writing of any change in the information provided on the application during the license year. This information shall be provided within 30 calendar days of the change.
- E. To prevent the spread of diseases and causative agents listed in R3-2-1009, the Department may inspect and take samples from any facility or shipment being transported. A licensee shall notify the Department within 72 hours of becoming aware of the presence of any disease or causative agent listed in R3-2-1009. Aquatic animals found to be infected with a disease or causative agent listed in R3-2-1009 are prohibited from interstate or intrastate movement without prior written Department approval.
- F. The Department shall quarantine or seize aquatic animals, alive or dead, plants, or products for examination or diagnostic study when there is a potential for spread of a disease or causative agent listed in R3-2-1009, or any other disease or causative agent that could constitute a threat to aquatic animals or plants of the state. The Department shall issue a written notice to the licensee specifying:
1. The reason for the Department's action; and
  2. The licensee's right to request a hearing as prescribed in A.R.S. § 3-2906.
- G. A licensee shall conspicuously mark all quarantined aquatic products and quarantined areas in a manner specified by the Department.

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- H. A licensee shall pay all diagnostic, quarantine, and destruction costs.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**R3-2-1004. Specific Licensing Provisions; Aquaculture Facility; Fee Fishing Facility; Special License Facility**

- A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate an aquaculture facility, a fee fishing facility, or a special license facility under A.R.S. § 3-2908(A) shall provide the following information on a form provided by the Department:
1. Water sources, transmission, and conveyances;
  2. Method used to dispose of tailing waters and solid wastes;
  3. Number and size of ponds, raceways, and tanks, if applicable;
  4. Whether hatchery facilities are included;
  5. A list of all animals and plants to be authorized under the license by genus, species, and common name.
- B. An application to culture or possess an aquatic animal or plant that has not previously occurred in the drainage where the facility is located shall be accompanied by a written proposal. The applicant's proposal shall include:
1. Anticipated benefits from introducing the species;
  2. Anticipated adverse effects from introducing the species, as it may affect indigenous or game fish, including hybridization;
  3. Anticipated diseases inherent to introducing the species;
  4. Suggestions for post-introduction evaluation of status and impacts of the introduced species; and
  5. Structural and operational methods implemented to prevent escape of the species, if applicable.
- C. Each body of water serving a facility shall be contained within the boundaries of the land owned or leased by the licensee.
- D. A facility using public waters having natural or artificial inlets, rivers, creeks, washes, or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals and plants, including eggs and fry, from escaping beyond the aquaculture facility boundaries or into public bodies of water.
- E. An applicant for a special license under A.R.S. § 3-2908(A) shall also provide the following information to the Department at the time of application:
1. A written narrative describing the project in detail, the project purpose, the hypothesis, and the project duration; and
  2. The proposed disposition of the aquatic animals or plants upon completion of the project.
- F. The Department shall consider the recommendations of the Arizona Game and Fish Department, under A.R.S. § 3-2903, when determining whether to issue a license or an import permit under R3-2-1010. The Department may issue a license excluding some of the aquatic animal or plant species listed in the application.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1005. Fee Fishing Facility**

A licensee shall not allow an aquatic animal to be removed from a fee fishing facility unless:

1. The aquatic animal is dead, and

2. The licensee provides the person removing the aquatic animal with written proof of sale identifying the:
  - a. Facility, by name, address, and Department establishment number issued under R3-2-1003(B);
  - b. Date of harvest; and
  - c. Number and species of aquatic animals transported from the facility.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1006. Processor License**

- A. In addition to complying with the application requirements of R3-2-1003, applicants for a license to operate as an aquaculture processor as defined in A.R.S. § 3-2901(12) shall provide the following information on a form furnished by the Department:
1. Water sources, transmission, conveyances, and annual consumption in gallons or acre feet;
  2. Method used to dispose of tailing waters and solid wastes;
- B. A processing facility shall operate in a clean and sanitary condition during all periods of operation. The following are the minimum requirements for such establishments.
1. Each establishment shall have sanitary floors and walls impervious to water.
  2. All outside windows and doors shall be screened.
  3. There shall be a supply of potable water.
  4. There shall be a sewage disposal system of such a type as not to be a breeding place for insects and not to constitute a hazard or to endanger public health.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1007. Transporter License; Transport; Delivery**

- A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate as an aquaculture transporter of live aquatic animals as defined in A.R.S. § 3-2901(15) shall, on a form provided by the Department:
1. Designate whether the license is for interstate or intrastate transport, or both;
  2. List aquatic transporting equipment to be used, including tanks and vehicles, and vehicle license number; and
  3. State prior year volume or anticipated annual tonnage of live aquatic animals transported.
- B. A transporter shall ensure that the aquatic transporting equipment has adequate water and oxygen at a temperature and in a quantity normal for the health of the live aquatic animals and shall be clearly marked, "Live Fish."
- C. In addition to a copy of the Certificate of Aquatic Health, a transporter shall transport each container of live aquatic animals within the state with a document identifying:
1. Consignor's name, address, and telephone number;
  2. Consignee's name, address, and telephone number;
  3. Quantity and size of the aquatic animal being transported;
  4. Genus, species, and common name of the aquatic animal being transported;
  5. Date of shipment; and
  6. Department establishment number.
- D. A transporter shall deliver live aquatic animals only to a retail outlet, as prescribed at A.R.S. § 3-2907(J) or to a person listed in R3-2-1010(B).

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**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1008. Repealed****Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Section repealed by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

**R3-2-1009. Disease Certification**

- A. A licensee requesting and receiving a Certificate of Aquatic Health shall have their facility inspected and all live aquatic animals, fertilized eggs and milt shall be found free of, but not limited to, the following diseases and causative agents:
1. Causative agent: Egtved Virus. Disease: VHS, Viral Hemorrhagic Septicemia of Salmonids.
  2. Causative agent: Infectious Hematopoietic Necrosis Virus. Disease: IHN, Infectious Hematopoietic Necrosis of Salmonids.
  3. Causative agent: Infectious Pancreatic Necrosis Virus. Disease: IPN, Infectious Pancreatic Necrosis of Salmonids.
  4. Causative agent: *Ceratomyxa shasta*. Disease: Ceratomyxosis of Salmonids.
  5. Causative agent: *Rhabdovirus carpio*. Disease: Spring Viremia of carp. Certification is required in this case only when the original origin of the shipment is from outside the United States.
  6. Causative agent: *Renibacterium salmoninarum*. Disease: BKD, Bacterial Kidney Disease of Salmonids.
  7. Causative agent: *Aeromonas salmonicida*. Disease: Furunculosis.
  8. Causative agent: *Myxobolus cerebralis*. Disease: Whirling Disease of Salmonids.
- B. The Department may require inspection for any disease or causative agent not listed in subsection (A) when there is evidence that the disease or causative agent may constitute a threat to aquatic animals or plants, aquatic wildlife or the aquaculture industry. The Department shall send written notice to all licensees pursuant to this Chapter when implementing this subsection, naming the disease or causative agent of concern. Action to quarantine or seize aquatic animals or plants pursuant to this subsection shall not be subject to delay pending such written notice.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2).

**R3-2-1010. Importation of Aquatic Animals**

- A. The owner, or owner's agent, importing live aquatic animals into the state shall ensure the animals are accompanied by the following:
1. A Certificate of Aquatic Health as defined in R3-2-1001, based upon an inspection of the originating facility within the 12 months preceding the shipment;
  2. A transporter license issued under R3-2-1007; and
  3. An import permit number issued by the Department under this Section, legibly written or typed on the certificate of aquatic health.
- B. The owner, or owner's agent, of live aquatic animals, except those imported by a retail outlet as prescribed in A.R.S. § 3-2907(J), shall ensure that the animals are consigned to or in the care of:
1. An Arizona resident;

2. An aquaculture facility, fee fishing facility, or special license holder licensed by the Department;
3. A holder of an aquatic wildlife stocking permit issued by the Arizona Game and Fish Department; or
4. A holder of any aquatic animal license issued by the Arizona Game and Fish Department.

- C. The owner, or owner's agent, may obtain an import permit number from the Department, Office of the State Veterinarian, by providing the following information:
1. Consignor's name, address, and telephone number;
  2. Consignee's name, address, and telephone number;
  3. Consignee's Department establishment number issued by the Department or a copy of an aquatic wildlife stocking permit or the license issued by the Arizona Game and Fish Department;
  4. Origin of the shipment;
  5. Genus, species, and common name of aquatic animals to be imported; and
  6. Quantity and size classification of aquatic animals to be imported.
- D. An import permit number remains valid for 15 calendar days from the date of issuance by the Department.
- E. The Department shall refuse entry to any shipment that does not comply with this rule.
- F. The Department shall quarantine and require destruction of any shipment, after its arrival, that it determines is infected with or was previously exposed to any causative agent or disease listed in R3-2-1009.

**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

**ARTICLE 11. EXPIRED****R3-2-1101. Expired****Historical Note**

Section R3-2-1101 recodified from R3-2-101 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1102. Expired****Historical Note**

Section R3-2-1102 recodified from R3-2-102 (Supp. 97-1). Amended effective October 8, 1998 (Supp. 98-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1103. Expired****Historical Note**

Section R3-2-1103 recodified from R3-2-103 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1104. Expired****Historical Note**

Section R3-2-1104 recodified from R3-2-104 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1105. Expired**

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**Historical Note**

Section R3-2-1105 recodified from R3-2-105 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1106. Expired****Historical Note**

Section R3-2-1106 recodified from R3-2-106 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1107. Expired****Historical Note**

Section R3-2-1107 recodified from R3-2-107 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1108. Expired****Historical Note**

Section R3-2-1108 recodified from R3-2-108 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

**R3-2-1109. Expired****Historical Note**

Section R3-2-1109 recodified from R3-2-109 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

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**DEPARTMENT OF PUBLIC SAFETY (R20-0403)**

Title 13, Chapter 3, Article 9, Tow Truck Registration and Compliance Division

**Amend:** R13-3-902



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

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**MEETING DATE:** March 31, 2020

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

**FROM:** Council Staff

**DATE:** March 12, 2020

**SUBJECT:** Department of Public Safety  
Title 13, Chapter 3

**Amend:** R13-3-902

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This regular rulemaking from the Department of Public Safety relates to rules in Title 13, Chapter 3, regarding tow trucks. DPS is seeking to amend R13-3-902 to relocate the inspection permit decals in tow trucks from the windshield to the rear window/cab area.

The Department provides three main reasons to amend R13-3-902:

1. The placement of the decal in the rear window will reduce out-of-service time for re-inspections to replace decals lost due to cracked/replaced windshields or destroyed from repeated pressure washing. DPS also indicates this would reduce costs by purchasing fewer decals.
2. It would allow troopers to more easily read the permit decal when the tow truck is operating.
3. The service life of the decal would lengthen by reducing exposure to the sun and weather conditions.

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

Yes. The department cites to both general and specific authority of these rules.

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

No. The rule does not establish a new fee or 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?**

Not applicable. The Department did not review or rely on any study in conducting this rulemaking.

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

The rulemaking amends R13-3-902(E) to move the inspection permit decals for towing and recovery businesses from the windshield to the rear window/rear cab area. The rulemaking directly affects towing and recovery businesses in Arizona and the tow truck inspections unit within the Department of Public Safety. The Department states they issued approximately 538 inspections permit decals in 2018 and replaced approximately 38 decals due to damage or loss. The Department believes the adoption of the recommendation reduces the impact to business towing and recovery activities by minimizing out-of-service down time and required decal replacement.

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 was unable to identify any other less costly or less intrusive methods. The new location allows a trooper to view the decal while the tow truck is being operated on the roadway negating the need to conduct a traffic stop for the purpose of verifying a proper permit decal. Additionally, the Department is recommending existing decals remain on the windshield so companies do not incur the expense and downtime scheduling tow trucks for re-inspection in order to comply with the new rule change.

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

The Department expects moderate to substantial positive economic impact by reducing the time a tow truck is out-of-service waiting for a replacement permit decal re-inspection. They state that reducing tow truck out-of-service equates to revenue generation and positive employment for all sizes of towing and recovery companies. The move from the windshield to the rear window/cab area was at the request of the Arizona Professional Towing and Recovery Association.

The Department believes this rulemaking will not have an effect on public employment as political subdivisions are not involved with the issuance and replacement of the inspection permit decals. The Department is not able to determine a cost to private persons and consumers but believes that reduced out-of-service time is a direct benefit to private persons and consumers by creating an environment where more tow trucks are available for service reducing wait times.

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

No. There were no changes between the notice of proposed rulemaking and final rulemaking.

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

The Department indicates that it did not receive any public comments regarding this rulemaking. The Department indicates that it held an oral proceeding on February 6, 2020 and there were no public attendees.

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

Yes. The rules require a permit. However, Department indicates that it does not issue general permits as required by A.R.S. § 41-1037(A). The Department indicates a general permit cannot be used as the permit is based on a physical inspection of each tow truck to ensure the vehicle is compliant with rules and statutes.

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

Not applicable. There is no corresponding federal law.

11. **Conclusion**

As mentioned above, and for the reasons mentioned in the rulemaking, the DPS is seeking to amend R13-3-902 to relocate the inspection permit decals in tow trucks from the windshield to the rear window/cab area.

The Department accepts the standard 60-day delayed effective date. Council staff recommend approval of this rulemaking.



# ARIZONA DEPARTMENT OF PUBLIC SAFETY

2102 WEST ENCANTO BLVD. P.O. BOX 6638 PHOENIX, ARIZONA 85005-6638 (602) 223-2000

*"Courteous Vigilance"*

DOUGLAS A. DUCEY    FRANK L. MILSTEAD  
Governor                      Director

February 7, 2020

Ms. Nicole Sornsins, Chair  
The Governor's Regulatory Review Council  
100 N 15<sup>th</sup> Ave, Ste 402  
Phoenix, AZ 85007

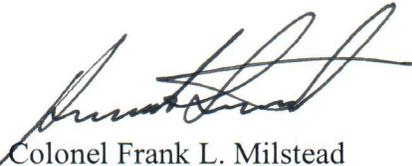
Dear Ms. Sornsins,

The Department of Public Safety submits a *Notice of Final Rulemaking* for Arizona Administrative Code Title 13, *Public Safety*, Chapter 3, *Department of Public Safety – Tow Trucks*, Article 9, *Tow Truck Registration and Compliance Inspection* for review and approval by the Council. The following information is provided pursuant to R1-6-201:

1. Close of Record Date: Pursuant to the *Notice of Proposed Rulemaking*, an oral proceeding was conducted, and the rulemaking record was closed on February 6, 2020. There were no attendees from the public and no written comments received. The *Notice of Final Rulemaking* was filed with the Legislature's Arizona Rules Oversight Committee on February 7, 2020.
2. Relation to Five-Year Review Report: This rulemaking is not related to a five-year review report.
3. Establishment of new fees: This rulemaking does not establish new fees.
4. Establishment of fee increase: This rulemaking does not establish a fee increase.
5. Request for immediate effective date under A.R.S. § 41-1032: The Department is not requesting an immediate effective date.
6. Evaluations of studies related to the rulemaking: No external studies related to the rulemaking were evaluated.

7. Necessity of Full-time Employees: The rulemaking does not require an increase in full-time employees to implement the rule.
  
8. List of Documents:
  - a. *Notice of Final Rulemaking* including the Preamble and rule text.
  - b. Governor's Office rulemaking waiver approval.
  - c. Authorizing statutes.
  - d. *Economic, Small Business and Consumer Impact Statement*.
  - e. Notice to the Arizona Rules Oversight Committee.

Sincerely,



Colonel Frank L. Milstead  
Director

Enc. 6



Telephone:(602) 712-5808

E-mail: llarson@azdps.gov

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

The Department received a rulemaking moratorium waiver from Ms. Jennifer Thomsen, Public Safety Policy Advisor to the Governor on October 25, 2019.

The Department is amending this section to relocate the inspection permit decals from the windshield to the rear window/cab area for the following reasons:

1. Reduce the out-of-service time for reinspections to replace decals lost due to cracked/replaced windshields or destroyed from repeated pressure washing using cleaning solutions/solvents to remove debris from the front of the vehicle and windshield. Additionally, costs would be reduced by purchasing fewer decals. Between April 2018 and April 2019, 38 decals were replaced due to damaged/replaced windshields. Depending on when the company schedules an appointment with the Department to replace the decal, the average time to replace the decal and put the tow truck back into service was one to seven days.
2. Allow troopers to more easily read the inspection permit decal when the tow truck is being operated on the roadway.
3. Lengthen the service life of the decal by reducing its exposure to sun and weather. Decals last an average of four years on the windshield and are a one-time compliance inspection unless the decal is lost, damaged, destroyed, suspended or there is a change of ownership. The change could potentially add life to the decal reducing out-of-service time and the cost to purchase new decals.

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

The Department did not rely on any study in its evaluation of or justification for the rule.

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

This rulemaking does not diminish a previous grant of authority of a political subdivision of this state.

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

The Department expects moderate to substantial positive economic impact by reducing the time a tow truck is out-of-service waiting for a replacement permit decal reinspection. Reducing tow truck out-of-service time equates to revenue generation and positive employment for all sizes of towing and recovery companies. Changing the required location of the decal provides more visibility for law enforcement officers/troopers to view the decal while the truck is being operated on the roadway, reducing the need to conduct a traffic stop on the truck to check the decal. The Department expects to see a minimal cost savings by purchasing fewer replacement decals and by conducting fewer reinspections solely for the purpose of replacing damaged or lost decals.

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

There are no changes between the proposed and final rulemaking.

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

Pursuant to the Notice of Proposed Rulemaking, a public comment meeting was conducted on February 6, 2020. No members of the public attended. The Department did not receive any written comments on this rulemaking.

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

There are no other matters.

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

The rule requires a permit. A general permit is not used. A general permit cannot be used

as the permit is based on a physical inspection of each tow truck to ensure the vehicle is compliant with rules and statutes for safe operation on a public roadway.

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

There is no corresponding federal law.

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

The Department has not received an analysis that compares the rule's impact of competitiveness of business in this state to the impact on business in other states.

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

There is no incorporated by reference material for this section.

**14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

The rule was not previously made, amended, or repealed as an emergency rule.

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

**TITLE 13. PUBLIC SAFETY**  
**CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY – TOW TRUCKS**  
**ARTICLE 9. TOW TRUCK REGISTRATION AND COMPLIANCE INSPECTION**

Section

R13-3-902. Inspection by the Department

## ARTICLE 9. TOW TRUCK REGISTRATION AND COMPLIANCE INSPECTION

### R13-3-902. Inspection by the Department

- A. The Department shall inspect a tow truck for compliance with this Chapter as soon as possible after the tow truck inspection application form is filed and no later than seven days after the application form is filed.
- B. The Department may conduct unannounced, in-service inspections of a tow truck at the roadside, at the company's place of business, or any reasonable time and place to determine the condition of the tow truck.
- C. The Department shall issue tow truck permit decals and identification number decals individually for each approved tow truck.
- D. When a tow truck inspection is conducted under subsection (A) or (B), the following apply:
  - 1. Department inspectors shall examine the tow truck for compliance with the safety requirements and specifications for the tow truck class under this Chapter.
  - 2. If the Department finds that the tow truck complies with this Chapter, the Department shall issue an inspection report and if applicable, a permit decal.
  - 3. If the Department finds that the tow truck does not comply with this Chapter, but has no deficiency listed in R13-3-1201(C)(7), the Department shall issue an inspection report that:
    - a. Specifies the deficiencies found,
    - b. Requires corrective measures, and
    - c. Allows five calendar days for the tow truck agent to correct the deficiencies.
  - 4. If the Department finds that the tow truck does not comply with this Chapter because of deficiencies listed in R13-3-1201(C)(7), the Department shall not issue a permit decal but shall issue an inspection report that:
    - a. Specifies the deficiencies found, and
    - b. Requires corrective measures.
- E. A tow truck agent shall ensure that a legible copy of the most recent tow truck inspection report is kept in the driver's compartment area of the tow truck and is produced upon demand to any peace officer. The Department may suspend a tow truck permit decal for failure to comply with this subsection.
  - 1. A tow truck agent shall ensure that:
    - a. A permit decal is affixed to the lower outside ~~right corner~~ left rear window or the left outside of the rear cab wall of the tow ~~truck's truck~~ windshield. A permit decal issued prior to the effective date of this section may remain on the lower outside right corner of the tow truck's windshield until the permit has expired or been replaced, and
    - b. An identification number decal is permanently affixed to the driver's compartment area.
  - 2. The Department may suspend a permit decal for failure to maintain the permit decal or identification number decal in compliance with subsection (E)(1).
  - 3. If a tow truck inspection report, permit decal, or identification number decal is lost, damaged, destroyed, or stolen, the tow truck company shall immediately notify the Department.
    - a. The tow truck company shall provide notification in writing either to Arizona

Department of Public Safety, P.O. Box 6638, Mail Drop 1240, Phoenix, AZ 85005-6638, or by e-mail to [TowTruckUnit@azdps.gov](mailto:TowTruckUnit@azdps.gov) and include the name of the tow truck agent who registered the tow truck and the number of the lost, damaged, destroyed, or stolen inspection report, permit decal, or identification number decal.

- b. Upon receipt of the notification, the Department shall issue the replacement inspection report, permit decal, or identification number decal.

# **Economic, Small Business and Consumer Impact Statement**

**Title 13.           Public Safety**

**Chapter 3.        Department of Public Safety - Tow Trucks**

**December 6, 2019**

## PREAMBLE

### **1. An identification of the proposed rulemaking, including all of the following:**

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

The Department issued approximately 538 inspection decals in 2018 and replaced approximately 38 decals due to damage or loss in the previous year.

#### **(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.**

Inspection permit decals placed on the windshield last approximately four years without a windshield replacement. Damage to the decal is caused by direct exposure to the Sun, windshield cleaning solutions, and pressure washing to remove bugs and debris from the front of the truck. A truck may be placed out-of-service for up to seven business days waiting for a replacement decal inspection. Troopers cannot see the decal when the truck is being operated on the roadway. Moving the decal to the rear of the cab reduces damage caused by the Sun and periodic vehicle cleaning. The rear window is not a frequent replacement item compared to a windshield, and the new location provides for more enforcement visibility by law enforcement officers/troopers.

#### **(c) The estimated change in frequency of the targeted conduct expected from the rule change.**

The Department expects to replace fewer decals due to damage and loss allowing the potential for the trucks to remain in service generating revenue.

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

The Department expects moderate to substantial positive economic impact by reducing the time a tow truck is out-of-service waiting for a replacement permit decal reinspection. Reducing tow truck out-of-service time equates to revenue generation and positive employment for all sizes of towing and recovery companies. Changing the required location of the decal provides more visibility for law enforcement officers/troopers to view the decal while the truck is being operated on the roadway, reducing the need to conduct a traffic stop on the truck to check the decal. The Department expects to see a minimal cost savings by purchasing fewer replacement decals and by conducting fewer reinspections solely for the purpose of replacing damaged or lost decals.

### **3. If the economic, small business and consumer impact summary accompanies a proposed rule or a proposed expedited rule, the name and address of agency employees**

**who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.**

Name: Sergeant Lance Larson

Address: Arizona Department of Public Safety

PO Box 6638, Mail Drop 1240

Phoenix, AZ 85005-6638

Telephone:(602) 712-5808

E-mail: llarson@azdps.gov

## MAIN BODY

### **1. An identification of the proposed rulemaking.**

This rulemaking amends R13-3-902(E) to move the inspection permit decals from the windshield to the rear window/rear cab area.

### **2. An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking.**

This rulemaking directly affects towing and recovery businesses in Arizona and the tow truck inspections unit within the Department of Public Safety. The Department issued approximately 538 inspection permit decals in 2018.

### **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.**

The Department does not require new full-time employees to implement the rules. The Department is expecting to reduce its costs by purchasing fewer new permit decals and by reducing personnel hours to conduct re-inspections. The Department replaces inspection permit decals annually due to damage or loss. In the previous year, the Department replaced approximately 38 decals where each tow truck received a full reinspection.

- b. The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.**

The Department believes the rulemaking will not have an impact on political subdivisions in this state as they are not involved with the issuance and replacement of the inspection permit decals.

- c. The probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditure of employers who are subject to the proposed rulemaking.**

The Department believes this change may have a moderate to substantial positive impact on the revenue and expenditures of tow truck operators. If a tow truck is placed out-of-service due to a damaged or lost (for example windshield replacement) inspection permit

decal, it may take up to seven business days for the Department to reinspect the truck and issue a new decal. During that out-of-service time period, the tow truck is not generating revenue and the drivers may or may not have another truck to drive. Larger towing and recovery companies may have more vehicles to keep the employee working and to take calls for service to generate revenue, but smaller companies with fewer trucks may not have that option.

**4. A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rulemaking.**

The Department believes this rulemaking will not have an effect on public employment as political subdivisions and other agencies are not involved with the issuance and replacement of the inspection permit decals. The Department's employment will not be impacted as the reduced re-inspections will allow troopers to focus efforts on other inspection and enforcement areas. Employment in public business, as stated in Item 3(c) may positively benefit tow and recovery companies by keeping an employee actively working by reducing out-of-service trucks.

**5. A statement of the probable impact of the proposed rulemaking on small businesses. The statement shall include:**

**a. An identification of the small business subject to the proposed rulemaking.**

The Department recognizes that some towing and recovery companies are small businesses.

**b. The administrative and other costs required for compliance with the proposed rulemaking.**

The Department does not anticipate any administrative or other costs for compliance with the proposed rulemaking. The Department will continue to allow existing inspection permit decals affixed to the windshield until such time as they need replacement. For new or replacement inspections, the inspector will place the inspection permit decal on the rear window/cab area at no cost to the company.

**c. A description of the methods prescribed in section 41-1035 that the agency may use to reduce the impact on small businesses with reasons for the agency's decision to use or not to use each method.**

The Department has met with the Arizona Professional Towing and Recovery Association. The Association is comprised of towing companies of all sizes from around the state and represents those companies before the state legislature, regulatory agencies and the National Towing Association. The move from the windshield to the rear window/cab area was at the request of the Association. The Department's adoption of the

recommendation reduces the impact to small business towing and recovery activities by minimizing out-of-service down time and required decal replacement.

**d. The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

The Department is not able to determine a cost to private persons and consumers who are directly affected. The Department believes that reduced out-of-service time is a direct benefit to private persons and consumers by creating an environment where more tow trucks are available for service reducing wait times.

**6. A statement of the probable effect on state revenues.**

The State and the Department will see a very minimal impact to state revenue by reducing the need to purchase replacement decals.

**7. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives.**

The Department is unable to identify any other less costly or less intrusive methods. The Department has adopted a recommendation to move the decals to the rear window/cab area. In the current position on the front windshield, troopers were required to conduct a traffic stop to check the inspection permit decal because it was not visible when the tow truck was being operated on the roadway. The new location allows a trooper to view the decal while the tow truck is being operated on the roadway negating the need to conduct a traffic stop for the purpose of verifying a proper permit decal. Additionally, the Department is recommending existing decals to remain on the windshield so companies do not incur expense and downtime scheduling tow trucks for reinspection in order to comply with the new rule change.

**8. A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.**

The Department did not rely on any data or reports.

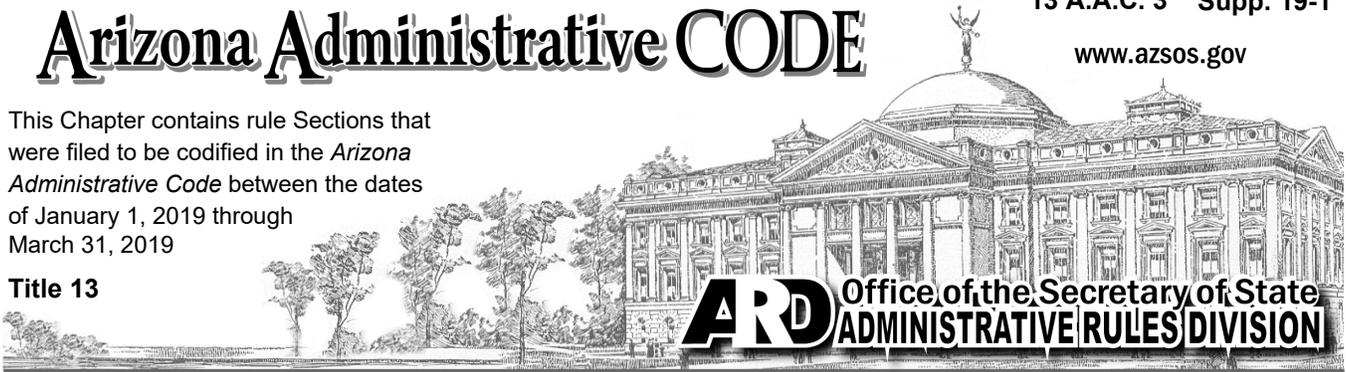
# Arizona Administrative CODE

13 A.A.C. 3 Supp. 19-1

www.azsos.gov

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of January 1, 2019 through March 31, 2019

## Title 13



### TITLE 13. PUBLIC SAFETY

#### CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY - TOW TRUCKS

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.

<a href="#">R13-3-701.</a>	<a href="#">Definitions .....</a>	<a href="#">4</a>	<a href="#">R13-3-902.</a>	<a href="#">Inspection by the Department .....</a>	<a href="#">6</a>
<a href="#">R13-3-703.</a>	<a href="#">Enforcement Dates .....</a>	<a href="#">5</a>	<a href="#">R13-3-1201.</a>	<a href="#">Tow Truck Agent and Company Requirements ..</a>	<a href="#">10</a>

#### Questions about these rules? Contact:

Name: Anthony Gerard, Captain  
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POB 6638, Mail Drop 1240  
Phoenix, AZ 85086  
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Website: [www.azdps.gov](http://www.azdps.gov)

#### The release of this Chapter in Supp. 19-1 replaces Supp. 16-3, 1-12 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

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### RULES

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

### THE ADMINISTRATIVE CODE

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

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

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

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

### AUTHENTICATION OF PDF CODE CHAPTERS

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

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

### HOW TO USE THE CODE

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

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

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

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

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

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

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

### EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### PERSONAL USE/COMMERCIAL USE

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

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



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

TITLE 13. PUBLIC SAFETY

CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY - TOW TRUCKS

(Authority: A.R.S. § 28-1007 et seq.)

Editor's Note: This Chapter was recodified under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4).

ARTICLE 1. REPEALED AND EXPIRED

Article 1, consisting of Section R13-3-101, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

Section
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Article 2, consisting of Sections R13-3-201 through R13-3-204, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

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Article 3, consisting of Sections R13-3-301 through R13-3-308, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

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ARTICLE 4. REPEALED AND EXPIRED

Article 4, consisting of Sections R13-3-401 and R13-3-402, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

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ARTICLE 5. REPEALED AND EXPIRED

Article 5, consisting of Section R13-3-501, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

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ARTICLE 6. REPEALED AND EXPIRED

Article 6, consisting of Sections R13-3-601 through R13-3-604, automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

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**ARTICLE 1. REPEALED AND EXPIRED****R13-3-101. Repealed and Expired****Historical Note**

Former rules 2.0 - 2.08; Former Section R13-3-01 repealed, former Section R13-3-02 renumbered and amended as Section R13-3-101 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 2. REPEALED AND EXPIRED****R13-3-201. Repealed and Expired****Historical Note**

Former rule 3.0; Former Section R13-3-11 renumbered and amended as Section R13-3-201 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-202. Repealed and Expired****Historical Note**

Former rules 3.01 - 3.01.03; Former Section R13-3-12 renumbered and amended as Section R13-3-202 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-203. Repealed and Expired****Historical Note**

Former rules 3.02 - 3.02.05; Former Section R13-3-13 renumbered and amended as Section R13-3-203 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 713, effective April 5, 2008 (Supp. 08-1). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-204. Repealed and Expired****Historical Note**

Former rules 3.02.06 - 3.02.10; Former Section R13-3-14 renumbered and amended as Section R13-3-204 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 3. REPEALED AND EXPIRED****R13-3-301. Repealed and Expired****Historical Note**

Former rules 4.0 - 4.02; Former Section R13-3-21 renumbered and amended as Section R13-3-301 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175,

both effective June 1, 2010 (Supp. 10-2).

**R13-3-302. Repealed and Expired****Historical Note**

Former rule 5.0; Former Section R13-3-22 renumbered without change as Section R13-3-302 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-303. Repealed and Expired****Historical Note**

Former rules 6.0 - 6.02; Former Section R13-3-23 renumbered and amended as Section R13-3-303 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-304. Repealed and Expired****Historical Note**

Former rules 7.0 - 7.03; Former Section R13-3-24 renumbered and amended as Section R13-3-304 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-305. Repealed and Expired****Historical Note**

Former rules 8.0 - 8.04; Correction, subsection C. Paragraph 4. not included in original publication (Supp. 77-1). Former Section R13-3-25 renumbered and amended as Section R13-3-305 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-306. Repealed and Expired****Historical Note**

Former rules 9.0 - 9.05.03; Correction, subsection (C)(3) and (4) not included in original publication (Supp. 77-1). Former Section R13-3-26 renumbered and amended as Section R13-3-306 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-307. Repealed and Expired****Historical Note**

Former rules 10.0 - 10.04; Former Section R13-3-27 renumbered and amended as Section R13-3-307 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175,

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both effective June 1, 2010 (Supp. 10-2).

**R13-3-308. Repealed and Expired****Historical Note**

Former rules 11.0 - 11.06; Former Section R13-3-28 renumbered as Section R13-3-308 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 4. REPEALED AND EXPIRED****R13-3-401. Repealed and Expired****Historical Note**

Former rules 12.0 - 12.17.02.02; Former Section R13-3-35 renumbered and amended as Section R13-3-401 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-402. Repealed and Expired****Historical Note**

Former rule 12.18; Former Section R13-3-36 renumbered and amended as Section R13-3-402 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 5. REPEALED AND EXPIRED****R13-3-501. Repealed and Expired****Historical Note**

Former rules 13.0 - 13.05; Former Section R13-3-40 renumbered and amended as Section R13-3-501 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 6. REPEALED AND EXPIRED****R13-3-601. Repealed and Expired****Historical Note**

Former rules 14.0 - 14.02; Former Section R13-3-45 renumbered and amended as Section R13-3-601 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-602. Repealed and Expired****Historical Note**

Former rules 15.0 - 15.01; Former Section R13-3-46 renumbered and amended as Section R13-3-602 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175,

both effective June 1, 2010 (Supp. 10-2).

**R13-3-603. Repealed and Expired****Historical Note**

Former rules 16.0 - 16.01.05; Former Section R13-3-47 renumbered and amended as Section R13-3-603 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**R13-3-604. Repealed and Expired****Historical Note**

Former rules 17.0 - 17.08; Former Section R13-3-48 renumbered and amended as Section R13-3-604 effective September 26, 1985 (Supp. 85-5). Amended by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Section automatically repealed; expired by G.R.R.C. under A.R.S. § 41-1056(E) at 16 A.A.R. 1175, both effective June 1, 2010 (Supp. 10-2).

**ARTICLE 7. DEFINITIONS, SCOPE, AND ENFORCEMENT DATES****R13-3-701. Definitions**

- A.** The definitions in A.R.S. §§ 28-101 and 41-1701 apply to this Chapter.
- B.** In this Chapter:
1. "Alter" means adding, modifying, or removing any equipment or component after a tow truck has received a permit decal from the Department, in a manner that may affect the operation of the tow truck, compliance with A.R.S. § 28-1108 and this Chapter, or the health, safety, or welfare of any individual.
  2. "Bed assembly" means the part of a tow truck that is located behind the cab, is attached to the frame, and is used to mount a boom assembly, hoist, winch, or equipment for transporting vehicles.
  3. "Boom assembly" means a device, consisting of sheaves, one or more winches, and wire rope, that is attached to a tow truck and used to lift or tow another vehicle.
  4. "Collision" means an incident involving one or more moving vehicles resulting in damage to a vehicle or its load that requires the completion of a written report of accident under A.R.S. § 28-667(A).
  5. "Collision recovery" means initial towing or removing a vehicle involved in a collision from the collision scene.
  6. "Denial" means refusal to satisfy a request.
  7. "Department" means the Arizona Department of Public Safety.
  8. "Director" means the Director of the Arizona Department of Public Safety or the Director's designee.
  9. "Emergency brake" means the electrical, mechanical, hydraulic, or air brake components used to slow or stop a vehicle after a failure of the service brake system.
  10. "Flatbed" means an open platform that is located behind the cab and attached to the frame of a truck.
  11. "G.V.W.R." means Gross Vehicle Weight Rating, the value specified by the manufacturer as the fully assembled weight of a single motor vehicle.
  12. "Hook" means a steel hook attached to an end of a wire rope or chain.
  13. "Parking brake system" means the electrical, mechanical, hydraulic, or air brake components used to hold the tow truck or combination under any condition of loading to prevent movement when parked.

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14. "Permit decal" means the non-transferable decal that a tow truck company is required to obtain from the Department before operating a tow truck for the purpose of towing a vehicle.
15. "Person" means the same as in A.R.S. § 1-215.
16. "Power-assisted service brake system" means a service-brake system that is equipped with a booster to supply additional power to the service-brake system by means of air, vacuum, electric, or hydraulic pressure.
17. "Power-operated winch" means a winch that is operated by electrical, mechanical, or hydraulic power.
18. "Service-brake system" means the electrical, mechanical, hydraulic, or air brake components used to slow or stop a vehicle in motion.
19. "Snatch block" means a metal case that encloses one or more pulleys and can be opened to receive a wire rope and redirect energy from a winch.
20. "State" means the state of Arizona.
21. "Steering wheel clamp" means a device used to secure in a fixed position the steering wheel of a vehicle being towed.
22. "Suspension" is the temporary withdrawal of the tow truck permit decal because the Department determines the tow truck or tow truck agent is not in compliance with one or more requirements of this Chapter.
23. "Tow bar" means a device attached to the rear of a tow truck to secure a towed vehicle to the tow truck by chains, straps, or hooks.
24. "Tow plate" means a solid metal support attached to the rear of a tow truck to secure a towed vehicle to the tow truck by chains, straps, or hooks.
25. "Tow sling" means two or more flexible straps attached to the wire rope or boom assembly of a tow truck to hoist a towed vehicle by chains, straps, or hooks.
26. "Tow truck" means a motor vehicle designed, manufactured, or altered to tow or transport one or more vehicles. The following are tow trucks:
  - a. A truck with a flatbed equipped with a winch;
  - b. A truck drawing a semi-trailer or trailer equipped with a winch;
  - c. A motor vehicle that has a boom assembly or hoist permanently attached to its bed or frame;
  - d. A motor vehicle that has a tow sling, tow plate, tow bar, under-lift, or wheel-lift attached to the rear of the vehicle; and
  - e. A truck-tractor drawing a semi-trailer equipped with a winch.
27. "Tow truck agent" means an individual who operates a tow truck on behalf of a tow truck company, and includes owners, individuals employed by the tow truck company, and independent contractors.
28. "Tow truck company" means a person that owns, leases, or operates a tow truck that travels on a street or highway to transport a vehicle, including, but not limited to a vehicle that is damaged, disabled, unattended, repossessed, or abandoned.
29. "Truck-tractor protection valve" means a device that supplies air to the service brake system of a trailer to release the service brakes while the trailer is being towed by a truck- tractor, or to activate the service brakes if the supply of air from the truck-tractor to the trailer is disconnected or depleted.
30. "Under-lift" means an electrical, mechanical, or hydraulic device attached to the rear of a tow truck used to lift the front or rear of a vehicle by its axles or frame.
31. "Vehicle" means the same as in A.R.S. § 28-101.
32. "Wheel lift" means an electrical, hydraulic, or mechanical device attached to the rear of a tow truck used to lift the front or rear of a vehicle by its tires or wheels.
33. "Winch" means a device used for winding or unwinding wire rope.
34. "Wire rope" means flexible steel or synthetic strands that are twisted or braided together and may surround a hemp or wire core.
35. "Work lamp" means a lighting system that is mounted on a tow truck capable of illuminating an area to the rear of the tow truck.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). At the Department's request, the A.R.S. citation was corrected in subsection (B)(1) as Laws 2015, Ch. 265 transferred duties relating to towing services; Office file number M16-202 (Supp. 16-3). Amended by final expedited rulemaking at 25 A.A.R. 844, effective March 19, 2019 (Supp. 19-1).

**R13-3-702. Scope of Chapter**

This Chapter applies only to a tow truck company in the business of towing and a tow truck agent.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-703. Enforcement Dates**

As of the effective date of Articles 7 through 13, a tow truck agent shall ensure that a tow truck:

1. Introduced into the state on or after the effective date of Articles 7 through 13 meets the requirements of Articles 7 through 13;
2. Sold to a new owner meets the requirements of Articles 7 through 13 before operating as a tow truck within this state; or
3. Not included in the definition of "tow truck" in R13-3-701 before the effective date of Articles 7 through 13, meets the requirements of Articles 7 through 13 within six months of the effective date of Articles 7 through 13 when operating as a tow truck in this state.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final expedited rulemaking at 25 A.A.R. 844, effective March 19, 2019 (Supp. 19-1).

**ARTICLE 8. TOW TRUCK COMPANY REGISTRATION****R13-3-801. Tow Truck Company Registration**

A. A person shall not operate a tow truck to tow a vehicle unless a tow truck agent registers the tow truck company with the Department. The tow truck agent shall:

1. Obtain a tow truck company application from the Department and complete the application form by including the following information:
  - a. The name, address, and telephone number of the tow truck company;
  - b. The tow truck owner's name, address, telephone number and date of birth. If the owner is a corporation, the corporation's name, address, and telephone number;
2. Obtain and keep in effect at all times the minimum limits of financial responsibility required by A.R.S. §§ 28-4009, 28-4032, 28-4033, 28-4131, and 28-4135, as applicable, for each tow truck owned, leased, or operated by the company; and

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3. Sign the application in the presence of a Notary Public or Department Officer certifying under penalty of suspension of the permit decal that the tow truck company and the tow truck agent shall:
    - a. Comply with this Chapter; and
    - b. Have the necessary experience and qualifications to operate a tow truck in the manner required by this Chapter;
  4. Include with a completed application, proof of financial responsibility that indicates:
    - a. Name of the insured;
    - b. Name, address, and telephone number of the insurance carrier;
    - c. Policy number;
    - d. Date on which the policy expires; and
    - e. Amount of coverage; and
  5. Submit the completed application form and proof of financial responsibility in person to the Department.
- B.** If information provided on the original application form changes, the tow truck agent shall submit a new application form to the Department within 10 calendar days of the change. The Department may suspend a tow truck permit decal for failure to notify the Department of a change.
- C.** If it is discovered that a tow truck permit decal was issued on information supplied by the applicant that the applicant knew or should have reasonably known was false or inaccurate, the Department may suspend the tow truck permit decal.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**ARTICLE 9. TOW TRUCK REGISTRATION AND COMPLIANCE INSPECTION****R13-3-901. Tow Truck Registration**

- A.** A tow truck company shall register each tow truck by obtaining an identification number and permit decal before operating the tow truck to tow a vehicle.
- B.** A tow truck company shall apply for an identification number and permit decal by completing the Department's tow truck inspection application. The company may obtain the application from the Department. The signature on the application of the owner or a tow truck agent shall be notarized or signed in the presence of a Department officer.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-902. Inspection by the Department**

- A.** The Department shall inspect a tow truck for compliance with this Chapter as soon as possible after the tow truck inspection application form is filed and no later than seven days after the application form is filed.
- B.** The Department may conduct unannounced, in-service inspections of a tow truck at the roadside, at the company's place of business, or any reasonable time and place to determine the condition of the tow truck.
- C.** The Department shall issue tow truck permit decals and identification number decals individually for each approved tow truck.
- D.** When a tow truck inspection is conducted under subsection (A) or (B), the following apply:
  1. Department inspectors shall examine the tow truck for compliance with the safety requirements and specifications for the tow truck class under this Chapter.

2. If the Department finds that the tow truck complies with this Chapter, the Department shall issue an inspection report and if applicable, a permit decal.
  3. If the Department finds that the tow truck does not comply with this Chapter, but has no deficiency listed in R13-3-1201(C)(7), the Department shall issue an inspection report that:
    - a. Specifies the deficiencies found,
    - b. Requires corrective measures, and
    - c. Allows five calendar days for the tow truck agent to correct the deficiencies.
  4. If the Department finds that the tow truck does not comply with this Chapter because of deficiencies listed in R13-3-1201(C)(7), the Department shall not issue a permit decal but shall issue an inspection report that:
    - a. Specifies the deficiencies found, and
    - b. Requires corrective measures.
- E.** A tow truck agent shall ensure that a legible copy of the most recent tow truck inspection report is kept in the driver's compartment area of the tow truck and is produced upon demand to any peace officer. The Department may suspend a tow truck permit decal for failure to comply with this subsection.
1. A tow truck agent shall ensure that:
    - a. A permit decal is affixed to the lower outside right corner of the tow truck's windshield, and
    - b. An identification number decal is permanently affixed to the driver's compartment area.
  2. The Department may suspend a permit decal for failure to maintain the permit decal or identification number decal in compliance with subsection (E)(1).
  3. If a tow truck inspection report, permit decal, or identification number decal is lost, damaged, destroyed, or stolen, the tow truck company shall immediately notify the Department.
    - a. The tow truck company shall provide notification in writing either to Arizona Department of Public Safety, P.O. Box 6638, Mail Drop 1240, Phoenix, AZ 85005-6638, or by e-mail to TowTruck-Unit@azdps.gov and include the name of the tow truck agent who registered the tow truck and the number of the lost, damaged, destroyed, or stolen inspection report, permit decal, or identification number decal.
    - b. Upon receipt of the notification, the Department shall issue the replacement inspection report, permit decal, or identification number decal.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 713, effective April 5, 2008 (Supp. 08-1). Amended by final expedited rulemaking at 25 A.A.R. 844, effective March 19, 2019 (Supp. 19-1).

**R13-3-903. Changes in Ownership**

If a tow truck is sold, leased, or otherwise disposed of, the permit decal issued to the tow truck immediately becomes void.

1. Before sale, lease, or other disposal of a tow truck, a tow truck agent shall remove and destroy the permit decal.
2. Within 10 calendar days following the sale, lease, or other disposal of the tow truck, a tow truck agent shall notify the Department in writing of the action. The notice shall include:
  - a. Date on which ownership changed or the tow truck was disposed of;

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- b. Whether the tow truck was sold, leased, or the method and reason for other disposal;
  - c. Name of person who sold, leased, or disposed of the tow truck;
  - d. If applicable, name and address of the person that purchased or leased the tow truck; and
  - e. Vehicle identification number of tow truck that was sold, leased, or disposed of.
3. A person to whom a tow truck is sold, leased, or otherwise disposed of shall complete the registration and inspection process before operating the tow truck to tow a vehicle within this state.
  3. A bed assembly with a distributed load capacity of 7,500 pounds;
  4. A wheel-lift or under-lift with a lifting capacity of 2,000 pounds when fully extended, if so equipped;
  5. A tow plate or tow bar that meets requirements of R13-3-1201(C)(16), if so equipped;
  6. Chains or straps and hooks that meet the requirements of R13-3-1104;
  7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
  8. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 713, effective April 5, 2008 (Supp. 08-1).

**ARTICLE 10. TOW TRUCK SPECIFICATIONS BY CLASS****R13-3-1001. Light-duty Tow Truck**

A light-duty tow truck has a minimum of:

1. A G.V.W.R. of 10,000 pounds;
2. A boom assembly with a rated capacity of 8,000 pounds, if so equipped;
3. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds, if so equipped;
4. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 2,500 pounds when fully extended;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
7. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1002. Light-duty Tow Truck with Collision Recovery Capabilities**

A light-duty tow truck with collision recovery capabilities has a minimum of:

1. A G.V.W.R. of 14,001 pounds;
2. A boom assembly with a rated capacity of 8,000 pounds;
3. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
4. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 3,000 pounds when fully extended;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
7. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1003. Light-duty Flatbed Tow Truck**

A light-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 10,000 pounds;
2. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;

**R13-3-1004. Light-duty Flatbed Tow Truck with Collision Recovery Capabilities**

A light-duty flatbed tow truck with collision recovery capabilities has a minimum of:

1. A G.V.W.R. of 14,001 pounds;
2. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
3. A bed assembly with a distributed load capacity of 7,500 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 2,500 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). Amended by final rulemaking at 14 A.A.R. 713, effective April 5, 2008 (Supp. 08-1).

**R13-3-1005. Light-duty Tow Truck-tractor and Semi-trailer Combination**

A light-duty tow truck-tractor and semi-trailer combination has a minimum of:

1. A G.V.W.R. of 8,600 pounds for a truck-tractor;
2. A G.V.W.R. of 7,500 pounds for a semi-trailer;
3. A power-operated winch with a line pull capacity of 8,000 pounds and a 3/8-inch diameter wire rope with a breaking strength of 12,200 pounds;
4. Chains or straps and hooks that meet the requirements of R13-3-1104;
5. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
6. Brakes that meet the requirements of R13-3-1103 and A.R.S. § 28-952(A).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1006. Medium-duty Tow Truck with Collision Recovery Capabilities**

A medium-duty tow truck has a minimum of:

1. A G.V.W.R. of 23,500 pounds;

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2. A boom assembly with a rated capacity of 24,000 pounds;
3. A power-operated winch with a line-pull capacity of 20,000 pounds and a 1/2-inch diameter wire rope with a breaking strength of 21,400 pounds, or two power-operated winches each with a line-pull capacity of 10,000 pounds and a 7/16-inch diameter wire rope with breaking strength of 16,540 pounds;
4. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 5,000 pounds when fully extended;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
7. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1007. Medium-duty Flatbed Tow Truck with Collision Recovery Capabilities**

A medium-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 23,500 pounds;
2. A power-operated winch with a line pull capacity of 10,000 pounds and a 7/16-inch diameter wire rope with a breaking strength of 16,540 pounds;
3. A bed assembly with a distributed load capacity of 15,000 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 3,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets the requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
8. Brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1008. Medium-duty Tow Truck-tractor and Semi-trailer Combination**

A medium-duty tow truck-tractor and semi-trailer combination has a minimum of:

1. A G.V.W.R. of 23,500 pounds for a truck-tractor;
2. A G.V.W.R. of 17,000 pounds for a semi-trailer;
3. A power-operated winch with a line pull capacity of 10,000 pounds and a 7/16-inch diameter wire rope with a breaking strength of 16,540 pounds;
4. Chains or straps and hooks that meet the requirements of R13-3-1104;
5. Axles, wheels, and tires that meet the requirements of R13-3-1102; and
6. Brakes that meet the requirements of R13-3-1103 and A.R.S. § 28-952(A)(3).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1009. Heavy-duty Tow Truck**

A heavy-duty tow truck has a minimum of:

1. A G.V.W.R. of 35,000 pounds;
2. Tandem rear axles;

3. A boom assembly with a rated capacity of 50,000 pounds, if so equipped;
4. Two power-operated winches with a line pull capacity of 25,000 pounds each and a 9/16-inch diameter wire rope with a breaking strength of 27,000 pounds, if so equipped;
5. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 12,000 pounds when fully extended;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102;
8. Air brakes that meet the requirements of R13-3-1103; and
9. Seventy-five feet of air line configured so the ends can be connected between the tow truck and the towed unit, allowing the air supply of the tow truck's brake system to be transmitted to the towed unit's service brake system.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1010. Heavy-duty Tow Truck with Collision Recovery Capabilities**

A heavy-duty tow truck has a minimum of:

1. A G.V.W.R. of 35,000 pounds;
2. Tandem rear axles;
3. A boom assembly with a rated capacity of 50,000 pounds;
4. Two power-operated winches with a line pull capacity of 25,000 pounds each and a 9/16-inch diameter wire rope with a breaking strength of 27,000 pounds;
5. A tow sling, tow plate, or tow bar that meets the requirements of R13-3-1201(C)(16), or a wheel-lift or under-lift with a lifting capacity of 12,000 pounds when fully extended;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;
7. Axles, wheels, and tires that meet the requirements of R13-3-1102;
8. Air brakes that meet the requirements of R13-3-1103; and
9. Seventy-five feet of air line configured so the ends can be connected between the tow truck and the towed unit, allowing the air supply of the tow truck's brake system to be transmitted to the towed unit's service brake system.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1011. Heavy-duty Flatbed Tow Truck with Collision Recovery Capabilities**

A heavy-duty flatbed tow truck has a minimum of:

1. A G.V.W.R. of 33,000 pounds;
2. A power-operated winch with a line pull capacity of 20,000 pounds and a 1/2-inch diameter wire rope with a breaking strength of 21,400 pounds;
3. A bed assembly with a distributed load capacity of 20,000 pounds;
4. A wheel-lift or under-lift with a lifting capacity of 4,000 pounds when fully extended, if so equipped;
5. A tow plate or tow bar that meets the requirements of R13-3-1201(C)(16), if so equipped;
6. Chains or straps and hooks that meet the requirements of R13-3-1104;

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7. Axles, wheels and tires that meet the requirements of R13-3-1102; and
8. Air brakes that meet the requirements of R13-3-1103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1012. Heavy-duty Tow Truck-tractor and Semi-trailer Combination**

A heavy-duty tow truck-tractor and semi-trailer combination has a minimum of:

1. A truck tractor with a G.V.W.R. of 35,000 pounds;
2. Tandem rear axles for both a truck-tractor and semi-trailer;
3. A G.V.W.R. of 30,000 pounds on the semi-trailer;
4. A power-operated winch with a single line pull capacity of 20,000 pounds and a 1/2-inch diameter wire rope with a breaking strength of 21,400 pounds;
5. Chains or straps and hooks that meet the requirements of R13-3-1104;
6. Axles, tires, and wheels that meet the requirements of R13-3-1102; and
7. Air brakes that meet the requirements of R13-3-1103 for both a truck-tractor and semi-trailer.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**ARTICLE 11. TOW TRUCK EQUIPMENT REQUIREMENTS****R13-3-1101. Compliance with Chapter and Identification Requirements**

- A. At all times a tow truck agent shall display on both sides of each tow truck the company name, full name of the town or city in which the company is located, and ten digit telephone number. Letters shall contrast sharply in color with the background on which the letters are placed, be readily legible during daylight hours from a distance of 50 feet while the tow truck is stationary, and be maintained in a manner that retains the legibility.
- B. A tow truck agent shall ensure that all tow trucks meet the requirements of this Chapter. The Department may suspend a permit decal for failure to meet the requirements of this Chapter.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1102. Axle, Wheel, and Tire Requirements**

- A. A tow truck agent shall ensure that a tow truck has:
  1. Axles, wheels, and tires with a manufacturer's capacity rating equal to or greater than the tow truck's G.V.W.R.; and
  2. At all points on major tread grooves, a tread-groove pattern depth of at least 4/32 of an inch on all tires on the steering axle, and 2/32 of an inch on all other tires.
- B. A tow truck agent shall ensure that a tow truck does not have:
  1. Fabric or cord exposed through the tire tread or sidewall;
  2. A tire contacting another tire, suspension, or any other part of the vehicle; or
  3. A tire visibly under-inflated or flat.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1103. Brake Requirements**

- A. A tow truck shall have a power-assisted service brake system, separate from the parking brake system, capable of stopping and holding the tow truck and its load under all conditions and on any grade on which the tow truck is operated. If a tow truck's service brake system is actuated by air, the tow truck shall be equipped with:
  1. A truck-tractor protection valve; and
  2. An audible or visible low air warning device that actuates at a minimum of 55 psi.
- B. A tow truck shall have a parking brake system, separate from the service brake system, which is capable of holding the tow truck and its load. If the tow truck's parking brake system is actuated by air, the tow truck shall be equipped with:
  1. A truck-tractor protection valve; and
  2. An audible or visible low air warning device that actuates at a minimum of 55 psi.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1104. Required Equipment**

- A. A light-duty tow truck shall be equipped with a minimum of 20 feet of recovery straps or 5/16-inch diameter chains with a hook on each end of each section. The straps or chains shall have an identifiable mark indicating a minimum working load limit strength of 3,900 pounds.
- B. A medium-duty tow truck shall be equipped with a minimum of 20 feet of recovery straps or 3/8-inch diameter chains with a hook on each end of each section. The straps or chains shall have an identifiable mark indicating a minimum working load limit strength of 7,100 pounds.
- C. A heavy-duty tow truck shall be equipped with a minimum of 20 feet of recovery straps or 1/2-inch diameter chains with a hook on each end of each section. The straps or chains shall have an identifiable mark indicating a minimum working load limit strength of 12,000 pounds.
- D. A semi-trailer or flatbed shall be equipped with "T" slots, eye bolts, "D" rings, or other means for attaching chains or straps, and four tie-down chains or straps with appropriate attachment hooks.
- E. All tow trucks shall be equipped with:
  1. Appropriate load securement devices if equipped with a wheel-lift, under-lift, tow bar, tow plate, or tow sling.
  2. A warning light assembly with a minimum of two light emitting sources. The lights shall:
    - a. Be mounted on the tow truck as high as practical and be visible from the front and rear of the tow truck for a distance of 100 feet under normal atmospheric conditions;
    - b. Show amber to the front and amber or red to the rear; and
    - c. Be wired independently of all other electrical circuits.
  3. A minimum of two work lamps. The lamps shall:
    - a. Have clear lenses;
    - b. Be capable of illuminating the area directly behind the tow truck for a distance of 50 feet; and
    - c. Be wired independently of all other electrical circuits.
  4. Two portable lamps consisting of tail lights, brake lights, turn signals, and emergency flashers, if a tow truck is equipped with a wheel-lift, under-lift, tow bar, tow plate or tow sling. Each portable lamp shall be visible from 100 feet under normal atmospheric conditions and comply with A.R.S. §§ 28-925(A), 28-927, and 28-939.

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5. One rear-vision mirror on each side of the tow truck. Each mirror shall have a minimum surface area of 24 square inches.
6. An operational battery-powered electric lantern or a two-cell flashlight.
7. A fire extinguisher having an Underwriter's Laboratories rating of 10 B:C or higher. The fire extinguisher shall be filled, readily accessible for use, and mounted securely to the tow truck.
8. A steering wheel securement device of sufficient strength to lock the steering mechanism in a straight, forward position, if a tow truck is equipped with a wheel-lift, under-lift, tow bar, tow plate or tow sling.
3. Does not operate a tow truck if the agent has more than two moving violation convictions within the previous 12 months;
4. Possesses the skill and knowledge to rig, move, pick up, and transport a vehicle without causing avoidable damage to the vehicle or other property;
5. Has not consumed any alcoholic beverage within four hours of operating the tow truck;
6. Is not using or under the influence of alcohol or any of the following substances as defined in A.R.S. § 13-3401 while operating a tow truck:
  - a. Peyote;
  - b. Vapor-releasing substance containing a toxic substance;
  - c. Marijuana;
  - d. Dangerous drugs;
  - e. Narcotic drugs; or
  - f. Prescription-only drug unless the tow truck agent obtains the prescription-only drug pursuant to a valid prescription.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1105. Collision Recovery Equipment Requirements**

A tow truck with collision recovery capabilities shall be equipped with at least:

1. One #2 or larger square-point shovel;
2. One 14-inch wide or larger push broom;
3. Five gallons or 20 pounds of fluid absorbent material stored in a weatherproof container; and
4. One snatch block for each installed winch on the tow truck. Each snatch block shall be of a size and rating compatible with the size and rating of the installed wire rope.
7. Has not been convicted of committing a crime involving fraud, embezzlement, or theft in the five years before operating a tow truck and has never been convicted of committing a felony homicide, felony kidnapping, felony assault, felony sexual offense, or felony robbery;
8. Has not been convicted under A.R.S. § 28-1381 (driving while under the influence of narcotics, dangerous drugs, or intoxicating beverages) or A.R.S. § 28-693 (reckless driving) while engaged in the operation of a tow truck; and
9. Does not operate a tow truck while the agent's license to drive is suspended under A.R.S. § 28-1321 (Implied Consent Law), A.R.S. § 28-3473 (license suspension or revocation), or A.R.S. § 28-4141 (suspended license, no insurance).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1106. Wire Rope Restrictions**

A tow truck agent shall ensure that a wire rope is not used in a tow truck if it:

1. Has kinks, bird caging, or knots;
2. Is crushed more than 33% of original diameter;
3. Has core protrusion along the length of the rope;
4. Has more than 11 broken wires in six diameters of length;
5. Has more than three broken wires in any one strand; or
6. Has more than two broken wires at the end connection or fitting.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1107. Wire Rope End Specifications and Installation**

A tow truck agent shall ensure that:

1. All wire rope eye loops used on a tow truck are protected by a thimble;
2. Cable clamps are not used on a wire rope; and
3. Thimbles are not cracked, deformed, worn, loose, or have a strand of wire that slips.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**ARTICLE 12. REQUIREMENTS FOR TOW TRUCK AGENTS AND COMPANIES****R13-3-1201. Tow Truck Agent and Company Requirements**

- A. A tow truck company shall ensure that each tow truck agent:
  1. While operating a tow truck possesses and carries a valid driver's license for the class of tow truck operated;
  2. While operating a tow truck possesses and carries a current medical examination certificate in accordance with 49 CFR 391.45 as referenced in A.A.C. R17-5-202;
- B. A tow truck agent shall:
  1. Comply with A.R.S. § 28-1108;
  2. Permit a peace officer or other duly authorized agent of a law enforcement agency to inspect a tow truck to determine compliance with the requirements of this Chapter. The inspection may be conducted without notice at any reasonable time and place; and
  3. Have a certification from a licensed testing facility certifying the tested line-pull of the winch or the tested lifting capacity of the boom assembly, if the tow truck is equipped with a homemade boom assembly or homemade winch.
- C. A tow truck agent shall not:
  1. Operate a tow truck without an identification number and a legible copy of a tow truck inspection report, as required by this Chapter;
  2. Transfer a permit decal or tow truck inspection report from one tow truck to another;
  3. Tow or move a vehicle from a highway, street, or public property without prior authorization from the owner or operator of the vehicle, the owner's agent, a person responsible for maintaining the public property, or a law enforcement officer. The tow truck agent may move, but shall not tow, a vehicle to extract an individual from wreckage or to remove a hazard to life or property at a collision scene;
  4. Use a hand-operated or electric winch for collision recovery work;
  5. Operate a tow truck for collision recovery work unless certified for collision recovery;

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6. Use a flatbed tow truck with a G.V.W.R. of less than 14,001 pounds to transport more than one vehicle unless the additional vehicle is a golf cart, a motor-driven cycle, or a trailer that weighs less than 1,500 pounds;
  7. Operate a tow truck that has one or more of the following defects;
    - a. Both warning light assembly lights missing or inoperative;
    - b. All load securement devices missing or defective;
    - c. A portable lamp not in compliance with A.R.S. §§ 28-925(A), 28-927 or 28-939, if a portable lamp is required;
    - d. Any steering axle tire with less than 4/32-inch tread depth in one major groove;
    - e. For an axle other than a steering axle, a tire with less than 2/32-inch tread depth and for a dual wheel axle, both tires on the same side with less than 2/32-inch tread depth;
    - f. Any flat tire or tire with cord exposed by cut or wear;
    - g. Any tow plate, tow bar, tow sling, wheel-lift, or under-lift exhibiting wear in excess of manufacturer standards at any pivot point or any crack in a structural component;
    - h. Wire rope in violation of R13-3-1106;
    - i. Any component not maintained within manufacturer standards; or
    - j. A deficiency noted on an inspection report after the time-frame available to the tow truck agent to correct deficiencies has elapsed;
  8. Equip a tow truck with homemade boom assembly or homemade winch, unless the tow truck company has a certification from a licensed testing facility certifying the tested line pull of the winch or the tested lifting capacity of the boom assembly;
  9. Tow a vehicle using a tow sling, tow plate, or tow bar unless appropriate load securement devices are attached;
  10. Transport a vehicle by flatbed or truck, truck-tractor, or semi-trailer unless the vehicle is secured with a minimum of a four-point tie-down, not including the winch;
  11. Tow a vehicle with a wheel-lift, under-lift, tow plate, tow bar, or tow sling unless two safety chains are attached by crossing the chains with one end of each chain attached to a major structural member of the tow truck and the other end attached to a major structural member of the towed vehicle, with no attachments to the bumpers;
  12. Tow a vehicle using a tow plate, tow bar, tow sling, wheel-lift, or under-lift unless a portable lamp is affixed to the rear of the rear-most towed vehicle, in plain view, and when activated, visible to traffic traveling in the same direction;
  13. Activate warning light assembly except at the scene of service, or when transporting a vehicle that presents a hazard from a collision scene;
  14. Use any vehicle towed or article stored in the towed vehicle, unless it is the property of the tow truck company or tow truck agent;
  15. Operate a tow truck that exceeds the manufacturer's G.V.W.R. without a load or the manufacturer's rated capacity for the boom or bed assembly;
  16. Operate a tow truck that is equipped with a tow plate, tow bar, or tow sling unless the tow plate, tow bar, or tow sling has a manufacturer weight rating that exceeds any load carried on it; or
  17. Refuse to make prompt restitution for any damage for which the tow truck company is legally liable.
- D. The Department may suspend a permit decal for failure to comply with these standards.
 

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2). At the Department's request, the A.R.S. citation was corrected in subsection (B)(1) as Laws 2015, Ch. 265 transferred duties relating to towing services; Office file number M16-202 (Supp. 16-3). Amended by final expedited rulemaking at 25 A.A.R. 844, effective March 19, 2019 (Supp. 19-1).

**ARTICLE 13. ENFORCEMENT**

**R13-3-1301. Waiver**

If the Director determines there is a compelling public necessity, the Director may waive the enforcement of this Chapter.

    1. A person shall make a waiver request in writing.
    2. The Director shall separately consider and decide each request for a waiver and each waiver shall only apply to the person requesting the waiver.
    3. The Director shall provide the decision in writing.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1302. Suspension or Denial of Tow Truck Permit Decal**

**A.** The Director may deny or suspend a permit decal for up to one year if a person violates this Chapter.

**B.** The Department shall provide a written notice of a permit decal suspension to a tow truck company that includes the information specified in A.R.S. § 41-1092.03(A) and lists:

    1. The effective date of the suspension;
    2. The tow truck affected by the suspension;
    3. The specific violation; and
    4. The actions necessary for compliance and for the Department to end the suspension.

**C.** Beginning on the effective date of the suspension, the tow truck company shall not operate the identified tow truck to tow.

**D.** The tow truck company shall submit a corrective action plan to the Department that lists the steps the tow truck company will take to reach compliance.

    1. A tow truck agent shall sign the plan and submit the plan to the Department for approval and signature.
    2. Failure to submit a plan within 90 days of written notice of suspension by the Department constitutes withdrawal from the permit process and requires the tow truck company to reapply under Article 9 of this Chapter.

**E.** If the tow truck company complies with the corrective action plan, the Department shall reinstate the tow truck permit decal.

**F.** The Department shall not suspend a permit decal for a violation of R13-3-1201(A)(3) unless the tow truck company owner knew or should have known of the tow truck agent's convictions.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

**R13-3-1303. Appeals**

**A.** A person that has had issuance of a tow truck permit decal denied or suspended has a right to a hearing.

    1. The Director or designee may combine requests for hearings into one hearing where there are common parties or issues.
    2. The hearing shall be conducted by the Office of Administrative Hearings pursuant to A.R.S. § 41-1092, et seq.

## CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY - TOW TRUCKS

- B.** A person shall make a request for a hearing in writing to the Department within 30 calendar days from receipt of the notice of denial or suspension. If the request for a hearing is not received within the 30-day period, the person's right to a hearing is waived, unless the person shows that failure to timely request a hearing was beyond the person's control.
- C.** If a hearing is requested, the Department shall notify the person in writing at least 30 calendar days before the date set for hearing and include the following in the notice:
1. A statement of the time, place, and nature of the hearing;
  2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
  3. A reference to the particular sections of the statutes and rules involved; and
  4. A short and plain statement of the matters asserted.
- D.** A final administrative decision shall be issued pursuant to A.R.S. § 41-1092.08.
1. A copy of the decision shall be mailed to each party.
  2. Within 35 calendar days after the date of service of the final decision rendered in the hearing, an appeal may be taken to the Superior Court of the county in which any of the conditions in A.R.S. § 12-905 apply. Appeals to the Superior Court are governed by the provisions of A.R.S. § 12-901 et seq.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1735, effective July 1, 2006 (Supp. 06-2).

### 41-1713. Powers and duties of director; authentication of records

#### A. The director of the department shall:

1. Be the administrative head of the department.
2. Subject to the merit system rules, appoint, suspend, demote, promote or dismiss all other classified employees of the department on the recommendation of their respective division superintendent. The director shall determine and furnish the law enforcement merit system council established by section 41-1830.11 with a table of organization. The superintendent of each division shall serve at the concurrent pleasure of the director and the governor.
3. Except as provided in sections 12-119, 41-1304 and 41-1304.05, employ officers and other personnel as the director deems necessary for the protection and security of the state buildings and grounds in the governmental mall described in section 41-1362, state office buildings in Tucson and persons who are on any of those properties. Department officers may make arrests and issue citations for crimes or traffic offenses and for any violation of a rule adopted under section 41-796. For the purposes of this paragraph, security does not mean security services related to building operation and maintenance functions provided by the department of administration.
4. Make rules necessary for the operation of the department.
5. Annually submit a report of the work of the department to the governor and the legislature, or more often if requested by the governor or the legislature.
6. Appoint a deputy director with the approval of the governor.
7. Adopt an official seal that contains the words "department of public safety" encircling the seal of this state as part of its design.
8. Investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a license or registration certificate issued pursuant to title 32, chapter 26.
9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.
10. Adopt and administer the breath, blood or other bodily substances test rules pursuant to title 28, chapter 4.
11. Develop procedures to exchange information with the department of transportation for any purpose related to sections 28-1324, 28-1325, 28-1326, 28-1462 and 28-3318.
12. Collaborate with the state forester in presentations to legislative committees on issues associated with wildfire prevention, suppression and emergency management as provided by section 37-1302, subsection B.

#### B. The director may:

1. Issue commissions to officers of the department.
2. Request the cooperation of the utilities, communication media and public and private agencies and any sheriff or other peace officer in any county or municipality, within the limits of their respective jurisdictions when necessary, to aid and assist in the performance of any duty imposed by this chapter.

3. Cooperate with any public or private agency or person to receive or give necessary assistance and may contract for such assistance subject to legislative appropriation controls.
4. Utilize the advice of the board and cooperate with sheriffs, local police and peace officers within the state for the prevention and discovery of crimes, the apprehension of criminals and the promotion of public safety.
5. Acquire in the name of the state, either in fee or lesser estate or interest, all real or any personal property that the director considers necessary for the department's use, by purchase, donation, dedication, exchange or other lawful means. All acquisitions of personal property pursuant to this paragraph shall be made as prescribed in chapter 23 of this title unless otherwise provided by law.
6. Dispose of any property, real or personal, or any right, title or interest in the property, when the director determines that the property is no longer needed or necessary for the department's use. Disposition of personal property shall be as prescribed in chapter 23 of this title. The real property shall be sold by public auction or competitive bidding after notice published in a daily newspaper of general circulation, not less than three times, two weeks before the sale and subject to the approval of the director of the department of administration. When real property is sold, it shall not be sold for less than the appraised value as established by a competent real estate appraiser. Any monies derived from the disposal of real or personal property shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.
7. Sell, lend or lease personal property directly to any state, county or local law enforcement agency. Personal property may be sold or leased at a predetermined price without competitive bidding. Any state, county or local law enforcement agency receiving personal property may not resell or lease the property to any person or organization except for educational purposes.
8. Dispose of surplus property by transferring the property to the department of administration for disposition to another state budget unit or political subdivision if the state budget unit or political subdivision is not a law enforcement agency.
9. Lease or rent personal property directly to any state law enforcement officer for the purpose of traffic safety, traffic control or other law enforcement related activity.
10. Sell for one dollar, without public bidding, the department issued handgun or shotgun to a department officer on duty related retirement pursuant to title 38, chapter 5, article 4. Any monies derived from the sale of the handgun or shotgun to the retiring department officer shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.
11. Conduct state criminal history records checks for the purpose of updating and verifying the status of current licensees or registrants who have a license or certificate issued pursuant to title 32, chapter 26. The director shall investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a registration certificate issued pursuant to title 32, chapter 26.
12. Grant a maximum of two thousand eighty hours of industrial injury leave to any sworn department employee who is injured in the course of the employee's duty, any civilian department employee who is injured in the course of performing or assisting in law enforcement or hazardous duties or any civilian department employee who was injured as a sworn department employee rehired after August 9, 2001 and would have been eligible pursuant to this paragraph and whose work-related injury prevents the employee from performing the normal duties of that employee's classification. This industrial injury leave is in addition to any vacation or sick leave earned or granted to the employee and does not affect the employee's eligibility for any other benefits, including workers' compensation. The employee is not eligible for payment pursuant to section 38-615 of industrial injury leave that is granted pursuant to this paragraph. Subject to approval by the law enforcement merit system council, the director shall adopt rules and procedures regarding industrial injury leave hours granted pursuant to this paragraph.

13. Sell at current replacement cost, without public bidding, the department issued badge of authority to an officer of the department on the officer's promotion or separation from the department. Any monies derived from the sale of the badge to an officer shall be deposited, pursuant to sections 35-146 and 35-147, in the department of public safety administration fund to offset replacement costs.

C. The director and any employees of the department that the director designates in writing may use the seal adopted pursuant to subsection A, paragraph 7 of this section to fully authenticate any department records and copies of these records. These authenticated records or authenticated copies of records shall be judicially noticed and shall be received in evidence by the courts of this state without any further proof of their authenticity.

41-1830.51. Vehicle towing; rules; contractual agreement for towing services; definition

A. The director shall:

1. Adopt and enforce rules that are not inconsistent with this article to govern the design and operation of all tow trucks.
2. Adopt guidelines to protect consumers against being overcharged for towing services. The guidelines shall specify that a larger class of tow vehicle used for lighter tows must be billed at the lighter duty towing service rates.

B. The director or a county, city or town may enter into a contractual agreement with a towing firm or firms for towing or storage services, or both. At the time of application for a contractual agreement, a towing firm must disclose in writing the owners of the towing firm and, if the owners own other towing firms that are also applying for the same contractual agreement, the names of those towing firms. The contractual agreement shall comply with this section and all rules adopted under this section. Contracts shall be awarded on the basis of competitive bidding. The director or a county, city or town shall reserve the right to reject all bids. If only one bid is received, the director or a county, city or town may reject the bid and negotiate a contract without bidding if the negotiated contract is at a price lower than the bid price under the terms and conditions specified in the call for bids.

C. Except as provided in subsection D of this section, a towing firm may only have one contractual agreement per geographic towing area with the department or a county, city or town for towing or storage services, or both. If an owner of a towing firm has a common ownership interest in another towing firm or the assets, or shared use of the assets, of another towing firm, the owner may not participate in any other application for a contractual agreement within the same geographic towing area for that application. The department or a county, city or town must determine that each towing firm is in compliance with this subsection. The director or a county, city or town must review any complaints that are submitted with supporting documentation and that allege a violation of this subsection.

D. If a towing firm that has a contractual agreement pursuant to this section acquires another towing firm that has a contractual agreement pursuant to this section, both contractual agreements remain valid for one year after the date of the acquisition or until the end of the contractual agreement, whichever is shorter.

E. Notwithstanding subsection C of this section, an agency may allow a towing firm to use resources from another towing firm if an agency deems the use of those resources is necessary for traffic incident management.

F. If towing companies share any employees or staff, the companies shall be considered as one company for the purposes of the rotation list in that geographically contracted towing area.

G. For the purposes of this section, "asset" means any property that has a value, including financial, intangible and physical assets, and includes:

1. Vehicles.
2. Equipment.
3. Stock.
4. A membership in a limited liability company.
5. A partnership interest.
6. A beneficial interest in a trust or another like item.



# ARIZONA DEPARTMENT OF PUBLIC SAFETY

2102 WEST ENCANTO BLVD. P.O. BOX 6638 PHOENIX, ARIZONA 85005-6638 (602) 223-2000

*"Courteous Vigilance"*

**DOUGLAS A. DUCEY** **FRANK L. MILSTEAD**  
Governor Director

October 4, 2019

The Honorable Douglas A. Ducey  
Governor of Arizona  
1700 West Washington Street  
Phoenix, Arizona 85007

Dear Governor Ducey:

In accordance with Executive Order 2019-01, *Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting Consumers Against Fraudulent Activities*, the Department of Public Safety is requesting approval to conduct a rulemaking for the purpose of revising 13 A.A.C. 3, *Tow Trucks*, Section 902(E) regarding the location of the inspection permit stickers. The justification for this request is to: (b) reduce or ameliorate a regulatory burden while achieving the same regulatory objective. The Department issued 241 permits in 2018.

Earlier in 2019, the Department attended a meeting of the Arizona Professional Towing and Recovery Association. The Association is comprised of towing companies from around the state and represents them before the state legislature, regulatory agencies and the National Towing Association. As a result of the meeting, the Department and the Association concluded the inspection permit stickers should be moved from the windshield to the rear window/cab area for several reasons:

1. Reduce the out-of-service time for re-inspections to replace stickers lost due to cracked/replaced windshields or destroyed from repeated pressure washing using cleaning solutions/solvents to remove debris from the front of the vehicle and windshield. Additionally, costs would be reduced by purchasing less stickers. Between April 2018 and April 2019, 38 stickers were replaced due to damaged/replaced windshields. Depending on when the company schedules an appointment with the Department to replace the sticker, the average time to replace the sticker and put the tow truck back into service was one to seven days.
2. Allow troopers to more easily read the inspection permit when the tow truck is being operated on the roadway.

3. Lengthen the service life of the sticker by reducing its exposure to sun and weather. Stickers last an average of four years on the windshield and are a one-time compliance inspection unless the sticker is lost, damaged, destroyed, suspended or there is a change of ownership. The change could potentially add life to the sticker reducing out-of-service time and the cost to purchase new stickers.

This waiver request is limited to only Chapter 3, *Tow Trucks*, Section 902(E). The Department was unable to find alternatives to address the amendments outside of rulemaking. The Department determined a rulemaking to address the amendments is in the best interests of the citizens of Arizona.

My staff and I are available to answer any questions or provide additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Frank L. Milstead".

Frank L. Milstead, Colonel  
Director

Enclosure

**TITLE 13, PUBLIC SAFETY, CHAPTER 3 DPS-TOW TRUCKS**  
**ARTICLE 9. TOW TRUCK REGISTRATION AND COMPLIANCE INSPECTION**

**R13-3-902. Inspection by the Department**

- A. The Department shall inspect a tow truck for compliance with this Chapter as soon as possible after the tow truck inspection application form is filed and no later than seven days after the application form is filed.
- B. The Department may conduct unannounced, in-service inspections of a tow truck at the roadside, at the company's place of business, or any reasonable time and place to determine the condition of the tow truck.
- C. The Department shall issue tow truck permit decals and identification number decals individually for each approved tow truck.
- D. When a tow truck inspection is conducted under subsection (A) or (B), the following apply:
  - 1. Department inspectors shall examine the tow truck for compliance with the safety requirements and specifications for the tow truck class under this Chapter.
  - 2. If the Department finds that the tow truck complies with this Chapter, the Department shall issue an inspection report and if applicable, a permit decal.
  - 3. If the Department finds that the tow truck does not comply with this Chapter, but has no deficiency listed in R13-3-1201(C)(7), the Department shall issue an inspection report that:
    - a. Specifies the deficiencies found,
    - b. Requires corrective measures, and
    - c. Allows five calendar days for the tow truck agent to correct the deficiencies.
  - 4. If the Department finds that the tow truck does not comply with this Chapter because of deficiencies listed in R13-3-1201(C)(7), the Department shall not issue a permit decal but shall issue an inspection report that:
    - a. Specifies the deficiencies found, and
    - b. Requires corrective measures.
- E. A tow truck agent shall ensure that a legible copy of the most recent tow truck inspection report is kept in the driver's compartment area of the tow truck and is produced upon demand to any peace officer. The Department may suspend a tow truck permit decal for failure to comply with this subsection.
  - 1. A tow truck agent shall ensure that:
    - a. A permit decal is affixed to the lower outside ~~right corner~~ left rear window or the left outside of the rear cab wall of the tow ~~truck's~~ truck ~~windshield~~. A permit decal issued prior to the effective date of this section may remain on the lower outside right corner of the tow truck's windshield until the permit has expired or been replaced, and
    - b. An identification number decal is permanently affixed to the driver's compartment area.
  - 2. The Department may suspend a permit decal for failure to maintain the permit decal or identification number decal in compliance with subsection (E)(1).
  - 3. If a tow truck inspection report, permit decal, or identification number decal is lost, damaged, destroyed, or stolen, the tow truck company shall immediately notify the Department.

- a. The tow truck company shall provide notification in writing either to Arizona Department of Public Safety, P.O. Box 6638, Mail Drop 1240, Phoenix, AZ 85005-6638, or by e-mail to [TowTruckUnit@azdps.gov](mailto:TowTruckUnit@azdps.gov) and include the name of the tow truck agent who registered the tow truck and the number of the lost, damaged, destroyed, or stolen inspection report, permit decal, or identification number decal.
- b. Upon receipt of the notification, the Department shall issue the replacement inspection report, permit decal, or identification number decal.

**From:** [Jennifer Thomsen](#)  
**To:** [Andres Vasquez](#)  
**Cc:** [Paul Swietek](#); [Blaze Baggs](#)  
**Subject:** Re: Waiver Request  
**Date:** Friday, October 25, 2019 2:12:50 PM

---

Good Afternoon,

I am writing to let you know that this rulemaking waiver is approved.

Have a great weekend!

Jennifer

On Fri, Oct 11, 2019 at 9:20 AM Andres Vasquez <[AVasquez@azdps.gov](mailto:AVasquez@azdps.gov)> wrote:

Ms. Thomsen,

In accordance with Executive Order 2019-01, *Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting Consumers Against Fraudulent Activities* the Department of Public Safety requests approval (a waiver) to conduct a rulemaking for the purpose revising 13 A.A.C. 3, Tow Trucks, SDection 902€ regarding the location of the inspection permit stickers.

This waiver will allow us to reduce or ameliorate a regulatory burden while achieving the same regulatory objective. The Department was unable to find alternatives to address the amendments outside of rulemaking. The Department determined a rulemaking to address the amendments is in the best interests of the citizens of Arizona.

Please contact me if you require additional information.

Andres O. Vasquez, Inspector

Executive Officer/Chief of Staff

Arizona Department of Public Safety

602 223-5046

--

***Jennifer Thomsen***

Policy Advisor, Public Safety and Military Affairs

Office of Arizona Governor Doug Ducey

1700 W Washington St

Phoenix AZ 85007

O: 602-542-3439

C: 602-769-7352

**E-1**

**DEPARTMENT OF PUBLIC SAFETY (F20-0301)**

Title 13, Chapter 2, Articles 1-4, Private Investigators



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** March 31, 2020

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

**FROM:** Council Staff

**DATE:** March 11, 2020

**SUBJECT:** Department of Public Safety  
Title 13, Chapter 2, Articles 1 through 4

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This Five-Year-Review Report from the Department of Public Safety relates to rules in Title 13, Chapter 2, regarding private investigators. The rules cover the following:

- Article 1** - General Provisions
- Article 2** - Agency Licenses
- Article 3** - Registration Certificates
- Article 4** - Regulation

In the last Five-Year-Review Report of these rules the Department indicated it would amend four of its rules. The Department indicates no action was taken because the rules were last revised in 2015.

### **Proposed Action**

For the reasons mentioned in the report, the Department is proposing to amend the following rules:

- R13-2-102** - Application and Processing Fees
- R13-2-103** - Application Forms
- R13-2-104** - Identification Cards

- R13-2-202 - Submission of Application for an Agency License
- R13-2-203 - Issuance of Agency License
- R13-2-205 - Branch Office Certificate
- R13-2-301 - Employee and Associate Registration Certificate Eligibility
- R13-2-302 - Application of Registration Certificate
- R13-2-303 - Renewal of Registration Certificate
- R13-2-304 - Lost or Stolen Registration Certificate or Identification Card
- R13-2-306 - Change in Name of Registrant
- R13-2-401 - Denial of Agency License or Registration Certificate

The Department plans to request an exception from the rule moratorium by December 2020.

1. **Has the agency analyzed whether the rules are authorized by statute?**

Yes, the Department cites to both general and specific authority for these rules.

2. **Summary of the agency's economic impact comparison and identification of stakeholders:**

The Department of Public Safety Licensing Unit regulates the private investigator industry by processing license applications and conducting administrative hearings regarding alleged violations of statutes or rules. The statute requires an individual performing private investigator services to be licensed by the Department.

The Department currently licenses 892 agencies and has issued registrations to 728 employees and associates.

The Stakeholders include: the Department, private investigators and agencies, licensees and applicants, and the public.

The Department has determined the Economic Impact Statement at the time of rulemaking is still relevant for the rules. However, while the fees have not increased since 2005, operational costs such as rent, utilities, hardware, software and supplies have continually and substantially increased.

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 has determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public as the definitions are effective in communicating their meaning. The rule references statute; therefore, the Department cannot identify any alternatives.

4. **Has the agency received any written criticisms of the rules over the last five years?**

The Department indicates they did not receive any written criticisms on these rules.

5. **Has the agency analyzed the rules' clarity, conciseness, and understandability, consistency with other rules and statutes, and effectiveness?**

Yes, for the reasons mentioned in the report, the Department indicates the following rules could be amended to improve clarity, conciseness, effectiveness, understandability, and consistency with other rules and statutes:

**R13-2-301** - Employee and Associate Registration Certificate Eligibility

**R13-2-303** - Renewal of Registration Certificate

6. **Has the agency analyzed the current enforcement status of the rules?**

Yes, for the reasons mentioned in the report, the Department indicates the following rules are not enforced as written:

**R13-2-203** - Issuance of Agency License

**R13-2-302** - Application of Registration Certificate

**R13-2-305** - Change of Address

**R13-2-401** - Denial of Agency License or Registration Certificate

7. **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 is no corresponding federal law for these rules.

8. **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 were adopted in 2005 and do not require a permit or license.

9. **Conclusion**

As mentioned above and for the reasons mentioned in the report the Department is planning to amend several of its rules to improve overall clarity, conciseness, understandability, consistency with other rules and statutes and effectiveness.. The Department sent a letter on February 19, 2020, to the Governor's office requesting an exception from the rule moratorium to conduct an expedited rulemaking to amend R13-2-203, R13-2-205, R13-3-301, and R13-2-302.

The Department plans to complete a rulemaking by December 2020 that addresses the other rules mentioned in the report. Council staff recommend approval of this report.



# ARIZONA DEPARTMENT OF PUBLIC SAFETY

2102 WEST ENCANTO BLVD. P.O. BOX 6638 PHOENIX, ARIZONA 85005-6638 (602) 223-2000

*"Courteous Vigilance"*

**DOUGLAS A. DUCEY** **FRANK L. MILSTEAD**  
Governor Director

November 26, 2019

VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)  
Ms. Nicole Sornsins, Chair  
Governor's Regulatory Review Council  
100 North 15<sup>th</sup> Avenue, Suite 305  
Phoenix, Arizona 85007

**RE: Arizona Department of Public Safety Title 13, Chapter 2, Articles 1, 2, 3 and 4 Five Year Review Report**

Dear Ms. Sornsins:

Please find enclosed the Five Year Review Report of the Arizona Department of Public Safety for 13 A.A.C. 2 which is due by December 31, 2019.

The Department hereby certifies compliance with A.R.S. § 41-1091.

For questions about this report, please contact Mr. Paul Swietek at (602) 223-2049 or [pswietek@azdps.gov](mailto:pswietek@azdps.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Frank L. Milstead". The signature is stylized and cursive.

Frank L. Milstead, Colonel  
Director



# **ARIZONA DEPARTMENT OF PUBLIC SAFETY**

## **ARIZONA ADMINISTRATIVE CODE FIVE YEAR REVIEW REPORT**

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**TITLE**        **13 – PUBLIC SAFETY**

**CHAPTER**    **2 – PRIVATE INVESTIGATORS**

**ARTICLES**   **1 – GENERAL PROVISIONS**  
                  **2 – AGENCY LICENSES**  
                  **3 – REGISTRATION CERTIFICATES**  
                  **4 – REGULATION**

**November 2019**

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## INTRODUCTION

The Department of Public Safety Licensing Unit regulates the private investigator industry by processing license applications and conducting administrative hearings regarding alleged violation of statutes or rules. The statute requires an individual performing private investigator services to be licensed by the Department. The Department's 23 rules implementing the private investigator statutes were made in 2005 and have not been amended.

The Department currently licenses 892 agencies and has issued registrations to 728 employees and 307 associates. During the last year, the Department received applications from 91 new agencies and received 312 new applications for registration.

## ANALYSIS OF INDIVIDUAL RULES

### **R13-9-101 DEFINITIONS**

1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2402(D) states the Director shall make rules to enforce A.R.S. Title 32, Chapter 24.

2. Objective

The objective of this rule is to make the rules more understandable by defining terms used in statute and rule.

3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public as the definitions are effective in communicating their meaning.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department does not intend to amend this rule.

## **R13-9-102 APPLICATION AND PROCESSING FEES**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2402(D) states the Director shall make rules to enforce A.R.S. Title 32, Chapter 24.
- A.R.S. § 32-2407(A) states the Department shall charge and collect fees to recover costs.

### 2. Objective

The objective of this rule is to specify the fees charged by the Department for various activities associated with regulating the private investigator industry.

### 3. Effectiveness of the Rule in Achieving the Objective

The previous report said in reference to Paragraph (A)(13) "...it could be improved by removing the fees for fingerprints and digital photographs of the licensee as the Department no longer provides those services. Licensees would instead be responsible for obtaining and supplying the required passport-sized photograph and fingerprint card using any service available." The Department has changed its position and intends to continue offering fingerprints and photos as it is still requested by the public. To facilitate this service, the Department is exploring options for an automated kiosk to be placed in the lobby for public use. The rule does require amendment to allow for credit card payment.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule

The rules have not been amended since they were made in 2005. When the rules were made, the Department estimated there would be a substantial impact on those obtaining licensure as a private investigator because of a statutory change requiring the Department to set fees that cover the operational and equipment costs of the licensing unit (See A.R.S. § 32-2407(A)). This change resulted from the statutory directive rather than the rule. The Department has received no information suggesting the previously submitted economic, small business, and consumer impact comparison has changed.

The Department currently licenses 892 agencies and has issued registrations to 728 employees and 307 associates. During the last year, the Department received applications from 91 new agencies.

The Department collected \$218,956 in licensing fees from private investigator licensees, registrants, and applicants. The Licensing Unit has 12 FTEs that oversee the private investigator and security guard industry licensing (approximately 16,000 applicants annually). While the unit has not increased its fees on the public since 2005, operational costs such as rent, utilities, hardware, software and supplies have continually and substantially increased.

9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action

No action was taken from the previous report as the Department later determined it would retain the provisions to take fingerprints and photos.

11. Determination of Probable Benefits Outweighing the Probable Costs

The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public as the Department has not raised its fees in the last 14 years.

12. Determination of the Rule's Stringency Against Federal Law

There is no applicable federal law.

13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.

This rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Current Five-Year Review Process Course of Action

The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

## **R13-2-103. APPLICATION FORMS**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2407(B) states an applicant shall use an application and forms prescribed by the Department.
- A.R.S. § 32-2425(E) states new associates shall submit applications on forms prescribed by the Department.

### 2. Objective

The objective of this rule is to specify the application forms that the Department uses to fulfill its statutory responsibility to regulate the private investigator industry.

### 3. Effectiveness of the Rule in Achieving the Objective

Paragraph (B) should be amended to include a DPS website option for obtaining the application forms and submitting the application online once this option is available. The rule should be amended to include the actual mailing address and telephone number.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law. There are no applicable federal statutes.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule  
The Department determined the EIS at the time of the rulemaking is still relevant for this rule. The Department is expecting the new online portal to lower the impact to the public through greater efficiency with online services.
9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public as the definitions are effective in communicating their meaning.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

## **R13-2-104. IDENTIFICATION CARDS**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2401(12) defines the identification card.
- A.R.S. § 32-2425(B) specifies issuance and surrender of the identification card.
- A.R.S. § 32-2443 specifies issuance and surrender of the identification card.
- A.R.S. § 32-2461 lists the required information on the identification card and grants the Department authority to include additional information as it deems necessary.

### 2. Objective

The objective of this rule is to specify to whom the Department will issue, the information included on, and information regarding proper use of an identification card.

### 3. Effectiveness of the Rule in Achieving the Objective

Paragraphs (F) and (G) should be amended by adding the actual mailing address and electronic contact information.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule  
The Department determined the EIS at the time of the rulemaking is still relevant for this rule. The Department does not charge a fee for an initial or renewal pursuant to A.R.S. § 32-2425(B).
9. Analysis of the State’s Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public For an initial and renewal card the Department complies with A.R.S. § 32-2425(B).
12. Determination of the Rule’s Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
The rule was created in 2005 and not amended therefore it is not applicable.
14. Current Five-Year Review Process Course of Action  
The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

## **R13-2-105. TIME-FRAMES FOR MAKING LICENSING AND REGISTRATION DETERMINATIONS**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 41-1073 specifies the steps, considerations and requirements for agencies to establish time-frames.

### 2. Objective

The objective of this rule is to specify the time-frames within and the manner in which the Department will act on applications regarding the private investigator industry.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

### 8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule. In the period since the last report, the Licensing Unit employed Lean Six Sigma and has implemented changes to improve efficiencies which resulted in the removal of backlogs and improved processing times.

9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department is currently issuing cards to applicants without a prior criminal history in approximately three to five business days. Processing time could potentially be better if an approximately 20% staff vacancy improved and when the new online portal goes active.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department does not intend to amend this rule.

## **R13-2-201. AGENCY LICENSE ELIGIBILITY**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2421 specifies the qualifying party for an agency license.

### 2. Objective

The objective of this rule is to reiterate that only the qualifying party of an agency is eligible to apply for and receive an agency license. Other partners or corporate officers must register as associates of the agency.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

### 8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

### 9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action

The previous report had no course of action as the Department had no changes to this rule.

11. Determination of Probable Benefits Outweighing the Probable Costs

The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The rule only points to reference in Arizona Revised Statutes and places no additional regulatory burden or costs on the regulated community.

12. Determination of the Rule's Stringency Against Federal Law

There is no applicable federal law.

13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.

This rule does not create any additional license eligibility requirements beyond the references to the Arizona Revised Statutes in the rule.

14. Current Five-Year Review Process Course of Action

The Department does not intend to amend this rule.

## **R13-2-202. SUBMISSION OF APPLICATION FOR AN AGENCY LICENSE**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2423 specifies the requirements for the agency license application and allows the Department to reasonably require other information, evidence, statements or documents.

### 2. Objective

The objective of this rule is to specify the information required with an application for an agency license.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is not effective in achieving its objective. Paragraph (A) should be amended to include instructions for new online submission; including specific electronic file formats and specify the physical address and mailing address. Paragraph (A)(4) should be amended to remove the notary requirement. As the Department moves to online submission, a notary stamp/signature is not possible.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law. There are no applicable federal statutes.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department will not be able to enforcement the notary requirement for online submissions.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule  
The Department determined the EIS at the time of the rulemaking is still relevant for this rule.
9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department intends to lower the burden by removing the costs and time associated with notarizing an application and allowing for electronic submission reducing the burden of mailing paper applications.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

## **R13-2-203. ISSUANCE OF AGENCY LICENSE**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2425 provides specifics on the issuance of the license.

### 2. Objective

The objective of this rule is to provide information regarding the final steps leading to the issuance of an agency license and requirements regarding the use of the license.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

Department identified the rule is not consistent with statutes and other rules:

- Paragraph (B) indicates the Department will deny an agency license to an applicant that fails to provide all needed information within 90 days. This is inconsistent with A.R.S. § 32-2425(C) which states the application is cancelled and all fees forfeited by the applicant. The Department is closing the file of an applicant that fails to provide needed information.
- Paragraph (G) requires notice of a change of address within 15 days. This is inconsistent with A.R.S. § 32-2425(D) which provides 30 days.

### 5. Rule Enforcement

The Department is not able to enforce Paragraph (C) and (G) as noted in Item 4 above.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule. A.R.S. § 32-2425 prescribes certain parameters where the public may incur or not incur burden; such as, the identification card shall be issued without charge to the licensee, failure to complete the application process results in a forfeiture of fees and certain time-frames. The Department alleviates burden by mailing the identification card if it cannot be picked up in person. Having to post the license in a conspicuous place is considered a safety measure by the Department to allow the public to determine if they are conducting business with a licensed agency. Due to statutory requirements and safety, the Department is not able to develop alternatives.

9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action

No action was taken from the previous report. The Department was uncertain whether it would pursue a rulemaking moratorium exemption and did not initiate a rulemaking since the rules were revised in 2015. In the period since the last report, the Licensing Unit was engaging in other prolonged and complex activities and internal restructuring that hindered opportunities for rulemaking. For example:

- The Unit was engaged with planning and moving to a new building.
- The Unit was upgrading its online web-based system and reporting mechanism.
- The Unit has had three different supervisors in the last 5 years.
- The current supervisor earned a green belt in Lean Six Sigma and has implemented changes to improve efficiencies which resulted in the removal of backlogs and one business day processing times.
- Three previous managers did not consider rulemaking to be a priority. The current manager recognizes rulemaking as a priority.
- There have been no major challenges to the current rule.

11. Determination of Probable Benefits Outweighing the Probable Costs

The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public due to the statutory requirements and safety purpose identified in Item 8 above.

12. Determination of the Rule's Stringency Against Federal Law

There is no applicable federal law.

13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.

The rule was created in 2005 and not amended therefore it is not applicable.

14. Current Five-Year Review Process Course of Action

The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

## **R13-2-204. AGENCY LICENSE RENEWAL**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2407(B) specifies the criteria to renew a license or registration certificate.
- A.R.S. § 32-2423(A) specifies the financial responsibility for a licensee.

### 2. Objective

The objective of this rule is to provide information about the procedure for renewing an agency license and the consequences of failing to renew timely.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

### 8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

### 9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public as the rule aligns with the statutory authority and is simplistic in its requirements.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department does not intend to amend this rule.

## **R13-2-205. BRANCH OFFICE CERTIFICATE**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2426 states application shall be on a form the Department prescribes.
- A.R.S. § 32-2453 states the requirements for the business address and posting of the license.

### 2. Objective

The objective of this rule is to emphasize that a branch office certificate is required to conduct business from an office other than the principle office and to provide information regarding handling a branch office certificate.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department identified the rule is not consistent with statutes and other rules:

Paragraph (E) requires notice of a change of address within 15 days. This is inconsistent with A.R.S. § 32-2425(D) which provides 30 days for the notice.

### 5. Rule Enforcement

The Department is not able to enforce Paragraph (E) as noted in Item 4 above.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule could be more clear by replacing the word *agency* with the words *agency licensee* in Paragraphs (D) and (E) to refer to the party who holds the business license.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule. The requirements set forth in statute are not amendable by the Department.

Additionally, the Department believes the rule is sufficient to ensure the public's safety by requiring the certificate be posted in a conspicuous place but allows the branch office to determine the method of mounting. The rule specifies the expiration and renewal criteria for the certificate. The Department is not able to identify any less burdensome method.

9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action

No action was taken from the previous report. The Department was uncertain whether it would pursue a rulemaking moratorium exemption and did not initiate a rulemaking since the rules were revised in 2015. In the period since the last report, the Licensing Unit was engaging in other prolonged and complex activities and internal restructuring that hindered opportunities for rulemaking. For example:

- The Unit was engaged with planning and moving to a new building.
- The Unit was upgrading its online web-based system and reporting mechanism.
- The Unit has had three different supervisors in the last 5 years.
- The current supervisor earned a green belt in Lean Six Sigma and has implemented changes to improve efficiencies which resulted in the removal of backlogs and one business day processing times.
- Three previous managers did not consider rulemaking to be a priority. The current manager recognizes rulemaking as a priority.
- There have been no major challenges to the current rule.

11. Determination of Probable Benefits Outweighing the Probable Costs

The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The requirements set forth in statute are not amendable by the Department. Additionally, the Department

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believes the rule is sufficient to ensure the public's safety by requiring the certificate be posted in a conspicuous place but allows the branch office to determine the method of mounting. The rule specifies the expiration and renewal criteria for the certificate. The Department is not able to identify any less burdensome method.

12. Determination of the Rule's Stringency Against Federal Law

There is no applicable federal law.

13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.

The rule was created in 2005 and not amended therefore it is not applicable.

14. Current Five-Year Review Process Course of Action

The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

## **R13-2-206. CHANGE OF QUALIFYING PARTY**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2401(2) sets the definition of an agency license.
- A.R.S. § 32-2422(A) specifies the qualifications and denial of an applicant for an agency license.

### 2. Objective

The objective of this rule is to emphasize that because it is the qualifying party who is authorized by an agency license to conduct the business of private investigations if the qualifying party leaves the agency, the agency cannot engage in the business of private investigations until a new qualifying party obtains a new license.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

### 8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department is not able to identify alternatives due to the statutory requirements.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department does not intend to amend this rule.

## **R13-2-207. RESTRUCTURE OF AN AGENCY**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2401(20) defines restructuring.
- A.R.S. § 32-2421 defines qualifying party.
- A.R.S. § 32-2422(B) set the applicant qualifications.

### 2. Objective

The objective of this rule is to clarify the procedure for obtaining a new agency license when the legal status of the agency changes.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

### 8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

### 9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action

The previous report had no course of action as the Department had no changes to this rule.

11. Determination of Probable Benefits Outweighing the Probable Costs

The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department waives the restructure fee if it takes place concurrently with a renewal otherwise it is a separate business process requiring a processing fee. The documentation listed in the rule is necessary to determine the business' legal status and the Department is not able to identify any alternatives.

12. Determination of the Rule's Stringency Against Federal Law

There is no applicable federal law.

13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.

The rule was created in 2005 and not amended therefore it is not applicable.

14. Current Five-Year Review Process Course of Action

The Department does not intend to amend this rule.

## **R13-2-208. BUSINESS AND EMPLOYEE NAMES**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2452 specifies the requirements to conduct business under a fictitious name.
- A.R.S. § 32-2454 specifies the requirement for a business to advertise.
- A.R.S. § 32-2457(A)(3) specifies if a business is not using its licensed name it could be subject to disciplinary action by the Department.

### 2. Objective

The objective of this rule is to avoid public confusion by requiring an agency licensee and the licensee's associates and employees to do business under the name used on the licensee's application and the associate's or employee's identification card.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

### 8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The rule is based on statutory requirements the Department is not able to amend. The rule contains provisions to protect the public from business' using names or identifiers that may imply or misrepresent they are a government organization or related to another legitimate, but unaffiliated business. The Department is not able to identify alternatives.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department does not intend to amend this rule.

**R13-2-301. EMPLOYEE AND ASSOCIATE REGISTRATION CERTIFICATE  
ELIGIBILITY**

1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2441.

2. Objective

The objective of this rule is to refer to the statutory qualifications for obtaining a registration certificate.

3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

6. Clarity, Conciseness, Understandability of the Rule

The Department believes the rule can be made clearer pursuant to A.R.S. § 32-2401(4), an associate is required to be a partner or corporate officer in a private investigation agency. Because it had reason to believe some licensees were attempting to avoid compliance with workers' compensation insurance requirements by saying an employee was an associate, the Department now checks that an applicant for associate registration is listed with the Corporation Commission or the Office of the Secretary of State as a corporate officer or partner of the licensee. A cross reference to this requirement needs to be added to this rule.

7. Written Criticisms of the Rule Received in the Last Five Years  
The Department received no written criticism of the rules during the last five years.
8. Estimated Economic, Small Business and Consumer Impact of the Rule  
The Department determined the EIS at the time of the rulemaking is still relevant for this rule.
9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The rule references statute; therefore the Department cannot identify any alternatives.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

## **R13-2-302. APPLICATION OF REGISTRATION CERTIFICATE**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2442 prescribes the application requirements for an employee registration certificate.

### 2. Objective

The objective of this rule is to specify the information to be included with an application for registration and how to register with multiple employers.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule requires amendment to more effectively achieve its objective. It needs to be amended to account for technological changes that have occurred since 2005. The Department now accepts applications online rather than only by hand delivery or postal service. A notary is burdensome as it is not possible with online submission. Specific electronic file formats need to be specified. The previous report said to remove Paragraph (D) as the Department no longer will do the photograph and fingerprints. As stated earlier in this report, the Department has changed its position on this and continues to take fingerprints and photographs and is exploring an automated kiosk in the lobby to facilitate this service.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department identified the rule is not consistent with statutes and other rules.

Paragraph (B) requires the employer of an associate or employee applicant to verify the applicant is a U.S. citizen or legal resident. That is inconsistent with A.R.S. §§ 32-2441(2) and 41-1080, which require the Department to make that determination.

### 5. Rule Enforcement

The Department has difficulty enforcing the notary requirement detailed in Item 3.

6. Clarity, Conciseness, Understandability of the Rule  
The Department determined the rule is clear, concise, and understandable.
7. Written Criticisms of the Rule Received in the Last Five Years  
The Department received no written criticism of the rules during the last five years.
8. Estimated Economic, Small Business and Consumer Impact of the Rule  
The Department determined the EIS at the time of the rulemaking is still relevant for this rule.
9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
No action was taken from the previous report as the Department changed its position on taking fingerprints and photographs.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The rule is based on the statutory requirements of A.R.S. § 32-2442 and the Department believes no alternatives exist.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
The rule was created in 2005 and not amended therefore it is not applicable.
14. Current Five-Year Review Process Course of Action  
The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

### **R13-2-303. RENEWAL OF REGISTRATION CERTIFICATE**

1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2442(C) specifies the valid dates of a registration certificate, the renewal period, and criteria for denial.

2. Objective

The objective of this rule is to clarify that a registration certificate expires at the same time as the agency license with which the registration is associated and must be renewed as part of the agency license renewal.

3. Effectiveness of the Rule in Achieving the Objective

The previous report stated Paragraph (C) should be removed as the Department no longer does fingerprints and photographs. As stated earlier in this report, the Department has changed its position on this and continues to take fingerprints and photographs and is exploring an automated kiosk in the lobby to facilitate this service.

4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law. There are no applicable federal statutes.

5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

6. Clarity, Conciseness, Understandability of the Rule

Paragraph (A) requires clarification that a registration certificate expires and must be renewed at the same time as the agency license with which the certificate is associated. This has been confusing to registrants who may have to renew their certificates shortly after obtaining them.

7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action

No action was taken from the previous report. The Department was uncertain whether it would pursue a rulemaking moratorium exemption and did not initiate a rulemaking since the rules were revised in 2015. In the period since the last report, the Licensing Unit was engaging in other prolonged and complex activities and internal restructuring that hindered opportunities for rulemaking. For example:

- The Unit was engaged with planning and moving to a new building.
- The Unit was upgrading its online web-based system and reporting mechanism.
- The Unit has had three different supervisors in the last 5 years.
- The current supervisor earned a green belt in Lean Six Sigma and has implemented changes to improve efficiencies which resulted in the removal of backlogs and one business day processing times.
- Three previous managers did not consider rulemaking to be a priority. The current manager recognizes rulemaking as a priority.
- There have been no major challenges to the current rule.

11. Determination of Probable Benefits Outweighing the Probable Costs

The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department is operating based on statutory requirements and does not see an alternative.

12. Determination of the Rule's Stringency Against Federal Law

There is no applicable federal law.

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13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.

The rule was created in 2005 and not amended therefore it is not applicable.

14. Current Five-Year Review Process Course of Action

The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

## **R13-2-304. LOST OR STOLEN REGISTRATION CERTIFICATE OR IDENTIFICATION CARD**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2443 specifies the identification card requirements and denial criteria.
- A.R.S. § 32-2457(A)(24) specifies failing to display the identification card on request constitutes grounds for disciplinary action.

### 2. Objective

The objective of this rule is to provide instructions for obtaining a replacement registration certificate or identification card when the original certificate or card is lost or stolen.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule could be made more effective in specifying or referencing the specific file types for electronic submission.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule  
The Department determined the EIS at the time of the rulemaking is still relevant for this rule.
9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department believes the rule already exists in its simplest form and no alternatives exist.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

### **13-2-305. CHANGE OF ADDRESS**

1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2402(D) states the Director shall adopt rules that are necessary to enforce Title 32, Chapter 24.

2. Objective

The objective of this rule is to enable the Department to communicate timely with a registrant by requiring the registrant to provide notice of a change of address.

3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law. There are no applicable federal statutes.

5. Rule Enforcement

The Department has difficulty enforcing this rule which requires the registrant to report a change of address within a defined period of days. The Department is typically unaware the registrant did not report an address change until the registrant attempts to renew the registration. When the Department becomes aware, the Department allows the registrant to provide the correct information.

6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

9. Analysis of the State’s Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department believes the rule is in its most simplest form and requires the address for accurate records keeping. The Department cannot identify an alternative.
12. Determination of the Rule’s Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department does not intend to amend this rule.

## **R13-2-306. CHANGE IN NAME OF REGISTRANT**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statutes authorizing the rule:

- A.R.S. § 32-2402(D) states the Director shall adopt rules to enforce Title 32, Chapter 24.
- AR.S. § 32-2461 prescribes issuance and content of the identification card.

### 2. Objective

The objective of this rule is to ensure a registrant has an identification card issued in the registrant's legal name.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule could be more effective in specifying or referencing online submission requirements.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law. There are no applicable federal statutes.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

### 8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

9. Analysis of the State’s Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department is seeking to provide more of its services online including name changes to lower cost and burden.
12. Determination of the Rule’s Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

## **R13-2-401. DENIAL OF AGENCY LICENSE OR REGISTRATION CERTIFICATE**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2459 specifies the grounds for refusal to issue an agency license.

### 2. Objective

The objective of this rule is to specify the grounds on which the Department may deny a license or certificate and the notice and hearing procedures associated with a denial.

### 3. Effectiveness of the Rule in Achieving the Objective

Paragraph (C) could be more effective by allowing the Department to consider a time frame other than six months. See Item 5.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department is having difficulty enforcing Paragraph (C) which provides an applicant who is denied a license or certificate may not reapply for six months. This is not enforced as written. There are circumstances in which the factor causing the applicant to be unqualified, such as necessary experience, will be cured in less than six months. There are other circumstances, such as a criminal record, which will not be cured in six months. It is the Department's policy to suggest to the applicant the amount of time that needs to elapse before a reapplication is made.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule  
The Department determined the EIS at the time of the rulemaking is still relevant for this rule. In reference to Item 5, having consideration on the time frame could allow a person to be licensed earlier than the six month waiting period allowing that person to earn an income and provide businesses with qualified applicants.
9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department believes the procedures in place provide for an equitable denial and hearing process that protects both the Department and the person and is not able to identify any better alternatives beyond what is mentioned above.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department intends to amend this rule and seek a rulemaking exemption by December 2020. In CY2020, the Licensing and Regulatory Bureau will be engaged in a rulemaking for the Concealed Weapons Permit Unit (CWPU), updating the CWPU database and implementing the new public services portal for all sections (CWPU, private investigators and security guard licensing). The portal project will involve a significant time investment of the management team that oversees all three areas simultaneously.

**R13-2-402. PROBATION OF AGENCY LICENSE OR REGISTRATION  
CERTIFICATE**

1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2457(F)(2) identifies probation recommendations the hearing board may make to the Director.

2. Objective

The objective of this rule is to specify the consequences of having an agency license or registration certificate placed on probation.

3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action

The previous report had no course of action as the Department had no changes to this rule.

11. Determination of Probable Benefits Outweighing the Probable Costs

The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department allows the licensee or registrant the ability to continue working while on probation as long as the licensee or registrant follows the terms of the probation. The Department believes the rule imposes the least burden by allowing the licensee or registration to conduct business and earn an income while at the same time protecting the public health and safety.

12. Determination of the Rule's Stringency Against Federal Law

There is no applicable federal law.

13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.

This rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Current Five-Year Review Process Course of Action

The Department does not intend to amend this rule.

## **R13-2-403. EMPLOYEE AND BUSINESS RECORDS**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2460 specifies the requirements for a licensee to employ unlicensed or unregistered persons to assist the business but who do not perform the duties of a private investigator.
- A.R.S. § 32-2402(D) states the Director shall adopt rules that are necessary to enforce Title 32, Chapter 24.

### 2. Objective

The objective of this rule is to make the rules more understandable by defining terms used in statute and rule. The objective of this rule is to specify the records a licensee is required to maintain and the manner in which the records are to be handled.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

### 8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

9. Analysis of the State's Business Competitiveness as Compared to Other States  
The Department has not received any business comparative analysis.
10. Previous Five-Year Review Process Course of Action  
The previous report had no course of action as the Department had no changes to this rule.
11. Determination of Probable Benefits Outweighing the Probable Costs  
The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The rule follows the statutory requirement for business to keep pertinent information on all employees. The rule provides the criteria for what the Department considers to be pertinent information. The Department believes the information is minimal but necessary should an investigation be required under R13-2-404.
12. Determination of the Rule's Stringency Against Federal Law  
There is no applicable federal law.
13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.  
This rule does not require the issuance of a regulatory permit, license, or agency authorization.
14. Current Five-Year Review Process Course of Action  
The Department does not intend to amend this rule.

## **R13-2-404. COMPLAINTS**

### 1. Authorization of the Rule by Existing Statutes

The Department's general authority is authorized under:

- A.R.S. § 41-1713(A)(4) states the Director may make rules necessary for the operation of the Department.

The Department's specific statute authorizing the rule:

- A.R.S. § 32-2456 specifies the Department's authority to investigate a complaint.

### 2. Objective

The objective of this rule is to specify the procedure the Department uses to handle complaints made against an entity or person engaged in the business of private investigation.

### 3. Effectiveness of the Rule in Achieving the Objective

This rule is effective in achieving its objective.

### 4. Whether the Rule is Consistent with Statutes and other Rules

The Department determined the rule is consistent with state law.

### 5. Rule Enforcement

The Department enforces the rule in a manner consistent with statute. The Department has had no problems with this enforcement procedure.

### 6. Clarity, Conciseness, Understandability of the Rule

The Department determined the rule is clear, concise, and understandable.

### 7. Written Criticisms of the Rule Received in the Last Five Years

The Department received no written criticism of the rules during the last five years.

### 8. Estimated Economic, Small Business and Consumer Impact of the Rule

The Department determined the EIS at the time of the rulemaking is still relevant for this rule.

### 9. Analysis of the State's Business Competitiveness as Compared to Other States

The Department has not received any business comparative analysis.

10. Previous Five-Year Review Process Course of Action

The previous report had no course of action as the Department had no changes to this rule.

11. Determination of Probable Benefits Outweighing the Probable Costs

The Department determined the benefits of the rules outweigh the costs to the State and the rules impose the least burden and cost to the regulated public. The Department believes the rule is sufficient to conduct a law enforcement investigation and is sufficient to allow for expanded, multi-faceted investigations depending on information uncovered to protect the public from any violations of A.R.S. by a licensee or registrant. Therefore, the rule cannot be made more specific and no alternatives exist.

12. Determination of the Rule's Stringency Against Federal Law

There is no applicable federal law.

13. Issuance of a Regulatory Permit for Rules Adopted After July 29, 2010.

This rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Current Five-Year Review Process Course of Action

The Department does not intend to amend this rule.

## TITLE 13. PUBLIC SAFETY

CHAPTER 2. DEPARTMENT OF PUBLIC SAFETY  
PRIVATE INVESTIGATORS

(Authority: A.R.S. § 32-2401 et seq.)

## ARTICLE 1. GENERAL PROVISIONS

Article 1, consisting of Sections R13-2-101 thru R13-2-105, made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

Article 1, consisting of Sections R13-2-01 thru R13-2-12, repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

Section	
R13-2-01.	Repealed
R13-2-02.	Repealed
R13-2-03.	Repealed
R13-2-04.	Repealed
R13-2-05.	Repealed
R13-2-06.	Repealed
R13-2-07.	Repealed
R13-2-08.	Repealed
R13-2-09.	Repealed
R13-2-10.	Repealed
R13-2-11.	Repealed
R13-2-12.	Repealed
R13-2-101.	Definitions
R13-2-102.	Application and Processing fees
R13-2-103.	Application Forms
R13-2-104.	Identification Cards
R13-2-105.	Time-frames for Making Licensing and Registration Determinations

## ARTICLE 2. AGENCY LICENSES

Article 2, consisting of Sections R13-2-201 thru R13-2-208, made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

Section	
R13-2-201.	Agency License Eligibility
R13-2-202.	Submission of Application for an Agency License
R13-2-203.	Issuance of Agency License
R13-2-204.	Agency License Renewal
R13-2-205.	Branch Office Certificate
R13-2-206.	Change of Qualifying Party
R13-2-207.	Restructure of an Agency
R13-2-208.	Business and Employee Names

## ARTICLE 3. REGISTRATION CERTIFICATES

Article 3, consisting of Sections R13-2-301 thru R13-2-306, made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

Section	
R13-2-301.	Employee and Associate Registration Certificate Eligibility
R13-2-302.	Application for Registration Certificate
R13-2-303.	Renewal of Registration Certificate
R13-2-304.	Lost or Stolen Registration Certificate or Identification Card
R13-2-305.	Change of Address
R13-2-306.	Change in Name of Registrant

## ARTICLE 4. REGULATION

Article 4, consisting of Sections R13-2-401 thru R13-2-404, made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

Section	
R13-2-401.	Denial of Agency License or Registration Certificate
R13-2-402.	Probation of Agency License or Registration Certificate
R13-2-403.	Employee and Business Records
R13-2-404.	Complaints

## ARTICLE 1. GENERAL PROVISIONS

**R13-2-01. Repealed****Historical Note**

Former rule 1. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-02. Repealed****Historical Note**

Former rule 2. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-03. Repealed****Historical Note**

Former rule 3. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-04. Repealed****Historical Note**

Former rule 4. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-05. Repealed****Historical Note**

Former rule 5. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-06. Repealed****Historical Note**

Former rule 6. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-07. Repealed****Historical Note**

Former rule 7. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-08. Repealed****Historical Note**

Former rule 8. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-09. Repealed****Historical Note**

Former rule 9. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-10. Repealed****Historical Note**

Former rule 10. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-11. Repealed****Historical Note**

Former rule 11. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-12. Repealed****Historical Note**

Former rule 12. Section repealed by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-101. Definitions**

In addition to the definitions in A.R.S. § 32-2401, the following definitions apply to this Chapter:

1. "Branch office certificate" means a document issued by the Department to the qualifying party, authorizing the qualifying party to conduct the business of private investigations in this state at a location other than the principal place of business shown on the agency license.
2. "Classifiable fingerprints" means fingerprint impressions that meet the criteria of the Federal Bureau of Investigations (FBI) as contained in Form FD-258 (5-11-99): U.S. Government Printing Office: 2004-304-373/80029, incorporated by reference, available from the Department and the FBI (Attn: Logistical Support Unit (LSU), CJIS Division, 1000 Custer Hollow Road, Clarksburg, WV 26306). This incorporation contains no future editions or amendments.
3. "Corporation" or "domestic corporation" has the same meaning as in A.R.S. § 10-140.
4. "Delinquent" means an application is submitted after the license expiration date but before the expiration of the 90-day grace period as described in R13-2-204(C).
5. "Foreign corporation" means a corporation for profit that is incorporated under a law other than the law of Arizona.
6. "Limited liability corporation" has the same meaning as corporation.
7. "Partnership" is an association of two or more persons who are co-owners of a business for profit organized in accordance with A.R.S. Title 29, Partnerships.
8. "Probation" means a period during which an agency or individual that has violated A.R.S. Title 32 Chapter 24 is allowed to demonstrate the ability to meet licensure requirements before the Department takes another administrative action, such as suspension or revocation.
9. "Sole proprietor" means the only owner of a business operated for profit.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-102. Application and Processing Fees**

- A.** The application and processing fees are:
1. Original agency license application, \$250;
  2. Agency license, \$400;
  3. Application for renewal of an agency license, \$250;
  4. Agency restructure, \$100;
  5. Agency delinquent renewal application, \$100;
  6. Reinstatement of agency license, \$250;
  7. Associate or employee registration certificate application, \$50;

8. Associate or employee registration certificate renewal, \$50;
  9. Associate or employee registration delinquency, \$10;
  10. Associate or employee registration reinstatement, \$25;
  11. Replacement identification card, \$10;
  12. Additional employer form, \$10; and
  13. Fingerprint and digital photo fee (optional), \$15.
- B.** In addition to any fees in subsections (A)(1), (A)(3), (A)(7), (A)(8), and (A)(12) the Department shall collect a fee in an amount necessary to cover the cost of noncriminal justice fingerprint processing for criminal history record checks under A.R.S. § 41-1750(J).
- C.** A person shall pay a fee by cash, cashier's check, certified check, or money order made payable to the Arizona Department of Public Safety. All fees are non-refundable except if A.R.S. § 41-1077 applies.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-103. Application Forms**

- A.** The Department shall provide and an applicant shall use application forms for:
1. Agency license application;
  2. Agency license renewal;
  3. Employee or associate registration certificate application; and
  4. Employee or associate registration renewal application.
- B.** Application forms may be obtained in person at the Phoenix Licensing Unit office, by mail request to Arizona DPS Licensing Unit, or by telephone. An applicant may duplicate application forms.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-104. Identification Cards**

- A.** The Department shall provide a qualified applicant with an identification card for an:
1. Agency license,
  2. Associate registration certificate, or
  3. Employee registration certificate.
- B.** The Department shall include on the identification card the applicant's:
1. Name,
  2. Photograph,
  3. Physical description,
  4. Date of birth,
  5. Registration certificate number,
  6. Employer's agency name and license number, and
  7. Card's expiration date.
- C.** A licensee or certificate holder shall not assign or transfer an identification card. An identification card is valid only during the effective dates of the license or certificate under which the card has been issued, and for only as long as the card holder is employed by or associated with the agency licensee.
- D.** A licensee or certificate holder shall not display a badge or shield in conjunction with performing the duties of a private investigator.
- E.** An employee employed by more than one licensee shall obtain an identification card for each license under which the employee is employed.
- F.** Upon termination of employment with an agency licensee, the employee shall surrender the employee's identification card to the agency's qualifying party or designee. The agency's qualifying party shall send the identification card to the Department

within five business days of the employee surrendering the license. If the employee fails to surrender the card to the qualifying party, the qualifying party shall notify the Department, in writing, within five business days of the employee's termination of employment.

- G. If an identification card is lost or stolen, the holder of the card shall notify the Department immediately in writing. The Department shall issue a duplicate identification card upon submission of the required fee.
- H. The Department shall not approve a fictitious name for use on an identification card.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

#### R13-2-105. Time-frames for Making Licensing and Registration Determinations

- A. The Department shall make a determination on the issuance, renewal, reinstatement, or restructure of an agency license, associate or employee registration certificate, or branch office certificate within 15 business days of the submission of an application, as follows:
  1. Five days for administrative completeness review, and
  2. Ten days for substantive review.
- B. The administrative completeness review time-frame, as described in A.R.S. § 41-1072(1) and listed in subsection (A)(1), begins on the date the Department receives an application.
  1. If the application is not administratively complete when received, the Department shall send a notice of deficiency to the applicant. The deficiency notice shall state the documents and information needed to complete the application.
  2. Within 45 days from the date of the deficiency notice, the applicant shall submit to the Department the missing documents and information. The time-frame for the Department to finish the administrative completeness review is suspended from the date of the deficiency notice until the date the Department receives the missing documents and information.
  3. If the applicant fails to provide the missing documents and information within the time provided, the Department shall close the applicant's file, and the Department considers the application suspended. The Department shall not take further action until the required documentation or information and, if applicable, reinstatement fees are received.
- C. The substantive review time-frame, as described in A.R.S. § 41-1072(3) and listed in subsection (A)(2), begins on the date the Department determines an application is administratively complete.
  1. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The Department and applicant may mutually agree in writing to allow the Department to submit supplemental requests for additional information.
  2. The applicant shall submit to the Department the additional information to complete the application within 45 days from the date of the Department's request. The time-frame for the Department to complete the substantive review of the application is suspended from the date of the request for additional information until the Department receives the additional information.
  3. Unless the Department and applicant by mutual written agreement extend the 45-day period, the Department shall close the file of an applicant who fails to submit the

additional information within 45 days. An applicant whose file is closed and who wants to be licensed or certified shall apply again under R13-2-202 or R13-2-302.

- 4. When the substantive review is complete, the Department shall inform the applicant in writing of its decision whether to license or register the applicant.
  - a. The Department shall deny a license or registration if it determines that the applicant does not meet all substantive criteria required by statute and rule. An applicant who is denied certification may appeal the Department's decision under A.R.S. § 41-1092 et seq.
  - b. The Department shall grant a license or registration if it determines that the applicant meets all substantive criteria for licensure or certification required by statute and rule.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

### ARTICLE 2. AGENCY LICENSES

#### R13-2-201. Agency License Eligibility

The qualifying party for an agency license shall meet all requirements under A.R.S. § 32-2422. All other partners or corporate officers of the agency shall register as associates and meet the requirements under A.R.S. § 32-2441.

#### Historical Note

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

#### R13-2-202. Submission of Application for an Agency License

- A. Applications for an agency license may be presented in person at the Arizona Department of Public Safety Licensing office in Phoenix or by mail to Arizona DPS Licensing Unit. A qualifying party submitting an application shall ensure that the application consists of:
  1. A complete application form with the information required under A.R.S. § 32-2423 and the qualifying party's notarized signature;
  2. Properly completed fingerprint card with classifiable fingerprints of the qualifying party;
  3. Fees prescribed in R13-2-102;
  4. Legible, notarized copy of a government-issued photo identification document for the qualifying party, such as a state identification card or motor vehicle driver license;
  5. Two color photographs of the qualifying party suitable for use in making a identification card, such as passport photos or 1" x 1 1/4" facial photos;
  6. Exact details as to the character and nature of the qualifying party's required experience under A.R.S. § 32-2422.
  7. If other than a sole proprietorship:
    - a. Partnership agreement, articles of organization, or articles of incorporation;
    - b. Applications for associate registration certificates under R13-2-302 completed by all officers, members, managers, and directors of the agency accompanied by classifiable fingerprints and two color photographs suitable for use in making a identification card such as passport photos or 1" x 1 1/4" facial photos;
  8. If a foreign corporation, evidence of Arizona Corporation Commission approval to transact business in Arizona;
  9. The name under which the agency will do business. The Department shall not issue a license to a corporation or limited liability corporation using a DBA unless registered with the Arizona Secretary of State's Office for

approval of the trade name and the agency submits a copy of the registration to the Department.

- B. Sole proprietorships and partnerships may, but are not required to, register trade names.
- C. If applicable equipment and personnel are available, and if the applicant makes a request, the Department personnel shall take an applicant's photographs and fingerprints upon submission of the application and payment of appropriate fees as listed in R13-2-102.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-203. Issuance of Agency License**

- A. The Department shall notify an applicant when an agency license is ready for issuance. The applicant has 90 days from the date of notification to:
  1. Pay applicable license fees;
  2. Provide a complete and accurate two-year surety bond; and
  3. For those agencies that will have employees, provide a certificate of worker's compensation insurance.
- B. If the applicant does not provide the required information within 90 days, the Department shall deny the application and all fees shall be forfeited.
- C. An applicant for an agency license or renewal may request to pick up the license at the Department's office in Phoenix. If no request is made, the Department shall send the license to the mailing address of the applicant.
- D. Each agency license shall contain the name and physical address of the licensed business and the number of the license. The issue date on the license is the date the two-year surety bond starts, which is not to be earlier than the date of notification under subsection (A). The license expires two years after issuance.
- E. The licensee shall post the license in a conspicuous place in the principal business office.
- F. A licensee shall not assign or transfer the license.
- G. A licensee shall notify the Department in writing within 15 business days of any change of address of the principal office.
- H. If a licensee wishes to surrender the license before the expiration date, the Department shall not refund the license fee or any part of the license fee.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-204. Agency License Renewal**

- A. A qualifying party may submit a renewal application to the Department up to 60 days before the expiration date on the agency license.
- B. The qualifying party shall provide, with the renewal application, the information required under R13-2-202 for the renewal of registration certificates for all associates or employees of the agency.
- C. If an agency license is not renewed before the expiration date, the qualifying party and all partners, members, officers, associates and employees shall cease performing investigative activities subject to regulation under A.R.S. Title 32, Chapter 24, until the date the license is renewed. The qualifying party shall ensure that all identification cards with the elapsed agency license number are returned to the Department within five business days of the date the license expires.
- D. The Department shall not renew an agency license if the application is filed more than 90 days after the expiration date. If more than 90 days have elapsed, the qualifying party who

wishes to resume investigative work as a licensee shall reapply under R13-2-202.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-205. Branch Office Certificate**

- A. An agency licensee shall obtain a branch office certificate for any place of business other than the principal place of business by request to the Department in writing.
- B. The branch office certificate contains the name, agency license number, license expiration date, and address of the branch office.
- C. A branch office certificate expires on the date the agency license expires and is renewed when the agency license is renewed.
- D. A licensee shall post a branch office certificate in a conspicuous place in the branch office.
- E. An agency shall notify the Department in writing within 15 business days of any address change for the branch office.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-206. Change of Qualifying Party**

- A. If a qualifying party leaves an agency, the agency shall cease operations.
- B. If the agency desires to resume operations, a qualifying party shall submit an application for a new agency license under R13-2-202 and meet the requirements under R13-2-201. The Department shall grant the license if the qualifying party meets the requirements of R13-2-201.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-207. Restructure of an Agency**

- A. A restructure of an agency occurs when there is a change in business legal status.
- B. If the restructure occurs at the time of renewal, the Department shall waive the restructure fee.
- C. If the restructure occurs at any time other than time of renewal, the agency shall pay the restructure fee. An application for restructure shall be submitted for the qualifying party and any new associates. Any new associates shall register and meet the requirements under A.R.S. § 32-2441.
- D. To change a sole proprietorship to a partnership, the applicant shall provide a partnership agreement with notarized signatures of the partners.
- E. To change a corporation to a partnership, the applicant shall provide documentation of the dissolving of the corporation and a partnership agreement with notarized signatures of the partners.
- F. To change a sole proprietorship or partnership to a corporation the applicant shall provide the Articles of Incorporation bearing the approval stamp of the Arizona Corporation Commission. If the change is to a foreign corporation, the applicant shall submit documentation of Arizona Corporation Commission approval for the foreign corporation to transact business in Arizona.
- G. To change a partnership to a sole proprietorship, the applicant shall provide documentation of the dissolving of the partnership.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-208. Business and Employee Names**

- A. The Department shall not grant a license to an agency with a name that includes “United States,” “U.S.,” “Federal,” or “State of Arizona,” or a name that associates the business with any governmental or law enforcement agency. The Department shall not grant a license to an individual or partnership that has a name with the word “corporation,” “corp.,” “incorporated,” “Inc.,” or “L.L.C.” unless corporate or limited liability corporation papers have been filed with the Corporation Commission. The Department shall not approve a new business name that is similar to a business name of a currently licensed firm.
- B. An agency licensee and the licensee’s associates and employees shall do business and present themselves under the name used on the licensee’s application and the associate’s or employee’s identification card.
- C. An agency licensee shall do all business under the name and address that is on file with the Department and noted on the license. The licensee shall include its name and license number on all letterhead and business cards, advertising, contracts entered into with clients, and agency correspondence.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**ARTICLE 3. REGISTRATION CERTIFICATES****R13-2-301. Employee and Associate Registration Certificate Eligibility**

An applicant for an associate or employee registration shall meet the requirements of A.R.S. § 32-2441.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-302. Application for Registration Certificate**

- A. Applications for associate and employee registration certificates may be presented in person at the Department’s licensing office in Phoenix or by mail to the Phoenix office.
- B. The applicant’s employer shall verify all information provided by the applicant and verify proof of U.S citizenship or legal resident status with authorization to seek employment by examining either one document from List A of U.S. DOJ Form I-9 or one document from List B and one document from List C. After verification, the employer or the applicant may submit an application.
- C. In addition to providing documentation of the requirements of A.R.S. § 32-2442, the employer shall ensure that each application includes:
1. A properly completed application form,
  2. Two color photographs suitable for use in making an identification card such as passport photos or 1" x 1 1/4" facial photos, and
  3. One properly completed fingerprint card with classifiable fingerprints.
- D. If applicable equipment and personnel are available, and if the applicant makes a request, the Department personnel shall take an applicant’s photographs and fingerprints upon submission of the application and payment of appropriate fees as listed in R13-2-102.
- E. An associate or employee registrant shall conduct business and be identified under the name used on the application and the registration certificate. The Department shall not approve a fictitious name for use on an associate or employer registration certificate.
- F. If an applicant is employed by more than one agency, the applicant shall submit an application with the words “Addi-

tional Employer” written across the top of the application, submit the fee under R13-2-102, and meet the requirements of this Section. If the applicant has submitted a fingerprint card to the Department within less than 365 days, no fingerprint card is required for the Additional Employer application. If the applicant has not submitted a fingerprint card within less than 365 days, the applicant shall submit a new fingerprint card with the application. A licensee or registrant shall provide a new fingerprint card at least every two years.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-303. Renewal of Registration Certificate**

- A. An associate or employee registration certificate expires on the date specified on the registration certificate. The agency licensee shall submit an associate or employee registration renewal application to the Department licensing unit up to 60 days before the expiration date.
- B. The Department shall not renew a certificate unless the application is complete and contains the information required under R13-2-302.
- C. When applicable equipment and personnel are available, the applicant’s photographs and fingerprints may be taken at the Department of Public Safety upon submission of the application and payment of appropriate fees.
- D. The Department shall not renew an associate or employee registration unless it is part of an agency license renewal application.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-304. Lost or Stolen Registration Certificate or Identification Card**

If a registration certificate or identification card is lost or stolen, the registrant shall notify the Department immediately and request a new registration certificate or identification card, provide a 1" x 1 1/4" inch photo for the identification card photos and pay the fee under R13-2-102 for a replacement card.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-305. Change of Address**

A registrant who changes address shall notify the Department in writing within 30 days of the change of address.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-306. Change in Name of Registrant**

A registrant whose name has changed shall notify the Department in writing within 30 days of the name change and may request a new identification card. If the registrant comes to the Department in person, the registrant shall present to the Department a government-issued photo identification card with the new name or court documents recording the name change and the fees under R13-2-102. If the registrant sends a request by mail, the registrant shall mail to the Department certified, notarized copies of any court documents with a 1" x 1 1/4" inch photo for the identification card photo and the applicable fee under R13-2-102.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**ARTICLE 4. REGULATION**

5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-401. Denial of Agency License or Registration Certificate**

- A.** The Department shall deny an applicant for an agency license or registration certificate if the Department determines that the applicant does not meet the requirements of A.R.S. §§ 32-2422 or 32-2441, or there are grounds for denial under A.R.S. § 32-2459. The Department shall notify the applicant of the reason for the denial by mail to the address listed on file at the Department. The Department shall include in the notification a statement advising the applicant that if the applicant contests denial, the applicant may do so by requesting a hearing in writing within 30 days of receiving the notification letter.
- B.** When the Department receives a request for a hearing:
1. The applicant will be notified of the date and the time of the hearing;
  2. The Department shall set the date for hearing at least 30 days after the date of the notification letter;
  3. The applicant may request an informal settlement conference under A.R.S. § 41-1092.06 by submitting the request in writing within 20 days of the scheduled hearing date;
  4. The hearing will be held before the Private Investigator and Security Guard Hearing Board;
  5. If the applicant does not appear at the hearing, the hearing may be held in the applicant's absence, and the applicant shall be notified by certified mail of the hearing findings; and
  6. The hearing board shall prepare recommendations for the Director. The Director may adopt the recommendations in their entirety, modify them, or may decide the case upon the record.
- C.** A denied applicant may reapply no earlier than six months from the date of denial.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-402. Probation of Agency License or Registration Certificate**

Upon recommendation of the Private Investigator and Security Guard Hearing Board, the Director may fix a period and terms of probation to protect the public health and safety and to rehabilitate or educate the licensee or registrant. A licensee may continue to operate and a registrant may continue to perform the duties of a private investigator during the period of probation, subject to the terms established by the Director.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

**R13-2-403. Employee and Business Records**

Each licensee shall maintain, at the licensee's principal place of business, a file or record of the name, physical address, title, employment date, and date of termination of each partner, director, business associate, officer, manager, member, and employee for at least five years from the date of termination. The licensee shall make these files and records available for inspection by any peace officer, licensing personnel of the Department's licensing section, or other designated representative of the Department. The licensee shall submit copies of these records and any information pertaining to the records to the Department's licensing section upon request of the Department.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R.

**R13-2-404. Complaints**

- A.** A person may make a written complaint against an entity or person regulated under this Chapter by filing the complaint with the Department. If the complaint involves an alleged violation of Arizona Revised Statutes, the Department shall investigate to ascertain whether a violation of the statute has occurred. The Department may forward a copy of the complaint to the entity or person against whom the complaint has been lodged and request the person to respond to the complaint as part of the investigation.
- B.** At the conclusion of the investigation, the Department shall forward a copy of the complaint, upon request, to the entity or person against whom the complaint has been lodged.
- C.** When an investigation is concluded, the Director may take an action listed in A.R.S. § 32-2457.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 5190, effective February 5, 2005 (Supp. 04-4).

32-2402. Administration by director; duty to keep records; rules; criminal history records checks

A. The director of the department of public safety shall administer this chapter.

B. The department shall keep a record of:

1. All applications for licenses or registrations under this chapter.

2. All bonds and proof of workers' compensation required to be filed.

3. Whether a license, registration certificate, renewal license or renewal registration certificate has been issued under each application and bond.

4. If a license or registration certificate is revoked, suspended, cancelled or denied or if a licensee or registrant is placed on probation, the date of filing the order for revocation, suspension, cancellation, denial or probation.

5. All individuals, firms, partnerships, associations or corporations that have had a license or registration revoked, suspended or cancelled or that have been placed on probation and a written record of complaints filed against licensees and registrants.

C. The department shall maintain all records kept pursuant to subsection B of this section for at least five years. The records, except the financial statement of licensees, are open to inspection as public records.

D. The director shall adopt and enforce rules that are not in conflict with the laws of this state and that are necessary to enforce this chapter.

E. The director may conduct periodic criminal history records checks pursuant to section 41-1750 for the purpose of updating the licensing and registration status of current license and registration holders.

**32-2407. Fees; renewal of license or registration certificate**

A. The department shall charge and collect reasonable fees as determined by the director to cover the operational and equipment costs of regulating the private investigator industry.

B. Except as provided in section 32-4301, the director may renew a license or registration certificate granted under this chapter after receiving an application on such forms as the department prescribes and receipt of the fees prescribed pursuant to subsection A of this section. The renewal of an agency license requires the filing of a surety bond as prescribed in section 32-2423, subsections B and C. Renewal of a license or registration shall not be granted more than ninety days after expiration. No licensee or registrant may engage in any activity subject to this chapter during any period between the date of expiration of the license or registration and the renewal of the license or registration.

C. The department shall renew a suspended license or registration certificate as provided in this article. Renewal of the license or registration does not entitle the licensee or registrant, while the license or registration remains suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any other activity or conduct in violation of the order or judgment by which the license or registration was suspended.

D. The director shall not reinstate a revoked license or registration. The director shall not accept an application for a license or registration from a person whose license or registration has been revoked until at least one year after the date of revocation.

32-2425. Issuance of license and identification card; deadline for completing application; transfer of license prohibited

- A. The department shall issue an agency license to any applicant who complies with this chapter. Each license shall contain the name and address of the licensee and the number of the license and shall be issued for a period of two years.
- B. On the issuance of a license, an identification card described in section 32-2461 shall be issued without charge to the licensee if an individual, or if the licensee is other than an individual, to its qualifying party, and to each of its associates and directors. The identification card is evidence that the licensee is duly licensed pursuant to this chapter. If a person to whom the card of a licensee other than an individual is issued terminates the person's position, office or association with the licensee, the person shall surrender the card to the licensee and within five business days the licensee shall mail or deliver the card to the director for cancellation. If the person fails or refuses to surrender the card to the licensee, the licensee shall notify the director within five business days of the termination of the person's position, office or association with the licensee.
- C. On notification by the department to an applicant that the agency license is ready for issuance, the applicant shall complete the application process within ninety calendar days. Failure to complete the process shall result in the application being cancelled and all fees shall be forfeited by the applicant. Subsequent application by the same applicant requires the payment of all application and license fees prescribed pursuant to section 32-2407.
- D. A licensee shall notify the director in writing within thirty calendar days of any change in the name or address of the licensee's business and of any change of associates.
- E. All new associates shall submit applications on forms prescribed by the director.
- F. No license issued under this chapter is transferable or assignable.

32-2443. Employee identification card required; denial

A. Each employee of an agency licensed under this chapter shall obtain an identification card, except those employees engaged exclusively in clerical and office work.

B. The department may issue an identification card to an applicant who, on initial application for a registration certificate, complies with the application requirements of section 32-2442, subsection D and who on the face of the application appears to meet the requirements of section 32-2441. On completion of the investigation of the applicant's qualifications, the department may deny the applicant's registration as prescribed in section 32-2459.

C. On termination of a registered employee from a licensed agency, the employee shall immediately surrender the identification card to the agency's qualifying party or designee. The qualifying party or designee shall forward the registrant's identification card to the department within five business days of receipt. If the employee fails or refuses to surrender the card to the qualifying party or designee, the qualifying party or designee shall notify the director within five business days of the termination of the employment with the licensee.

32-2461. Identification card; form

The department shall issue a standard identification card to each holder of a license or registration certificate. The department shall determine the size and design of the identification card, and the card shall contain the following information:

1. Name of employee.
2. Photograph of employee.
3. Physical description of employee.
4. Employer's registration certificate number.
5. Expiration date.
6. Any other information that the department determines to be necessary.

### 41-1073. Time frames; exception

A. No later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues. Agencies shall submit their overall time frame rules to the governor's regulatory review council pursuant to the schedule developed by the council. The council shall schedule each agency's rules so that final overall time frame rules are in place no later than December 31, 1998. The rule regarding the overall time frame for each type of license shall state separately the administrative completeness review time frame and the substantive review time frame.

B. If a statutory licensing time frame already exists for an agency but the statutory time frame does not specify separate time frames for the administrative completeness review and the substantive review, by rule the agency shall establish separate time frames for the administrative completeness review and the substantive review, which together shall not exceed the statutory overall time frame. An agency may establish different time frames for initial licenses, renewal licenses and revisions to existing licenses.

C. The submission by the department of environmental quality of a revised permit to the United States environmental protection agency in response to an objection by that agency shall be given the same effect as a notice granting or denying a permit application for licensing time frame purposes. For the purposes of this subsection, "permit" means a permit required by title 49, chapter 2, article 3.1 or section 49-426.

D. In establishing time frames, agencies shall consider all of the following:

1. The complexity of the licensing subject matter.
2. The resources of the agency granting or denying the license.
3. The economic impact of delay on the regulated community.
4. The impact of the licensing decision on public health and safety.
5. The possible use of volunteers with expertise in the subject matter area.
6. The possible increased use of general licenses for similar types of licensed businesses or facilities.
7. The possible increased cooperation between the agency and the regulated community.
8. Increased agency flexibility in structuring the licensing process and personnel.

E. This article does not apply to licenses issued either:

1. Pursuant to tribal state gaming compacts.
2. Within seven days after receipt of initial application.
3. By a lottery method.

### 41-1713. Powers and duties of director; authentication of records

A. The director of the department shall:

1. Be the administrative head of the department.
2. Subject to the merit system rules, appoint, suspend, demote, promote or dismiss all other classified employees of the department on the recommendation of their respective division superintendent. The director shall determine and furnish the law enforcement merit system council established by section 41-1830.11 with a table of organization. The superintendent of each division shall serve at the concurrent pleasure of the director and the governor.
3. Except as provided in sections 12-119, 41-1304 and 41-1304.05, employ officers and other personnel as the director deems necessary for the protection and security of the state buildings and grounds in the governmental mall described in section 41-1362, state office buildings in Tucson and persons who are on any of those properties. Department officers may make arrests and issue citations for crimes or traffic offenses and for any violation of a rule adopted under section 41-796. For the purposes of this paragraph, security does not mean security services related to building operation and maintenance functions provided by the department of administration.
4. Make rules necessary for the operation of the department.
5. Annually submit a report of the work of the department to the governor and the legislature, or more often if requested by the governor or the legislature.
6. Appoint a deputy director with the approval of the governor.
7. Adopt an official seal that contains the words "department of public safety" encircling the seal of this state as part of its design.
8. Investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a license or registration certificate issued pursuant to title 32, chapter 26.
9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.
10. Adopt and administer the breath, blood or other bodily substances test rules pursuant to title 28, chapter 4.
11. Develop procedures to exchange information with the department of transportation for any purpose related to sections 28-1324, 28-1325, 28-1326, 28-1462 and 28-3318.
12. Collaborate with the state forester in presentations to legislative committees on issues associated with wildfire prevention, suppression and emergency management as provided by section 37-1302, subsection B.

B. The director may:

1. Issue commissions to officers of the department.
2. Request the cooperation of the utilities, communication media and public and private agencies and any sheriff or other peace officer in any county or municipality, within the limits of their respective jurisdictions when necessary, to aid and assist in the performance of any duty imposed by this chapter.

3. Cooperate with any public or private agency or person to receive or give necessary assistance and may contract for such assistance subject to legislative appropriation controls.
4. Utilize the advice of the board and cooperate with sheriffs, local police and peace officers within the state for the prevention and discovery of crimes, the apprehension of criminals and the promotion of public safety.
5. Acquire in the name of the state, either in fee or lesser estate or interest, all real or any personal property that the director considers necessary for the department's use, by purchase, donation, dedication, exchange or other lawful means. All acquisitions of personal property pursuant to this paragraph shall be made as prescribed in chapter 23 of this title unless otherwise provided by law.
6. Dispose of any property, real or personal, or any right, title or interest in the property, when the director determines that the property is no longer needed or necessary for the department's use. Disposition of personal property shall be as prescribed in chapter 23 of this title. The real property shall be sold by public auction or competitive bidding after notice published in a daily newspaper of general circulation, not less than three times, two weeks before the sale and subject to the approval of the director of the department of administration. When real property is sold, it shall not be sold for less than the appraised value as established by a competent real estate appraiser. Any monies derived from the disposal of real or personal property shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.
7. Sell, lend or lease personal property directly to any state, county or local law enforcement agency. Personal property may be sold or leased at a predetermined price without competitive bidding. Any state, county or local law enforcement agency receiving personal property may not resell or lease the property to any person or organization except for educational purposes.
8. Dispose of surplus property by transferring the property to the department of administration for disposition to another state budget unit or political subdivision if the state budget unit or political subdivision is not a law enforcement agency.
9. Lease or rent personal property directly to any state law enforcement officer for the purpose of traffic safety, traffic control or other law enforcement related activity.
10. Sell for one dollar, without public bidding, the department issued handgun or shotgun to a department officer on duty related retirement pursuant to title 38, chapter 5, article 4. Any monies derived from the sale of the handgun or shotgun to the retiring department officer shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.
11. Conduct state criminal history records checks for the purpose of updating and verifying the status of current licensees or registrants who have a license or certificate issued pursuant to title 32, chapter 26. The director shall investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a registration certificate issued pursuant to title 32, chapter 26.
12. Grant a maximum of two thousand eighty hours of industrial injury leave to any sworn department employee who is injured in the course of the employee's duty, any civilian department employee who is injured in the course of performing or assisting in law enforcement or hazardous duties or any civilian department employee who was injured as a sworn department employee rehired after August 9, 2001 and would have been eligible pursuant to this paragraph and whose work-related injury prevents the employee from performing the normal duties of that employee's classification. This industrial injury leave is in addition to any vacation or sick leave earned or granted to the employee and does not affect the employee's eligibility for any other benefits, including workers' compensation. The employee is not eligible for payment pursuant to section 38-615 of industrial injury leave that is granted pursuant to this paragraph. Subject to approval by the law enforcement merit system council, the director shall adopt rules and procedures regarding industrial injury leave hours granted pursuant to this paragraph.

13. Sell at current replacement cost, without public bidding, the department issued badge of authority to an officer of the department on the officer's promotion or separation from the department. Any monies derived from the sale of the badge to an officer shall be deposited, pursuant to sections 35-146 and 35-147, in the department of public safety administration fund to offset replacement costs.

C. The director and any employees of the department that the director designates in writing may use the seal adopted pursuant to subsection A, paragraph 7 of this section to fully authenticate any department records and copies of these records. These authenticated records or authenticated copies of records shall be judicially noticed and shall be received in evidence by the courts of this state without any further proof of their authenticity.

**DEPARTMENT OF TRANSPORTATION (F20-0401)**

Title 17, Chapter 5, Article 5, Motor Carrier Financial Responsibility



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** March 31, 2020

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

**FROM:** Council Staff

**DATE:** March 12, 2020

**SUBJECT:** Arizona Department of Transportation  
Title 17, Chapter 5, Article 5

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This Five-Year-Review Report from the Department of Transportation relates to rules in Title 17, Chapter 5, Article 5 regarding motor carrier financial responsibility.

The Department did not propose a course of action in the last 5YRR on these rules.

### **Proposed Action**

ADOT is not proposing any changes.

**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:**

To ensure public safety, the Arizona Department of Transportation enforces the laws and rules regarding the use of state highways. The indicates that the rules support efforts by the Department, in partnership with Arizona's motor carriers and insurance agencies, to prevent unnecessary burden by recognizing and eliminating any duplicative reporting of

motor carrier financial responsibility information. The Department has determined that the economic impact does not differ significantly from what was originally determined in the 2012 rulemaking. The Department has determined that the rules are the least costly method of achieving the regulatory objective.

The stakeholders include: The Department, Arizona motor carriers, insurance agencies, and the general public.

**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 has determined that these rules provide the least costly and burdensome method of achieving the regulatory objective, eliminating unnecessary administrative costs associated with monitoring and record keeping. Additionally, the rule eliminates reporting and storing of duplicative information regarding motor carrier's evidence of financial responsibility.

**4. Has the agency received any written criticisms of the rules over the last five years?**

No, the Department indicates they did not receive any written criticisms on these rules.

**5. Has the agency analyzed the rules' clarity, conciseness, and understandability, consistency with other rules and statutes, and effectiveness?**

Yes, the Department indicates the rules are clear, concise, understandable, effective, and consistent with other rules and statutes.

**6. Has the agency analyzed the current enforcement status of the rules?**

Yes, the Department indicates the rules are enforced as written.

**7. 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 Department indicates the rules are not more stringent than the corresponding federal law, 49 U.S.C. 13906, 49 U.S.C. 31138, and 49 U.S.C. 31139.

**8. 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 do not require a permit or license.

**9. Conclusion**

As mentioned above, the Department is not proposing any changes. Council staff recommends approval of this report.



January 28, 2020

VIA EMAIL: [grrc@azdot.gov](mailto:grrc@azdot.gov)

Ms. Nicole Sornsin, Chair  
Governor's Regulatory Review Council  
100 N 15<sup>th</sup> Avenue, Suite 305  
Phoenix, AZ 85007

**Re: Arizona Department of Transportation, 17 A.A.C. Chapter 5, Article 5, Five-year Review Report**

Dear Ms. Sornsin,

Please find enclosed the Arizona Department of Transportation's Five-year Review Report covering all rules located under 17 A.A.C. Chapter 5, Article 5, which is due on January 31, 2020.

This document complies with all requirements under A.R.S. § 41-1056 and A.A.C. R1-6-301. The Department certifies that it is in full compliance with the requirements of A.R.S. § 41-1091.

For information regarding the report, please communicate directly with John Lindley, Senior Rules Analyst, at (602) 712-8804 or email [JLindley@azdot.gov](mailto:JLindley@azdot.gov).

Sincerely,



John S. Halikowski  
Director  
Arizona Department of Transportation

Enclosure



**Government Relations & Rules  
Office of the Director**

**Five-Year Review Report**

**A.A.C. Title 17 – Transportation**

**Chapter 5. Department of Transportation**

**Commercial Programs**

**Article 5. Motor Carrier Financial Responsibility**

*Douglas A. Ducey*

*Governor*

*John S. Halikowski*

*ADOT Director*

**Five-Year-Review Report**  
**Arizona Department of Transportation**  
**17 A.A.C. Chapter 5. Department of Transportation - Commercial Programs**  
**Article 5. Motor Carrier Financial Responsibility**

**1. Authorization of the rule by existing statutes**

**General Statutory Authority:**

The Director of the Department of Transportation (Department) has broad authority under A.R.S. §§ [28-366](#) and [28-7045](#) for these rules. This authority allows the Department to adopt rules for the collection of taxes and license fees, public safety and convenience, enforcement of the provisions of the laws the Director administers or enforces, and the use of state highways and routes to prevent abuse and unauthorized use of all highways and routes under the jurisdiction of the Department.

**Specific Statutory Authority:**

R17-5-501	The specific statutory authority used by the Department for maintaining these rules is provided under A.R.S. §§ <a href="#">28-4002</a> and <a href="#">28-4034</a> .
R17-5-504	

**2. The objective of each rule:**

The stated objectives for each of the rules maintained by the Department under [17 A.A.C. 5, Article 5](#), are as follows:

Rule	Objective
R17-5-501	To clarify the Department’s intended meaning for certain terms and phrases used throughout the Article.
R17-5-504	To provide persons subject to the financial responsibility requirements of A.R.S. Title 28, Chapter 9, Article 2, with information regarding a manual process that can be used to certify the existence of adequate financial responsibility if requested by the Department and the person’s motor vehicle or vehicle combination is not insured through an insurance company that electronically reports to the Department under A.R.S. § <a href="#">28-4148</a> and <a href="#">17 A.A.C. 5, Article 8</a> .

**3. Are the rules effective in achieving their objectives? Yes  No**

*If not, please identify the rules that are not effective and provide an explanation for why the rules are not effective.*

The Department believes that these rules are effective in achieving all stated objectives.

**4. Are the rules consistent with other rules and statutes? Yes  No**

*If not, please identify the rules that are not consistent. Also, provide an explanation and identify the provisions that are not consistent with the rules.*

Rule	Explanation
R17-5-501 R17-5-504	<p>These rules were written to ensure continuous consistency by referencing all other applicable rules and statutes that govern the various types of evidence the Department may accept as proof of an adequate amount of financial responsibility: A.R.S. § <a href="#">28-4032</a> for applicability; A.R.S. § <a href="#">28-4033</a> for the minimum amounts of financial responsibility required if operating a motor vehicle or vehicle combination in the furtherance of a commercial enterprise in this state; A.R.S. § <a href="#">28-4007</a> and <a href="#">R17-5-810</a> for options involving self-insurance; A.R.S. § <a href="#">28-4148</a> and <a href="#">17 A.A.C. 8</a> for the insurance industry's obligation to electronically report financial responsibility information to the Department; and A.R.S. § <a href="#">28-4135</a> regarding acceptable evidence of financial responsibility to be carried by any person operating a motor vehicle or vehicle combination on a highway in this state.</p> <p><a href="#">49 U.S.C. 31138</a> prescribes the minimum amounts of financial responsibility that a motor carrier is required to file with the Federal Motor Carrier Safety Administration if operating in <u>interstate</u> commerce.</p>

5. **Are the rules enforced as written?** Yes  No

*If not, please identify the rules that are not enforced as written and provide an explanation of the issues with enforcement. In addition, include the agency's proposal for resolving the issues.*

The Department enforces these rules as written.

6. **Are the rules clear, concise, and understandable?** Yes  No

*If not, please identify the rules not clear, concise, or understandable and provide an explanation as to how the agency plans to amend the rules to improve clarity, conciseness, and understandability.*

The Department believes that these rules are clear, concise, and understandable as written.

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
N/A	N/A	N/A

8. **Economic, small business, and consumer impact comparison:**

The economic impact of each of these rules has been the same as estimated by the Department in the economic impact statement prepared on the last amendment of each rule.

At the time of the Department's last rulemaking on motor carrier financial responsibility reporting in 2012, the Department estimated that more than 50% of all motor carriers registering vehicles in Arizona were insuring their vehicles through an insurance company that electronically reports to the Department under A.R.S. § [28-4148](#) and [17 A.A.C. 5, Article 8](#). Currently, 80% of all Arizona motor carriers use insurance

companies that routinely report this essential information to the Department electronically, as required by law.

These rules support efforts by the Department, in partnership with Arizona's motor carriers and insurance agencies, to prevent unnecessary regulatory burden by recognizing and eliminating any duplicative reporting of motor carrier financial responsibility information. These efforts have helped the Department and its industry partners to eliminate the unnecessary administrative costs previously expended by the Department and these industries as a result of the excessive monitoring and record keeping involved with the reporting, maintaining, and storing of duplicative information regarding a motor carrier's evidence of financial responsibility.

According to the most recent edition of [Arizona's Employment Report](#), published by the Governor's Office of Economic Opportunity, employment in Arizona's Transit and Ground Passenger Transport industry is projected to grow 3.3% by the end of calendar year 2020. With 11,332 positions, for-hire motor carriers of passengers continue to play an important role in support of Arizona's booming economy. Airport shuttle, charter, commuter, school bus, sightseeing, tour and transit are just a few of the essential services these motor carriers provide for the state of Arizona using scheduled intercity and other intrastate travel routes.

The Department believes that the nonmonetary benefits to all sectors are greater than the cost of the rules and estimates that the alternative reporting requirements provided in the rules may be used by the owners of 1,187 vehicle-for-hire companies operating up to 5,000 vehicles registered in this state as either buses, taxis, or other for-hire motor carriers of passengers (e.g. executive sedans, livery vehicles, limousines, etc.). Applicability of federal or state motor carrier safety and financial responsibility regulations for these service providers can generally be determined based on the number of passengers (1-8, 9-15 and 16+), type of vehicle (motor coach, school bus, minibus, passenger van, and limousine), or type of operation (fixed-route or charter), and the required filings vary based on the types of registration involved.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes \_\_\_ No X

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?** Yes X 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 no course of action in the previous five-year review report for these rules.

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 persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objectives:**

The Department is committed to facilitating effective motor vehicle licensing and safety programs in compliance with all state and federal motor vehicle laws. In rulemaking, the Department routinely adopts the least costly and least burdensome option for any process or procedure required of the regulated public or industry. Therefore, the Department has determined that the benefits of all the rules in this Chapter outweigh the costs.

Since for-hire motor carriers of passengers play such an important role in support of Arizona's booming economy, the benefits provided by their services far outweigh any costs associated with these rules. For-hire motor carriers of passengers support the entire state of Arizona by getting people where they need to be, when they need to be there, in a safe and economical way. Airport shuttle, charter, commuter, school bus, sightseeing, tour, and transit services are all essential services that for-hire motor carriers of passengers may provide or support throughout the state to connect residents and non-residents to all of the amenities Arizona has to offer. The wide array of transport services these motor carriers provide can also increase the profitability of all Arizona businesses they support by delivering customers right to their front door. Whether small or large, profit or non-profit, airports, hospitals, schools, casinos, entertainment venues, and even restaurants, all enjoy the economic benefits generated by the ease of movement enabled by for-hire motor carriers of passengers.

These rules make the reporting of motor carrier financial responsibility to the Department as easy as possible, and any person or motor carrier that maintains a valid USDOT number and files proof of financial responsibility with the Federal Motor Carrier Safety Administration (FMCSA) under [49 CFR 387](#) is not required to submit additional proof of financial responsibility under these rules, except on written request by the Department. The Department takes advantage of current technology routinely used by the insurance industry, and service bureaus, to communicate and partner with regulatory agencies. The Arizona Mandatory Insurance Reporting System, prescribed by the Department under [17 A.A.C. 5, Article 8](#), is an insurance policy reporting system that greatly reduces any need for vehicle owners or drivers to additionally submit proof of insurance coverage.

Currently, the Arizona Mandatory Insurance Reporting System, using electronic data interchange technology and unique numerical insurance company identification numbers issued by the National Association of Insurance Commissioners (NAIC), receives and processes about 725,000 policy report transactions every month, from over 200 reporting entities involving about 500 NAIC identification numbers.

Non-vehicle specific policies are generally referred to as "all owned" or "blanket policies". These are issued to organizational entities for a specific coverage amount to insure all of that organization's vehicles at any given time. With this type of policy, the organizations do not provide the insurance company with specific details to identify each vehicle that will be covered under the policy. The Department can link reports of these types of policies to all vehicles owned by the organization if reported using the organization's unique identification number assigned by the Department's customer database. The customer number may be the organization's Federal Employer Identification Number (FEIN) or a Department issued customer number. Since the Department does not have all FEINs from every possible organization, some non-vehicle-specific reports with an organization's FEIN do not find a match in the Department's system and are returned to the reporting insurance companies as errors. Due to this failure to match, some vehicle owners with this type of policy may be sent a notice by the Department requesting

proof of financial responsibility and the information they provide the Department in response to that notice will need to be entered manually by Department personnel.

**12. Are the rules more stringent than corresponding federal laws? Yes \_\_\_ No X**

*Please provide a citation for the federal laws. And if the rules are more stringent, is there statutory authority to exceed the requirements of federal laws?*

These rules apply to persons who operate a motor vehicle or vehicle combination in the furtherance of a commercial enterprise *in this state* (intrastate commerce). Therefore, the rules are not more stringent than the federal motor carrier financial responsibility law, [49 U.S.C. 13906](#), or the federal regulation provided under [49 CFR 387](#), which would apply only if the person intends to operate in more than one state (interstate commerce).

The minimum levels of financial responsibility covering public liability and property damage applicable to the various types of for-hire motor carriers transporting passengers in interstate or foreign commerce were established under Section 18 of the Bus Regulatory Reform Act of 1982 (Pub. L. 97-261, September 20, 1982, 96 Stat. 1102), as codified under [49 U.S.C. 31138](#).

The minimum levels of financial responsibility applicable to the various types of for-hire motor carriers of property involved in interstate or foreign transportation and for the transportation of hazardous materials in intrastate or interstate commerce were established under Section 30 of the Motor Carrier Act of 1980 (Pub. L. 96-296, July 1, 1980, 94 Stat. 793, at 820), as codified under [49 U.S.C. 31139](#).

**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:**

These rules were adopted before July 29, 2010, and provide no regulatory permit, license, or agency authorization applicable to any criteria prescribed under A.R.S. § [41-1037](#).

**14. Proposed course of action**

*If possible, please identify a month and year by which the agency plans to complete the course of action.*

No action is necessary. All rules located in this Article were last amended by Final Rulemaking at [18 A.A.R. 2365](#), effective November 10, 2012, and generally meet objectives, are effective, consistent with statute, enforceable, clear, concise, and understandable. The Department proposes no immediate action for any of the rules under this Article.

## Department of Transportation - Commercial Programs

“Principal place of business” means a licensed place of business from which a wholesale motor vehicle dealer or a broker conducts business and keeps the records of the business.

“State” means the state of Arizona and all its agencies and political subdivisions, their officers and agents.

“Taxpayer identification number” means a number used for tax purposes that is assigned by the Social Security Administration or the Internal Revenue Service.

“VIN” or “Vehicle Identification Number” means the unique code, including serial number, used by an automobile manufacturer to identify a specific motor vehicle.

**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**R17-5-402. Bond Amounts; Dealers, Brokers, and Automotive Recyclers’ Business Licenses**

- A. As prescribed under A.R.S. § 28-4362, the Department shall require a bond in the amount specified for the following motor vehicle business license applicants:
1. \$100,000 for:
    - a. A new motor vehicle dealer,
    - b. A used motor vehicle dealer, or
    - c. A public consignment auction dealer.
  2. \$25,000 for:
    - a. A broker,
    - b. A wholesale motor vehicle dealer, or
    - c. A wholesale motor vehicle auction dealer.
  3. \$20,000 for an automotive recycler.
- B. An applicant shall submit a bond on the original vehicle dealer bond form prescribed by the Director that meets the requirements in A.R.S. § 28-4362 and these rules. An applicant shall submit a separate, original bond for each application and for each county in which an applicant or licensee has an established place of business or a principle place of business. A power of attorney for the attorney-in-fact shall be attached to the dealer bond, if applicable.
- C. An applicant shall sign the dealer bond, in addition to all partners for a partnership, or one officer for an incorporation.
- D. The completed bond form shall contain an embossed stamp, seal, or sticker from the bond company.
- E. The Department shall not accept a handwritten bond.

**Historical Note**

New Section recodified from R17-4-240 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**R17-5-403. Expired****Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2). Section expired under A.R.S. 1056(J) at 22 A.A.R. 3195, effective October 5, 2016 (Supp. 16-3).§

**R17-5-404. Dealer Title Requirement for Vehicle Sale**

For purposes of A.R.S. § 28-4409(A), the dealer’s name shall be recorded on a title certificate as transferee or purchaser.

**Historical Note**

New Section recodified from R17-4-241 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section head-

ing corrected as recodified at 7 A.A.R. 3483 (Supp. 09-2).

**R17-5-405. Dealer Acquisition Contract**

- A. For the purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer acquisition contract on a Department form with contents as prescribed under subsection (B).
- B. A dealer acquisition contract shall contain the following information:
1. The heading “Dealer Acquisition Contract;”
  2. The dealer’s name and dealer license number;
  3. The dealer’s business address and telephone number;
  4. The owner’s name, address, telephone number; driver license number or taxpayer identification number, as applicable; and type of ownership;
  5. The VIN; license plate number; licensing state; and model, make, and year of the motor vehicle that has a dealer acquisition contract;
  6. If there is a lien holder, for each lien holder:
    - a. The lien holder’s name, address, and telephone number;
    - b. The lien balance;
    - c. The prepayment penalties, if any; and
    - d. Other information on the terms and conditions of the lien repayment.
  7. A statement by the owner that the motor vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (B)(6)(a) and the unpaid lien balance is no greater than disclosed under subsection (B)(6)(b);
  8. The contracted purchase price and a recital that this amount has been either paid directly to the owner or credited to the owner against the purchase price of another motor vehicle;
  9. A statement indicating that the owner is selling and transferring the described motor vehicle to the dealer;
  10. An authorization by the owner permitting the dealer to obtain all information necessary to verify the accuracy of the lien balance and assure that the balance is paid and the lien is released;
  11. A statement by the owner that the registration document provided to the dealer is the original and most recent registration issued for the vehicle;
  12. An agreement indicating whether the owner or dealer is responsible to satisfy the lien balance;
  13. An authorization by the owner permitting the dealer to obtain the original title certificate from the lien holder; endorse the owner’s name on the title; and if necessary, transfer the title to the dealer;
  14. A statement that if the owner receives the certificate of title, the owner shall immediately deliver the title to the dealer and provide any signature and acknowledgment necessary to complete the title transfer to the dealer;
  15. The date when the dealer acquisition contract is executed by each party;
  16. The dealer’s signature; and
  17. The owner’s signature.
- C. A dealer or an owner who adds to a dealer acquisition contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.
- D. When a dealer prepares a dealer acquisition contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer’s established place of business for three years after the date that the contract expires or terminates, or the date the motor vehicle is sold.

## Department of Transportation - Commercial Programs

- E. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer acquisition contract. This Section furnishes only information required in a dealer acquisition contract. This Section does not detail any additional contractual requirements that may be defined under other Arizona statutes.

**Historical Note**

New Section recodified from R17-4-245 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**R17-5-406. Dealer Consignment Contract**

- A. For the purposes of A.R.S. § 28-4410, a motor vehicle dealer shall prepare a dealer consignment contract on a form with contents as prescribed under subsection (B).
- B. A dealer consignment contract shall contain the following information:
1. The heading "Dealer Consignment Contract;"
  2. The dealer's name and dealer license number;
  3. The dealer's business address and telephone number;
  4. The owner's name, address, telephone number, driver license number or taxpayer identification number, and type of ownership;
  5. The VIN; license plate number; licensing state; and model, make, and year of the motor vehicle that has a dealer consignment contract;
  6. If there is a lien holder, for each lienholder:
    - a. The lien holder's name, address, and telephone number;
    - b. The lien balance;
    - c. The prepayment penalties, if any; and
    - d. Other information on the terms and conditions of the lien repayment;
  7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (B)(6)(a) and the lien balance is no greater than that disclosed under subsection (B)(6)(b);
  8. An authorization by the owner permitting the dealer to market and sell the vehicle on behalf of the owner at a mutually-agreed upon, specified, minimum price;
  9. An agreement by the dealer to inform any prospective purchaser that the vehicle is on consignment;
  10. An agreement by the dealer that, upon receiving the sale proceeds, the dealer shall immediately satisfy all disclosed liens and ensure that the liens are released;
  11. An agreement by the owner that, upon the completion of the sale and after receiving the sale proceeds, the owner shall promptly deliver and endorse the title certificate for reassignment to the purchaser;
  12. The expiration date of the consignment contract;
  13. An agreement by the dealer to deliver the motor vehicle to the owner at a specified location on the date that the contract expires or terminates;
  14. An agreement by the owner to pay any specified fees due to the motor vehicle dealer on the return of the vehicle, after the expiration or termination of the consignment contract;
  15. The date the contract is executed;
  16. The dealer's signature; and
  17. The owner's signature.
- C. A dealer or an owner who adds to a dealer consignment contract a provision not described in this Section shall ensure that

the provision does not conflict with or alter the meaning of a provision of this Section.

- D. When a dealer prepares a dealer consignment contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the dealer consignment contract expires or terminates, or the vehicle is sold.
- E. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer consignment contract. This Section furnishes only information required in a dealer consignment contract. This Section does not detail any additional contractual requirements that may be defined under other Arizona statutes.

**Historical Note**

New Section recodified from R17-4-246 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3). Section amended by final rulemaking at 23 A.A.R. 1434, effective July 4, 2017 (Supp. 17-2).

**R17-5-407. Motor Vehicle Repossession**

- A. The Department shall not transfer a title when the ownership of a motor vehicle titled in this state or another state reverts through operation of state law to a lienholder of record through repossession unless the following conditions are met:
1. The motor vehicle is physically located in this state;
  2. A notice of lien is filed with the Department;
  3. A completed affidavit from the lienholder is submitted to the Department stating that the motor vehicle is physically located in this state and was repossessed on default pursuant to the terms of the lien and applicable law and that this state, its agencies, employees, and agents shall not be held liable for relying on the contents of the affidavit; and
  4. In addition to the information required in subsection (A)(3), the affidavit contains the following information:
    - a. The (VIN),
    - b. The vehicle model year,
    - c. The vehicle make,
    - d. The registered owner's name,
    - e. The date of repossession,
    - f. The state in which the vehicle is titled,
    - g. The lienholder company name,
    - h. The lienholder agent or representative name,
    - i. The lienholder signature, and
    - j. The notary or Department agent signature.
- B. The Department shall accept out-of-state affidavits of repossession that comply with the requirements in subsections (A)(3), (A)(4), and subsection (C) if all of the following apply:
1. The affidavit is submitted by an Arizona licensed dealer, and
  2. The Arizona licensed dealer is transferring the title into the dealership's name.
- C. A lienholder may sell a repossessed motor vehicle without transferring the title into the lienholder's name by completing a Bill of Sale for submission to the Department. The Bill of Sale may be combined with the affidavit of repossession and shall contain the following information:
1. The buyer's name;
  2. The sale date;
  3. The buyer's street address, including the city, state, and zip code;
  4. The name of the new lienholder, if applicable;
  5. The new lien date, if applicable;

28-366. Director; rules

The director shall adopt rules pursuant to title 41, chapter 6 as the director deems necessary for:

1. Collection of taxes and license fees.
2. Public safety and convenience.
3. Enforcement of the provisions of the laws the director administers or enforces.
4. The use of state highways and routes to prevent the abuse and unauthorized use of state highways and routes.

28-4002. Director; duties

The director shall:

1. Administer and enforce this chapter.
2. Print for distribution to the public rules adopted to administer this chapter and furnish the rules to a person on application and payment of the cost as prescribed by the director.

28-4034. Maintenance, certification and verification of financial requirements

- A. A person who operates a motor vehicle in this state and who is subject to the financial responsibility requirements of this article shall maintain at all times the amounts prescribed in section 28-4033 that obligates the person to pay compensation for injuries to persons and for loss or damage to property by reason of the ownership, maintenance or use of a motor vehicle or vehicle combination owned or operated by the person.
- B. The department may require a person who is subject to the financial responsibility requirements of this article to certify the existence of financial responsibility in the form and at the times the department deems necessary. The department may forward the certification to the named insurer to determine if the certification is correct. Civil liability does not accrue to the insurer or any of its employees for reports made to the department if the reports are made in good faith based on the most recent information available to the insurer.

28-7045. Director; state highway and route use; rules

The director shall exercise complete and exclusive operational control and jurisdiction over the use of state highways and routes and adopt rules regarding the use as the director deems necessary to prevent the abuse and unauthorized use of these highways and routes.

**BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY (F20-0307)**

Title 4, Chapter 22, Articles 1-5, Board of Osteopathic Examiners in Medicine and Surgery



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** April 7, 2020

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

**FROM:** Council Staff

**DATE:** March 10, 2020

**SUBJECT: BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY (F20-0307)**  
Title 4, Chapter 22, Articles 1-5, Board of Osteopathic Examiners in Medicine and Surgery

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### Summary

This Five Year Review Report (5YRR) from the Board of Osteopathic Examiners in Medicine and Surgery relates to rules in Title 4, Chapter 22. As the Board states in its introduction, the Board issues licenses, permits, and registrations to doctors of osteopathic medicine, investigates complaints against licensees; and provides information to the public. The Board's purpose is to protect the public from unlawful, incompetent, unqualified, impaired, and unprofessional practitioners of osteopathic medicine.

Per the Board's website<sup>1</sup>, a Doctor of Osteopathic Medicine (D.O.) is different from a Doctor of Medicine (M.D.) in the following ways:

- A D.O. receives more training during medical school in the muscular/skeletal system than an M.D. typically receives;
- A D.O. focuses on a "whole person" approach and preventive health care;

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<sup>1</sup> <https://azdo.gov/OsteoBoard/OsteoBoard#>

- A D.O. helps patients develop attitudes and lifestyles that do not just fight illness, but prevent it by giving special attention to how the body's nerves, muscles, bones and organs work together to influence health; and
- Some D.O.s specialize in osteopathic manipulative treatment, using their hands to diagnose injury and illness, and encourage the body's natural ability to heal itself.

In the previous 5YRR for these rules, which the Council approved in June 2010, the Board proposed to amend numerous rules. The Board conducted a rulemaking which became effective on November 8, 2014, that amended all of its rules and made new rules which established minimum standards for dispensing drugs and office-based surgery, established standards for re-entering medical practice, and established a program for treatment and rehabilitation of impaired physicians.

### **Proposed Action**

The Board states that it has requested an exemption from the rulemaking moratorium to address any undue burdens in the existing rules. In its report, it specifically identifies certain rules that can be amended because they have incorrect cross-references as a result of statutory changes: R4-22-302(A) (Packaging and Inventory) and R4-22-304(A) (Recordkeeping and Reporting Shortages). Further, it also states that the fee for locum tenens registration in R4-22-102, which is currently \$300, is the maximum fee allowed under the applicable statute. The Board states that this fee is higher than the average application fee of \$235 in other states. The Board states that in 2019, it underwent a process to reduce and streamline the licensing application process, allowing it to now reduce certain application fees. The Board states that it requested an exemption from the rulemaking moratorium to potentially reduce this fee.

#### **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:**

The Board issues licenses, permits, and registrations to doctors of osteopathic medicine, and protects the public from incompetent or unqualified practitioners. The Board states that the economic impact of the rules is unchanged since its previous rulemaking in 2014. The rules were also amended in 2017 and 2019. In those rulemakings, the Board determined the revisions had minimal economic impact.

The stakeholders include: the Board, osteopathic practitioners, osteopathic practitioner applicants, patients of osteopathic practitioners, and the general public.

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 the benefit from the rules outweigh the costs and impose the least burden and costs possible. It identifies a number of rules that impose a cost to regulated persons, and in the case of R4-22-102 (Fees and charges), at least one fee that the Board is seeking to reduce.

4. **Has the agency received any written criticisms of the rules over the last five years?**

The Board conducted three rulemakings since the Board's last 5YRR was approved in 2010. It received and incorporated comments and feedback during those rulemaking processes. The Board states it has not received any written criticism of the current rules.

5. **Has the agency analyzed the rules' clarity, conciseness, and understandability, consistency with other rules and statutes, and effectiveness?**

Yes. The Board indicates that the rules are clear, concise, understandable, and effective. The Board states that the rules are mostly consistent with other rules and statutes. However, due to statutory changes to A.R.S. § 32-1901, the internal cross-references in R4-22-302(A) (Packaging and Inventory) and R4-22-304(A) (Recordkeeping and Reporting Shortages) are incorrect. The Board states that it has requested an exemption from the rulemaking moratorium to potentially amend this rule.

6. **Has the agency analyzed the current enforcement status of the rules?**

Yes. The Board states that the rules are enforced as written.

7. **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 is no corresponding federal law for these rules. The Board notes that physicians must comply with numerous other federal laws.

8. **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 all of the rules under review were made after July 29, 2010. The licenses, permits, registrations, and approvals listed in Table 1 of these rules are not general permits. Under the applicable statute, the Board is required to issue individual licenses to each person that is qualified by statute and rule. Thus, the type of licenses the Board issues are an enumerated exception to the general permit requirement in A.R.S. § 41-1037.

**9. Conclusion**

Council staff finds that the Board conducted an adequate analysis of its rules pursuant to A.R.S. § 41-1056. Further, Council staff notes that the Board already requested an exemption from the rulemaking moratorium to address regulatory burdens in the current rules, in addition to potentially reducing a fee. Council staff recommends approval of this report.



Governor  
Douglas A. Ducey

**ARIZONA BOARD OF OSTEOPATHIC EXAMINERS  
IN MEDICINE AND SURGERY**

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Martin B. Reiss, D.O.  
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**Executive Director**  
Justin Bohall

Thursday, December 26, 2019

**VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)**

Nicole Sornsins, Chair  
Governor's Regulatory Review Council  
100 North 15th Avenue, Suite 305  
Phoenix, Arizona 85007

**RE: Board of Osteopathic Examiners in Medicine and Surgery  
Five Year Review Report  
A.A.C. Title 4, Chapter 22, Articles 1 through 5**

Dear Ms Sornsins:

The Board of Osteopathic Examiners in Medicine and Surgery submits for your review and approval a report on a review of the Board's rules, A.A.C. Title 4, Chapter 22, Articles 1 through 5. The report is due under an extension at the end of December 2019.

The Board certifies compliance with A.R.S. 41-1091.

For questions about this report, please contact me at 602-771-2522 or [justin.bohall@azdo.gov](mailto:justin.bohall@azdo.gov).

Kind Regards,

Justin Bohall  
Executive Director

**Five-year-review Report**  
**A.A.C. Title 4. Professions and Occupations**  
**Chapter 22. Board of Osteopathic Examiners in Medicine and Surgery**  
**Submitted for February 4, 2020**  
**Revised: March 18, 2020**

INTRODUCTION

The Board of Osteopathic Examiners in Medicine and Surgery, which is established under A.R.S. § 32-1801, issues licenses, permits, and registrations to doctors of osteopathic medicine, investigates complaints against licensees; and provides information to the public. The Board's purpose, as specified under A.R.S. § 32-1803, is to protect the public from unlawful, incompetent, unqualified, impaired, and unprofessional practitioners of osteopathic medicine.

There are currently 3,642 licensed osteopathic physicians in Arizona. During recent years, this number has increased. The Board believes the increase is due, in part, to the minimum regulatory burdens imposed on osteopathic physicians, as well as the Board's efforts to streamline licensure processes and implement occupational mobility statutes like that of the Interstate Medical Licensure Compact and more recently the state's enactment of universal licensing recognition, which makes it easier for osteopathic physicians from other states to obtain licensing in this state. The Board currently has seven FTEs. The Board regularly reviews its fees to ensure that the Board is not collecting fee amounts that greatly exceed its expenditures. At this time the Board's collected revenues are consistent with the Board's appropriation from the Legislature.

Statute that generally authorizes the agency to make rules: A.R.S. § 32-1803(C)(1)

1. Specific statute authorizing the rule:

R4-22-101. Definitions: A.R.S. § 32-1803(C)(1)

R4-22-102. Fees and Charges:A.R.S. § 32-1826

R4-22-103. Submitting Documents to the Board: A.R.S. § 32-1803(C)(1)

R4-22-104. Licensing Time Frames: A.R.S. § 41-1072

- Table 1. Time Frames (in days): A.R.S. § 41-1072
- R4-22-105. Equivalents to an Approved Internship or Residency: A.R.S. § 32-1822(A)(4)
  - R4-22-106. Specialist Designation: A.R.S. §§ 32-1800(21) and 32-1854(17)
  - R4-22-107. Petition for Rulemaking or Review: A.R.S. § 41-1033
  - R4-22-108. Rehearing or Review of Decision: A.R.S. § 41-1092.09
  - R4-22-201. Application Required: A.R.S. §§ 32-1822, 32-1823, 32-1825, 32-1829, 32-1830, 32-1831, and 32-1971
  - R4-22-202. Determining Qualification for Licensure: A.R.S. § 32-1822
  - R4-22-203. Examination; Practice Equivalency to an Examination: A.R.S. § 32-1822(A)(5)
  - R4-22-204. License Issuance; Effective Date of License: A.R.S. § 32-1826
  - R4-22-205. License Renewal: A.R.S. § 32-1825
  - R4-22-206. Procedure for Application to Reenter Practice: A.R.S. § 32-1822
  - R4-22-207. Continuing Medical Education; Waiver; Extension of Time to Complete: A.R.S. § 32-1825
  - R4-22-212. Confidential Program for Treatment and Rehabilitation of Impaired Osteopathic Physician: A.R.S. § 32-1861
  - R4-22-301. Registration to Dispense Required: A.R.S. § 32-1871
  - R4-22-302. Packaging and Inventory: A.R.S. § 32-1871
  - R4-22-303. Prescribing and Dispensing Requirements: A.R.S. § 32-1871
  - R4-22-304. Recordkeeping and Reporting Shortages: A.R.S. § 32-1871
  - R4-22-305. Inspections; Denial and Revocation: A.R.S. § 32-1871
  - R4-22-401. Approval of Educational Programs for Medical Assistants: A.R.S. § 32-1803(A)(5)
  - R4-22-402. Medical Assistants – Authorized Procedures: A.R.S. § 32-1800
  - R4-22-403. Medical Assistant Training Requirement: A.R.S. § 32-1800
  - R4-22-501. Definitions: A.R.S. § 32-1800
  - R4-22-502. Health Care Institution License: A.R.S. § 32-1800
  - R4-22-503. Administrative Provisions: A.R.S. § 32-1800
  - R4-22-504. Procedure and Patient Selection: A.R.S. § 32-1800
  - R4-22-505. Sedation Monitoring Standards: A.R.S. § 32-1800

R4-22-506. Perioperative Period; Patient Discharge: A.R.S. § 32-1800

R4-22-507. Emergency Drugs; Equipment and Space Used for Office-based Surgery: A.R.S. § 32-1800

R4-22-508. Emergency and Transfer Provisions: A.R.S. § 32-1800

2. Objective of the rules:

R4-22-101. Definitions: The objective of the rule is to define terms used in the rules in a manner that is not explained adequately by a dictionary definition.

R4-22-102. Fees and Charges: The objective of the rule is to specify the fees the Board charges for its licensing activities and the charges made for specified Board-provided services.

R4-22-103. Submitting Documents to the Board: The objective of the rule is to provide notice of the time within which a document must be submitted if it is to be considered by the Board at a meeting or hearing.

R4-22-104. Licensing Time Frames: The objective of the rule is to specify the time frames within which the Board will act on a license, registration, or permit application.

Table 1. Time Frames (in days): The objective of the rule is to specify in table form the time frames within which the Board will act on a license, registration, or permit application.

R4-22-105. Equivalent to an Approved Internship or Residency: The objective of the rule is to specify training the Board accepts as equivalent to an approved internship or residency.

R4-22-106. Specialist Designation: The objective of the rule is to specify the specialty boards recognized by the Board.

R4-22-107. Petition for Rulemaking or Review: The objective of the rule is to specify the procedure a person may use to petition the Board under A.R.S. § 41-1033.

R4-22-108. Rehearing or Review of Decision: The objective of the rule is to specify the procedures and standards for requesting a rehearing or review of a Board decision.

R4-22-201. Application Required: The objective of the rule is to specify an application form is required when seeking a license or other approval from the Board.

R4-22-202. Determining Qualification for Licensure: The objective of the rule is to specify the evidence of qualification an applicant is required to submit to the Board and the manner in which the Board evaluates the evidence.

R4-22-203. Examination; Practice Equivalency to an Examination: The objective of the rule is to list the licensing examinations approved by the Board for applicants who have taken an examination within seven years before application. The rule also specifies practice equivalent to an examination for applicants who have not taken an approved examination within seven years before application.

R4-22-204. License Issuance; Effective Date of License: The objective of the rule is to specify how and when an applicant may request the Board issue a license.

R4-22-205. License Renewal: The objective of the rule is to specify the requirements for renewal of a license and the manner in which renewal application is made.

R4-22-206. Procedure for Application to Reenter Practice: The objective of the rule is to specify the procedure for an out-of-practice osteopathic physician to reenter practice.

R4-22-207. Continuing Medical Education; Waiver; Extension of Time to Complete: The objective of the rule is to specify the statutorily required CME a licensee must obtain during a renewal period, the documentation of compliance acceptable to the Board, the procedure for obtaining a waiver from the CME requirement, and the procedure for obtaining an extension of time to complete the required CME.

R4-22-212. Confidential Program for Treatment and Rehabilitation of Impaired Osteopathic Physician: The objective of the rule is to specify the actions the Board will take when it determines a licensee is impaired by substance abuse that threatens public health and safety.

R4-22-301. Registration to Dispense Required: The objective of the rule is to specify when an osteopathic physician is required to register with the Board to dispense drugs and the procedure for registering.

R4-22-302. Packaging and Inventory: The objective of the rule is to specify the manner in which controlled substances and prescription-only drugs are required to be packaged, labeled, and secured. The rule also requires a licensee maintain a dispensing log for controlled substances.

R4-22-303. Prescribing and Dispensing Requirements: The objective of the rule is to specify the information a physician must record in a patient record when a controlled substance or prescription-only drug or device is dispensed to the patient. The rule also specifies steps required to ensure accuracy in dispensing.

R4-22-304. Recordkeeping and Reporting Shortages: The objective of the rule is to specify the manner in which dispensing and purchase records for controlled substances and prescription-only drugs are to be maintained. The rule also specifies the procedure for reporting a discovered theft or loss of a controlled substance or dangerous drug.

R4-22-305. Inspections; Denial and Revocation: The objective of the rule is to specify that the Board may inspect the dispensing records maintained by a physician. The rule also specifies the circumstances under which a physician's dispensing authority will be revoked or renewal denied.

R4-22-401. Approval of Educational Programs for Medical Assistants: The objective of the rule is to specify that the Board approves a medical assistant training program accredited by one of the specified entities.

R4-22-402. Medical Assistants – Authorized Procedures: The objective of the rule is to specify the medical procedures a medical assistant is authorized to perform under direct supervision by a licensed osteopathic physician.

R4-22-403. Medical Assistant Training Requirement: The objective of the rule is to specify the training required of an individual employed as a medical assistant.

R4-22-501. Definitions: The objective of the rule is to define terms used in the rules in a manner that is not explained adequately by a dictionary definition.

R4-22-502. Health Care Institution License: The objective of the rule is to specify the circumstances under which a physician who performs surgery in the physician's office or other outpatient setting using general anesthesia must obtain a license as a health care institution.

R4-22-503. Administrative Provisions: The objective of the rule is to specify prerequisites including written policies and procedures, education, training, and experience of staff that assist or participate in office-based surgery, necessary equipment, patients' rights, and informed consent, with which a physician must comply before performing office-based surgery using sedation.

R4-22-504. Procedure and Patient Selection: The objective of the rule is to specify factors the physician is required to consider when choosing a surgical procedure to perform in an office-based environment using sedation and when choosing a patient on whom to perform a surgical procedure in an office-based environment using sedation.

R4-22-505. Sedation Monitoring Standards: The objective of the rule is to require a physician performing office-based surgery using sedation to ensure use of a quantitative method, performed by a licensed health-care professional other than the physician, to assess the patient's oxygenation, ventilator function, circulatory function, and temperature during the surgery.

R4-22-506. Perioperative Period; Patient Discharge: The objective of the rule is to require a physician to be physically present in the room in which office-based surgery is performed using sedation and to be physically present and able to respond to an emergency during the period of post-sedation monitoring. The rule also requires a patient be instructed regarding discharge and that the discharge be properly documented.

R4-22-507. Emergency Drugs; Equipment and Space Used for Office-based Surgery: The objective of the rule is to require the office in which office-based surgery is performed using sedation be large enough to accommodate all equipment, including a supply of emergency drugs and equipment, required to perform the surgery safely. The rule also requires all equipment used in office-based surgery be maintained according to the manufacturer's instructions.

R4-22-508. Emergency and Transfer Provisions: The objective of the rule is to require a physician who performs office-based surgery using sedation to ensure that all staff who assist or participate in the surgery are instructed in emergency procedures including safe and timely patient transfer.

3. Are the rules effective in achieving their objectives?

Yes

4. Are the rules consistent with other rules and statutes?

Mostly yes

R4-22-302(A) and R4-22-304(A): As a result of statutory changes to A.R.S. § 32-1901, the internal cross references are incorrect. The Board has requested for an exemption to

Executive Order 2020-02 in order to discuss changes that accomplish a successful and clear revision.

5. Are the rules enforced as written?

Yes

6. Are the rules clear, concise, and understandable?

Yes

7. Has the agency received written criticisms of the rules within the last five years?

No

The Board has incorporated feedback and addressed concerns in past rulemaking processes; it has not received any criticism of current rules.

8. Economic, small business, and consumer impact comparison:

Following approval of the Board's most recent 5YRR in 2010, the Board amended all its rules in a rulemaking that went into effect on November 8, 2014. Since then, the Board has completed two additional rulemakings. The economic, small business, and consumer impact statement prepared for each rulemaking was available for review.

November 2014 rulemaking (20 A.A.R. 2654)

The Board determined the actual economic impact of this rulemaking has generally been as estimated. In this rulemaking, the Board made changes identified as needed in its 2010 5YRR, made new rules establishing minimum standards for dispensing drugs and office-based surgery, established standards for reentering medical practice, and established a program for treatment and rehabilitation of impaired physicians. The Board estimated the following economic impact on applicants and licensees:

- Increasing the charge for verification of a license issued by the Board: the Board estimated the increased charge would generate approximately \$1,700 annually; the increased charge generated \$1,900 in FY2019.
- Establishing minimum requirements for dispensing drugs: the Board estimated the new standards, which require annual registration and a fee and prescribe practices regarding

packaging, prescribing, dispensing, and recordkeeping, would have minimal impact because the rule simply aligned the standards with Board practice. The standards are similar to those for other kinds of physicians (See A.A.C. Title 4, Chapters 16, 18, and 38). There are currently 3,642 actively licensed osteopathic physicians. In FY2019, 133 (less than four percent) paid the \$240 fee (\$31,920) and registered to dispense drugs.

- Establishing standards for reentering medical practice: the Board estimated a significant impact for the few applicants able to reenter practice. The Board believes this impact to be substantially less of an impact than an applicant having to meet the current requirements of a new license. During FY2019, two individuals reentered medical practice under the standards.
- Establishing a program for treatment and rehabilitation of impaired physicians: the Board estimated that aligning the rules with the Board's practice regarding rehabilitation of impaired physicians would be minimal for the Board. An impaired physician incurs the cost of participating in the treatment and rehabilitation program but has the potential benefit of being able to achieve rehabilitation and remain in practice. During FY2019, 13 individuals entered a program for treatment and rehabilitation of impaired physicians.
- Expanding the procedures a medical assistant is permitted to perform under direct supervision: the Board estimated expanding the list of procedures a medical assistant is authorized to perform under direct supervision would have a positive economic impact for licensees who provide the supervision and benefit from working with a medical assistant. The Board does not license medical assistants, who are under the oversight of the Arizona Medical Board.
- Establishing minimum standards for performing office-based surgery: the Board estimated aligning the rules with community standards regarding office-based surgery would have minimal economic impact and would facilitate efficient evaluation of complaints regarding performance of office-based surgery. A physician who voluntarily adds office-based surgery to the services the physician provides incurs the potentially substantial cost of ensuring the office has proper equipment and personnel and is required by the Department of Health Services to obtain a license as a health care institution. There is no Board-required application or fee to perform office-based surgery. During FY2019, the Board resolved six complaints involving office-based surgery. Most of the

complaints alleged improper treatment or care. One complaint alleging improper post-operative management and care resulted in discipline. The other five were dismissed as the Board found no violation of Arizona Statute or Board Rules.

May 12, 2017 rulemaking (23 A.A.R. 763)

Most of the rules that were amended in the 2017 rulemaking were further altered in 2019; only R4-22-104, relating to the Board's time frames for acting on applications, remains unaltered after its creation in the 2017 rulemaking. The Board believes the rule amendment has had the minimal economic impact expected. In addition to style changes, the Board added a provision regarding the time frame for acting on an application to obtain or renew retired status. This change was made as a result of an audit by the Arizona Auditor General. During the last fiscal year, 13 licensees requested retired status and 19 Retired licensees renewed their retired status. The Board currently has 32 licensees on retired status. The Board complies with the time frames established in rule.

July 2, 2019 rulemaking (25 A.A.R. 1793)

This rulemaking, which amended R4-22-102, Table 1, R4-22-201, R4-22-202, and R4-22-207, resulted from three recent statutory changes. The Board believes the minimal impact estimated for the rules was accurate. The three changes included an expedited timeframe and a fee for a temporary license, putting the requirement regarding a criminal records check in rule, and adding a requirement for continuing education regarding opioid-related, substance use disorder-related, or addiction-related continuing education. Since the rulemaking, 21 applicants have voluntarily requested a temporary license. During the last year, there were 401 applicants for licensure. Each incurred the expense of obtaining a full set of fingerprints and a state and federal criminal records check. The change to the continuing education requirement did not increase the number of required hours.

9. Has the agency received any business competitiveness analyses of the rules?

No

10. How the agency completed the course of action indicated in the agency's previous 5YRR:

Yes

The Board's last 5YRR was approved by the Council in 2010. In that report, the Board indicated it would amend many of its rules. In a rulemaking that went into effect on November 8, 2014, the Board amended all its rules and made new ones establishing minimum standards for dispensing drugs and office-based surgery, established standards for reentering medical practice, and established a program for treatment and rehabilitation of impaired physicians.

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:

The Board believes the benefits from the rules outweigh the costs and impose the least burden and cost possible. As authorized by statute, the Board has established the following rules, each of which results in a cost to individuals regulated by the rules:

- R4-22-102. Establish fees for licensure and license renewal – Specifically, the Board is currently collecting the fee at the maximum amount for the initial application fee at \$400. This is less than in comparison to other states with an average application fee of \$475. Additionally, the Board is currently collecting the fee at the maximum amount for the locum tenens registration fee at \$300. This is in comparison to other states with an average application fee of \$235. As stated previously, in 2019, the Board underwent a process to reduce and streamline the licensing application process. Due to a reduction in the regulatory burden and inefficient processes, the Board was able to eliminate time in the application process. This in turn allows for the Board to reduce certain application related fees to the benefit of the profession. The Board has requested an exemption to Executive Order 2020-02 in order to discuss how best to accomplish this reduction.
- R4-22-202. Specify the content of each license application;
- R4-22-203. Define the licensing examinations approved (the Board has approved two licensing examinations—the Comprehensive Osteopathic Medical Licensing Examination and the U.S. Medical Licensing Examination. These are the standard licensing examinations used throughout the U.S. for licensing osteopathic physicians);

- R4-22-207. Approve continuing education (the number of hours of CE required is established by statute at A.R.S. § 32-1825(B)) and procedures for obtaining a waiver or continuation of time;
- R4-22-206. Establish procedures for reentering practice (a physician reentering practice incurs the cost of submitting an application and providing other evidence of fitness to practice but gains the benefit of being able to resume practice; allowing reentry provides a physician with a simpler and less expensive procedure than applying for a new license while ensuring the physician is fit for practice and not a danger to the health safety and welfare of the public.);
- R4-22-212. Establish a program for treatment and rehabilitation of impaired physicians (this program, which is designed to protect the public from imminent danger, imposes a cost on a physician who may be impaired but provides the benefit of allowing the physician to obtain rehabilitation and continue practice);
- Article 3, R4-22-301 to R4-22-305. Establish standards for dispensing drugs (a physician who chooses to dispense drugs incurs the cost of establishing and complying with procedures necessary to protect the public but has the benefit of being able to dispense directly to patients);
- Article 4, R4-22-401 to R4-22-403. Establish training and supervision requirements for medical assistants (a physician who employs a medical assistant, who is not licensed by the Board, incurs the cost of ensuring the medical assistant is trained and supervised but has the benefit of the services provided by the medical assistant); and
- Article 5, R4-22-501 to R4-22-508. Establish standards for office-based surgery (a physician who chooses to perform office-based surgery incurs the cost of ensuring the office has equipment and personnel to protect the public and is required by the Department of Health Services to obtain a license as a health care institution but has the benefit of being able to provide office-based surgery to patients; the physician is not required to obtain approval from the Board or pay a fee to perform office-based surgery).

12. Are the rules more stringent than corresponding federal laws?

No

Although there are many federal laws with which a physician must comply, no federal law is specifically applicable to these rules.

13. For a rule made after July 29, 2010, that require issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037:

All of the Board's rules were made after July 29, 2010. The licenses, permits, registrations, and approvals listed in Table 1 are not general permits. The Board is required by statute to issue individual licenses to each person that is qualified by statute and rule.

14. Proposed course of action:

The Board continually works to streamline processes and reduce regulatory burdens while protecting the health, safety, and welfare of the public and has requested an exemption to Executive Order 2020-02 in order to address any undue burdens in the existing rule.

## TITLE 4. PROFESSIONS AND OCCUPATIONS

### CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

Authority: A.R.S. § 32-1801 et seq.

#### ARTICLE 1. GENERAL PROVISIONS

*New Article 1 consisting of Sections R4-22-101, R4-22-103, and R4-22-104 adopted and former rules R4-22-05 and R4-22-06 amended and renumbered as Sections R4-22-105 and R4-22-106 effective June 29, 1987.*

*Former Article 1 consisting of Sections R4-22-01, R4-22-02, R4-22-04 thru R4-22-07, R4-22-09, R4-22-10, and R4-22-12 repealed and Sections R4-22-08 and R4-22-11 amended and renumbered as R4-22-05 and R4-22-06 effective June 29, 1987.*

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##### Section

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## ARTICLE 1. GENERAL PROVISIONS

### R4-22-101. Definitions

In addition to the definitions in A.R.S. § 32-1800, in this Chapter:

“ABHES” means Accrediting Bureau of Health Education Schools.

“ABMS” means American Board of Medical Specialties.

“ACCME” means the Accreditation Council for Continuing Medical Education.

“ACGME” means the Accreditation Council on Graduate Medical Education.

“AOA” means the American Osteopathic Association.

“AOIA” means the American Osteopathic Information Association.

“Approved internship,” “approved preceptorship,” and “approved residency” mean training accredited by the AOA or ACGME.

“CAAHEP” means Commission on Accreditation of Allied Health Education Programs.

“CME” means continuing medical education.

“COMLEX” means Comprehensive Osteopathic Medical Licensing Examination.

“Continuing medical education” means a course, program, or other training that the Board approves for license renewal.

“Controlled substance” means a drug, substance, or immediate precursor, identified, defined, or listed in A.R.S. Title 36, Chapter 27, Article 2.

“FCVS” means Federal Credentials Verification Service.

“Licensee” means an individual who holds a current license issued under A.R.S. Title 32, Chapter 17.

“MAP” means Monitored Aftercare Program.

“NBME” means the National Board of Medical Examiners.

“NBOME” means the National Board of Osteopathic Medical Examiners.

“Post-graduate training program” means an approved internship or residency.

“USMLE” means United States Medical Licensing Examination.

### Historical Note

Former Rule 1. Former Section R4-22-01 repealed, new Section R4-22-101 adopted effective June 29, 1987 (Supp. 87-2). Former Section R4-22-101 renumbered to R4-22-109, new Section R4-22-101 adopted effective May 3, 1993 (Supp. 93-2). Section expired under A.R.S. § 41-1056(E) at 11 A.A.R. 583, effective November 30, 2004 (Supp. 05-1). New Section made by final rulemaking at 12 A.A.R. 2765, effective September 9, 2006 (Supp. 06-3). Amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

### R4-22-102. Fees and Charges

- A. Under the specific authority provided by A.R.S. §§ 32-1826(A) and 32-1871(A)(5), the Board establishes and shall collect the following fees for the Board’s licensing activities:
1. Application for license to practice osteopathic medicine, \$400;
  2. Application for a temporary license to practice osteopathic medicine, \$250;
  3. Issuance of initial license, \$180 (prorated);
  4. Biennial renewal of license, \$636 plus the penalty and reimbursement fees specified in A.R.S. § 32-1826(B), if applicable;
  5. Locum tenens registration, \$300;

6. Annual registration of an approved internship, residency, or clinical fellowship program or short-term residency program, \$50;
  7. Teaching license, \$318;
  8. Five-day educational teaching permit, \$106; and
  9. Annual registration to dispense drugs and devices, \$240 (initial registration fee is prorated).
- B.** Under the specific authority provided by A.R.S. § 32-1826(C), the Board establishes and shall collect the following charges for services provided by the Board:
1. Verifying a license to practice osteopathic medicine issued by the Board and copy of licensee's complaint history, \$10;
  2. Issuing a duplicate license, \$10;
  3. Processing fingerprints for a state and federal criminal records check, \$50;
  4. Providing a list of physicians licensed by the Board, \$25.00 if for non-commercial use or \$100 if for commercial use;
  5. Copying records, documents, letters, minutes, applications, and files, 25¢ per page;
  6. Copying an audio tape, \$35.00; and
  7. Providing information in a digital medium not requiring programming, \$100.
- C.** Except as provided under A.R.S. § 41-1077, the fees listed in subsection (A) are not refundable.

**R4-22-103. Submitting Documents to the Board**

An individual who wants the Board to consider a document at a meeting or hearing shall submit the document to the Board at least 15 days before the meeting or hearing or at another time as directed by the Board.

**Historical Note**

Former Section R4-22-04 repealed, new Section R4-22-103 adopted effective June 29, 1987 (Supp. 87-2).

Amended by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2). Section R4-22-103 renumbered to R4-22-105; new Section R4-22-103 made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-104. Licensing Time Frames**

- A.** The overall time frame described in A.R.S. § 41-1072(2) for each type of license issued by the Board is listed in Table 1. An applicant and the Executive Director of the Board may agree in writing to extend the substantive review and overall time frames by no more than 25 percent of the overall time-frame listed in Table 1.
- B.** The administrative completeness review time frame described in A.R.S. § 41-1072(1) for each type of license issued by the Board is listed in Table 1. The administrative completeness review time frame for a particular license begins on the date the Board receives an application package for that license.
1. If the application package is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review and overall time frames are suspended from the postmark date on the notice until the date the Board receives the missing document or incomplete information.
  2. If the application package is complete, the Board shall send to the applicant a written notice of administrative completeness.
  3. If the Board grants or denies a license during the administrative completeness review time frame, 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) for each type of license issued by the Board is listed in Table 1. The substantive review time frame begins on the postmark date of the Board's notice of administrative completeness.
1. During the substantive review time frame, the Board may make one comprehensive written request for additional information or documentation. The substantive review and overall time frames are suspended from the postmark date on the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation. The Board and applicant may agree in writing to allow the Board to submit supplemental requests for additional information.

2. The Board shall send a written notice of approval to an applicant who meets the requirements of A.R.S. Title 32, Chapter 17 and this Chapter.
  3. The Board shall send a written notice of denial to an applicant who fails to meet the requirements of A.R.S. Title 32, Chapter 17 or this Chapter.
- D.** The Board shall administratively close an applicant’s file if the applicant fails to submit the information or documentation required under subsection (B)(1) or (C)(1) within 360 days from the date on which the application package was originally submitted. If an individual whose file is administratively closed wishes to be licensed, the individual shall file another application package and pay the application fee.
- E.** The Board shall grant or deny the following licenses within seven days after receipt of an application:
1. Ninety-day extension of locum tenens registration,
  2. Waiver of continuing education requirements for a particular period,
  3. Extension of time to complete continuing education requirements,
  4. Five-day educational training permit,
  5. Extension of one-year renewable training permit, and
  6. Renewal of retired status.
- F.** In computing any time frame prescribed in this Section, the day of the act or event that begins the time frame is not included. The computation includes intermediate Saturdays, Sundays, and official state holidays. If the last day of a time frame falls on a Saturday, Sunday, or official state holiday, the next business day is the time frame’s last day.

**Historical Note**

Former Rule 4. Amended effective May 2, 1978 (Supp. 78-3). Former Section R4-22-05 repealed, new Section R4-22-104 adopted effective June 29, 1987 (Supp. 87-2). Section R4-22-104 renumbered to R4-22-203; new Section R4-22-104 renumbered from R4-22-212 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 763, effective May 12, 2017 (Supp. 17-1).

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

Type of License	Statutory Authority	Overall Time Frame	Administrative Completeness Time Frame	Substantive Review Time Frame
License	A.R.S. § 32-1822	120	30	90
License Renewal	A.R.S. § 32-1825	120	30	90
Temporary License	A.R.S. § 32-1834	30	20	10
90-day Locum Tenens Registration	A.R.S. § 32-1823	60	30	30
One-year Renewable Training Permit	A.R.S. § 32-1829(A)	60	30	30
Short-term Training Permit	A.R.S. § 32-1829(C)	60	30	30
One-year Training Permit at Approved School or Hospital	A.R.S. § 32-1830	60	30	30
Two-year Teaching License	A.R.S. § 32-1831	60	30	30
Registration to Dispense Drugs and Devices	A.R.S. § 32-1871	90	30	60
Renewal of Registration to Dispense Drugs and Devices	A.R.S. §§ 32-1826(A)(11) and 32-1871	60	30	30

Approval of Educational Program for Medical Assistants	A.R.S. § 32-1800(17)	60	30	30
Retired Status	A.R.S. § 32-1832	90	30	60

**Historical Note**

New Table 1, under Section R4-22-104, renumbered from R4-22-212 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 763, effective May 12, 2017 (Supp. 17-1).

**R4-22-105.     Equivalents to an Approved Internship or Residency**

For purposes of A.R.S. § 32-1822, the equivalent of an approved internship or approved residency is any of the following:

1. One or more years of a fellowship training program approved by the AOA or the ACGME; or
2. A current certification by the AOA in an osteopathic medical specialty.

**Historical Note**

Former Rule 8. Amended by adding subsection (D) effective January 24, 1984 (Supp. 84-1). Former Section R4-22-08 amended and renumbered as Section R4-22-105 effective June 29, 1987 (Supp. 87-2). Section repealed by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2). New Section R4-22-105 renumbered from R4-22-103 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-106.     Specialist Designation**

**A.** The Board approves specialty boards recognized by the:

1. American Osteopathic Association Bureau of Osteopathic Specialists and listed in the *Handbook of the Bureau of Osteopathic Specialists* (BOS), revised March 2013, available from the AOA at 142 E. Ontario Street, Chicago, IL 60611, 800-621-1773, or [www.osteopathic.org](http://www.osteopathic.org); and
2. American Board of Medical Specialties (ABMS) and listed in the *ABMS Guide to Medical Specialties*, 2013, available from the ABMS at 222 N. LaSalle Street, Suite 1500, Chicago, IL 60601, 312-436-2600, or [www.abms.org](http://www.abms.org).

**B.** The Board incorporates the materials listed in subsection (A) by reference. The materials include no future editions or amendments. The Board shall make the materials available at the Board office and on its web site.

**Historical Note**

Adopted effective May 8, 1978 (Supp. 78-3). Former Section R4-22-11 amended and renumbered as Section R4-22-106 effective June 29, 1987 (Supp. 87-2). Amended by final rulemaking at 10 A.A.R. 2793, effective August 7, 2004 (Supp. 04-2). Section R4-22-106 renumbered to R4-22-108; new Section R4-22-106 renumbered from R4-22-102 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-107. Petition for Rulemaking or Review**

**A.** A person may petition the Board under A.R.S. § 41-1033 for either a:

1. Rulemaking action relating to a Board rule, including making a new rule or amending or repealing an existing rule; or
2. Review of an existing Board practice or substantive policy statement alleged to constitute a rule.

**B.** A person shall submit to the Board a written petition including the following information:

1. Name, address, e-mail address, and telephone and fax numbers of the person submitting the petition;
2. Name of any person represented by the person submitting the petition;
3. If requesting a rulemaking action:
  - a. Statement of the rulemaking action sought, including the A.A.C. citation of all existing rules, and the specific language of a new rule or rule amendment; and

- b. Reasons for the rulemaking action, including an explanation of why the existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;
- 4. If requesting a review of an existing practice or a substantive policy statement:
  - a. Subject matter of the existing practice or substantive policy statement, and
  - b. Reasons why the existing practice or substantive policy statement constitutes a rule; and
- 5. Dated signature of the person submitting the petition.
- C. A person may submit supporting information with a petition.
- D. A person may submit a petition and any supporting information by e-mail, hand delivery, or the U.S. Postal Service.
- E. The Board shall send the person submitting a petition a written response within 60 days of the date the Board receives the petition.

#### **Historical Note**

Adopted effective August 7, 1992 (Supp. 92-3). Section R4-22-107 repealed; new Section R4-22-107 renumbered from R4-22-115 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

#### **R4-22-108. Rehearing or Review of Decision**

- A. The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and rules established by the Office of Administrative Hearings.
- B. Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  - 1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
  - 2. Misconduct of the Board, its staff, an 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 hearing;
  - 5. Excessive penalty;
  - 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
  - 7. The Board's decision is a result of passion or prejudice; or
  - 8. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.
- F. When a motion for rehearing or review is based upon affidavits, the affidavits shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits.
- G. Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H. If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.
- I. If the Board makes a specific finding that a particular decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Board shall issue the decision as a final decision without an opportunity for rehearing or review.

- J.** A party that has exhausted the party's administrative remedies may appeal a final order of the Board under A.R.S. Title 12, Chapter 7, Article 6.

**Historical Note**

Adopted effective August 7, 1992 (Supp. 92-3). Amended by final rulemaking at 18 A.A.R. 2488, effective November 10, 2012 (Supp. 12-3). Section R4-22-108 renumbered to R4-22-102; new Section R4-22-108 renumbered from R4-22-106 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**ARTICLE 2. LICENSING**

**R4-22-201. Application Required**

An individual or entity that seeks a license or other approval from the Board shall complete and submit an application form prescribed by the Board. The Board has prescribed the following application forms, which are available from the Board office or web site:

1. License,
2. Temporary license,
3. License renewal,
4. Locum tenens registration,
5. Initial registration to dispense,
6. Registration to dispense renewal,
7. Renewable one-year post-graduate training permit,
8. Renewal of post-graduate training permit,
9. Short-term training permit,
10. Two-year teaching license, and
11. Approval of an educational program for medical assistants.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-202. Determining Qualification for Licensure**

**A.** To obtain a license, an applicant shall submit:

1. The application form specified in R4-22-201;
2. The proof required under A.R.S. § 32-1822(A);
3. A list of all Board-certified specializations, the certifying entity, and a copy of each certification or letter verifying specialization;
4. A list of each health care facility or employer at which the applicant obtained practice experience. If the applicant has not passed an examination approved under R4-22-203 within the last seven years, the Board may obtain verification of practice experience from the health care facilities or employers listed for the last seven years;
5. A malpractice claim or suit questionnaire for each instance of medical malpractice in which there was an award, settlement, or payment;
6. A full set of fingerprints and the charge specified in R4-22-102(B);
7. A passport-size picture taken within the last 60 days; and
8. The application fee required under R4-22-102(A).

**B.** In addition to the materials required under subsection (A), an applicant shall have the following information submitted directly to the Board by the specified entity:

1. Professional Education Verification form or an official transcript submitted by the osteopathic college from which the applicant graduated;
2. Verification of Postgraduate Training form submitted by each postgraduate facility or program at which the applicant trained;
3. Verification of passing an examination approved under R4-22-203 submitted by the examining entity; and

4. Verification of licensure form submitted by every state in which the applicant is or has been licensed as an osteopathic physician.
- C. If an applicant has established a credentials portfolio with the FCVS or AOIA, the applicant may request that the FCVS forward to the Board some or all of the materials required under subsection (B).
- D. The Board shall conduct a substantive review of the information submitted under subsections (A) and (B) and determine whether the applicant is qualified for licensure by virtue of:
  1. Possessing the knowledge and skills necessary to practice medicine safely and skillfully;
  2. Demonstrating a history of professional conduct; and
  3. Possessing the physical, mental, and emotional fitness to practice medicine.
- E. If the substantive review referenced in subsection (D) does not yield sufficient information for the Board to determine whether an applicant is qualified for licensure, the Board shall request that the applicant appear before the Board for an interview.
  1. The Board shall conduct an application interview in the same manner as an informal hearing conducted under A.R.S. § 32-1855 and shall accord the applicant the same rights as a respondent.
  2. In conjunction with an application interview, the Executive Director or Board may require that the applicant, at the applicant's expense:
    - a. Provide additional documentation,
    - b. Submit to a physical or psychological examination,
    - c. Submit to a practice assessment evaluation,
    - d. Pass an approved special purposes competency examination listed in R4-22-203(A)(3), or
    - e. Fulfill any combination of the requirements listed in subsections (E)(2)(a) through (d).
- F. If the substantive review referenced in subsection (D) reveals that an applicant has been subject to disciplinary action or criminal conviction, the Board shall consider the following factors to determine whether the applicant has been rehabilitated from the conduct underlying the disciplinary action or criminal conviction:
  1. Nature of the disciplinary or criminal action including charges and final disposition;
  2. Whether all terms of court-ordered sentencing or Board-issued order were satisfied;
  3. Whether the disciplinary action or criminal conviction was set aside, dismissed with prejudice, or reduced;
  4. Whether a diversion program was entered and completed;
  5. Whether the circumstances, relationships, or personal attributes that caused or contributed to the underlying conduct changed;
  6. Personal and professional references attesting to rehabilitation; and
  7. Other information the Board determines demonstrates whether the applicant has been rehabilitated.

#### **Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

#### **R4-22-203. Examination; Practice Equivalency to an Examination**

- A. Approved examinations. For the purposes of licensing, the Board approves the following examinations:
  1. All levels and parts of the COMLEX required by the NBOME with a passing score determined by the NBOME;
  2. All levels and parts of the USMLE required by the NBME with a passing score determined by the NBME; and
  3. A special purposes competency examination given by the NBOME or NBME to an applicant at the request of the Board, with a passing score established by the NBOME or NBME.
- B. Practice equivalency to an examination. If an applicant has not passed an approved examination within the seven years before the date of application, the Board shall find that the applicant has practice experience equivalent to an approved examination if the applicant submits documentation of all of the following:
  1. On the date of application and continuously until the date the applicant is issued or denied a license, the applicant holds:
    - a. An active license to practice osteopathic medicine issued by another state, or
    - b. An active permit or temporary license to practice in an approved residency or fellowship;

2. For at least seven of the 10 years immediately before the date of application, the applicant:
  - a. Was in clinical practice providing direct patient care, or
  - b. Was in the second or later year of an approved residency or fellowship; and
  - c. Has completed a certification examination provided by a specialty board under R4-22-106; and
3. Within two years immediately before the date of application, the applicant completed at least 40 hours of approved CME, defined and documented as specified in R4-22-207.

**Historical Note**

New Section renumbered from R4-22-104 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-204. License Issuance; Effective Date of License**

- A. Within 90 days after an applicant for licensure receives notice from the Board that the applicant is approved, but no later than 360 days after the date on which the application was originally submitted, the approved applicant shall submit to the Board the license issuance fee required by A.R.S. § 32-1826(A) and the following information in writing:
  1. Practice address and telephone number,
  2. Residential address, and
  3. A statement of whether the practice address or residential address should be used by the Board as the address of record.
- B. The Board shall issue a license to an approved applicant that is effective on the date the information required under subsection (A) is received.
- C. The Board shall administratively close an approved applicant's file if the approved applicant fails to submit the information required within the time specified under subsection (A). If an applicant whose file is administratively closed wishes to be considered further for licensure, the applicant shall reapply by complying with R4-22-202.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-205. License Renewal**

To renew a license, the licensee shall submit to the Board the renewal application required under R4-22-201. Failure to receive notice of the need to renew does not excuse failure to renew timely.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-206. Procedure for Application to Reenter Practice**

- A. The procedures in this Section apply only to an osteopathic physician who:
  1. Was licensed and practiced as an osteopathic physician in Arizona or another jurisdiction, and
  2. Currently is not licensed and practicing as an osteopathic physician in Arizona or another jurisdiction.
- B. All applicants to reenter practice shall:
  1. Submit the application required under R4-22-201, including all documents specified in the application; and
  2. Pay the fee specified in R4-22-102(A).
- C. In addition to complying with subsection (B), an applicant who has been out of practice for less than two years and has no disciplinary history shall submit documentation of completing at least 40 hours of Category 1-A or Category 1 CME in the applicant's intended field of practice within the two years before the date the application to reenter practice is approved.
- D. In addition to complying with subsection (B), an applicant who has been out of practice for two or more years and has no disciplinary history shall attend a Board meeting and:
  1. Discuss with the Board evidence that the applicant remains competent to practice medicine; and
  2. Develop a reentry plan designed to ensure that the applicant is competent to practice medicine. The re-entry plan may include any or all of the following, at the discretion of the Board:

- a. Taking a competency or specialty examination;
  - b. Taking continuing education;
  - c. Completing a practice assessment program;
  - d. Practicing under supervision or with restrictions; and
  - e. Submitting to a physical or psychological examination.
- E.** In addition to complying with subsection (B), an applicant who has been out of practice and has a history of disciplinary action shall attend a Board meeting and:
1. Establish to the Board's satisfaction that the applicant is rehabilitated from the underlying unprofessional conduct. In determining whether the applicant is rehabilitated, the Board shall consider the factors listed in R4-22-202(F); and
  2. If the Board determines that the applicant is rehabilitated, take the actions listed in subsection (D) to ensure that the applicant is competent to practice medicine.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-207. Continuing Medical Education; Waiver; Extension of Time to Complete**

- A.** Under A.R.S. § 32-1825(B), a licensee is required to obtain 40 hours of Board-approved CME in the two years before license renewal. The Board shall approve the CME of a licensee if the CME complies with the following:
1. At least 24 hours are obtained by completing CME classified by the AOA as Category 1A,
  2. No more than 16 hours are obtained by completing CME classified as American Medical Association Category 1 approved by an ACCME-accredited CME provider, and
  3. At least the number of CME hours specified under A.R.S. § 32-3248.02 address opioid-related, substance use disorder-related, or addiction-related prescribing and are obtained under subsection (A)(1) or (2).
- B.** A licensee may fulfill 40 hours of the CME requirement for a biennial license renewal period by participating in an approved postgraduate training program or preceptorship during that biennial license renewal period.
- C.** The Board shall accept the following documentation as evidence of compliance with the CME requirement:
1. For a CME under subsection (A)(1):
    - a. The AOA printout of the licensee's CME, or
    - b. A copy of the certificate of attendance from the provider of the CME showing:
      - i. Licensee's name,
      - ii. Title of the CME,
      - iii. Name of the provider of the CME,
      - iv. Category of the CME,
      - v. Number of hours in the CME, and
      - vi. Date of attendance;
  2. For a CME under subsection (A)(2):
    - a. A copy of the certificate of attendance from the provider of the CME showing the information listed in subsection (C)(1)(b); or
    - b. A specialty board's printout showing a licensee's completion of CME.
  3. For a CME under subsection (B), either a letter from the Director of Medical Education or a certificate of completion for the approved postgraduate training program or preceptorship.
- D.** Waiver of CME requirements. To obtain a waiver under A.R.S. § 32-1825(C) of the CME requirements, a licensee shall submit to the Board a written request that includes the following:
1. The period for which the waiver is requested,
  2. CME completed during the current license period and the documentation required under subsection (C), and
  3. Reason that a waiver is needed and the applicable documentation:
    - a. For military service. A copy of current orders or a letter on official letterhead from the licensee's commanding officer;

- b. For absence from the United States. A copy of pages from the licensee's passport showing exit and reentry dates;
  - c. For disability. A letter from the licensee's treating physician stating the nature of the disability; or
  - d. For circumstances beyond the licensee's control:
    - i. A letter from the licensee stating the nature of the circumstances, and
    - ii. Documentation that provides evidence of the circumstances.
- E.** The Board shall grant a request for waiver of CME requirements that:
- 1. Is based on a reason listed in subsection (D)(3),
  - 2. Is supported by the documentation required under subsection (D)(3),
  - 3. Is filed no sooner than 60 days before and no later than 30 days after the license renewal date, and
  - 4. Will promote the safe and professional practice of osteopathy in this state.
- F.** Extension of time to complete CME requirements. To obtain an extension of time under A.R.S. § 32-1825(C) to complete the CME requirements, a licensee shall submit to the Board a written request that includes the following:
- 1. Ending date of the requested extension,
  - 2. CME completed during the current license period and the documentation required under subsection (C),
  - 3. Proof the licensee is registered for additional CME sufficient to enable the licensee to complete all CME required for license renewal before the end of the requested extension, and
  - 4. Licensee's attestation that the CME obtained under the extension will be reported only to fulfill the current license renewal requirement and will not be reported on a subsequent license renewal application.
- G.** The Board shall grant a request for an extension that:
- 1. Specifies an ending date no later than May 1 following the license renewal date,
  - 2. Includes the documentation and attestation required under subsection (F),
  - 3. Is submitted no sooner than 60 days before and no later than 30 days after the license renewal date, and
  - 4. Will promote the safe and professional practice of osteopathy in this state.

**Historical Note**

Section R4-22-207 renumbered from R4-22-109 and amended by final rulemaking at 12 A.A.R. 2765, effective September 9, 2006 (Supp. 06-3). Amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 763, effective May 12, 2017 (Supp. 17-1).

**R4-22-212. Confidential Program for Treatment and Rehabilitation of Impaired Osteopathic Physicians**

- A.** To protect the public health and safety, a licensee is required by A.R.S. § 32-1822 to be physically, mentally, and emotionally able to practice medicine.
- B.** If the Board determines that a licensee may be impaired by substance abuse and there is evidence of an imminent danger to the public health and safety, the Board's Executive Director, with the concurrence of investigative staff, the medical consultant, or a Board member, may enter into:
  - 1. A consent agreement with the licensee to restrict the licensee's practice if there is evidence that a restriction of the licensee's practice is needed to mitigate the danger to the public health and safety;
  - 2. A stipulated agreement with the licensee requiring the licensee to complete a Board-approved evaluation and treatment program for abuse or misuse of chemical substances if there is evidence the program would be successful in enabling the licensee to return to practice safely; and
  - 3. A stipulated agreement with the licensee to enter a Monitored Aftercare Program (MAP) if there is evidence the licensee intends to comply with a program for rehabilitation.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1388, effective June 4, 2006 (Supp. 06-2). Section R4-22-212 renumbered to Section R4-22-104; new Section R4-22-212 made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**ARTICLE 3. DISPENSING DRUGS**

**R4-22-301. Registration to Dispense Required**

- A. An osteopathic physician shall register with the Board annually if the osteopathic physician:
  - 1. Maintains a supply of controlled substances, as defined in A.R.S. § 32-1901(13), prescription-only drugs, as defined in A.R.S. § 32-1901(76), or prescription-only devices, as defined in A.R.S. § 32-1901(75), excluding manufacturers' samples;
  - 2. Prescribes the items listed in subsection (A)(1) to a patient of the osteopathic physician for use outside the office of the osteopathic physician; and
  - 3. Obtains payment for the items listed in subsection (A)(1) at a practice location in Arizona.
- B. To register with the Board to dispense, an osteopathic physician shall:
  - 1. Submit the form referenced in R4-22-201,
  - 2. Submit a copy of the osteopathic physician's current Drug Enforcement Administration certificate of registration for each location from which the osteopathic physician will dispense a controlled substance, and
  - 3. Pay the fee authorized by A.R.S. § 32-1826(A)(11).
- C. An osteopathic physician who is registered with the Board to dispense shall renew the registration by December 31 of each year by complying with subsection (B). If an osteopathic physician submits a timely and complete application to renew a registration to dispense, the osteopathic physician may continue to dispense until the Board approves or denies the renewal application.
- D. If an osteopathic physician fails to submit a timely and complete application to renew a registration to dispense, the osteopathic physician shall immediately cease dispensing.
  - 1. If the osteopathic physician wishes to resume dispensing, the osteopathic physician shall register with the Board by complying with subsection (B) and shall not dispense until the osteopathic physician receives notice from the Board that the registration is approved.
  - 2. If the osteopathic physician does not wish to resume dispensing, the osteopathic physician shall, as required by A.R.S. § 32-1871(F), submit to the Board an inventory disposal form, which is available from the Board office or on its web site.

#### **Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

#### **R4-22-302. Packaging and Inventory**

- A. An osteopathic physician shall dispense a controlled substance or prescription-only drug in a prepackaged or light-resistant container with a consumer safety cap that complies with standards specified in the official compendium, as defined at A.R.S. § 32-1901(55), and state and federal law, unless a patient or the patient's representative requests a non-safety cap.
- B. An osteopathic physician shall ensure that a dispensed controlled substance or prescription-only drug is labeled with the following information:
  - 1. The name, address, and telephone number of the dispensing osteopathic physician;
  - 2. The date the controlled substance or prescription-only drug is dispensed;
  - 3. The patient's name;
  - 4. The name of the controlled substance or prescription-only drug, strength, dosage, form, name of manufacturer, quantity dispensed, directions for use, and any cautionary statement necessary for the safe and effective use of the controlled substance or prescription-only drug; and
  - 5. A beyond-use date not to exceed one year from the date of dispensing or the manufacturer's expiration date if less than one year.
- C. An osteopathic physician shall:
  - 1. Secure all controlled substances in a locked cabinet or room;
  - 2. Control access to the locked cabinet or room by a written procedure that includes, at a minimum:
    - a. Designation of the persons who have access to the locked cabinet or room, and
    - b. Procedures for recording requests for access to the locked cabinet or room;
  - 3. Make the written procedure required under subsection (C)(2) available on demand by the Board or its authorized representative for inspection or copying;
  - 4. Store prescription-only drugs so they are not accessible to patients; and

5. Store controlled substances and prescription-only drugs not requiring refrigeration in an area where the temperature does not exceed 85° F.
- D.** An osteopathic physician shall maintain a dispensing log for all controlled substances and the prescription-only drug nalbuphine hydrochloride (Nubain) dispensed. The osteopathic physician shall ensure that the dispensing log includes the following information on a separate inventory sheet for each controlled substance or prescription-only drug:
1. Date the drug is dispensed;
  2. Patient's name;
  3. Name of controlled substance or prescription-only drug, strength, dosage, form, and name of manufacturer;
  4. Number of dosage units dispensed;
  5. Running total of each controlled substance or prescription-only drug dispensed; and
  6. Written signature of the osteopathic physician next to each entry.
- E.** An osteopathic physician may use a computer to maintain the dispensing log required under subsection (D) if the log is quickly accessible through either on-screen viewing or printing a copy.
- F.** This Section does not apply to a prepackaged manufacturer sample of a controlled substance or prescription-only drug unless otherwise provided by federal law.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-303. Prescribing and Dispensing Requirements**

- A.** An osteopathic physician who dispenses a controlled substance, prescription-only drug, or prescription-only device shall record the following information on the patient's medical record:
1. Name, strength, dosage, and form of the controlled substance, prescription-only drug, or prescription-only device dispensed;
  2. Quantity or volume dispensed;
  3. Date of dispensing;
  4. Medical reasons for dispensing; and
  5. Number of refills authorized.
- B.** Before dispensing a controlled substance, prescription-only drug, or prescription-only device, an osteopathic physician shall review the prepared controlled substance, prescription-only drug, or prescription-only device to ensure that:
1. The container label and contents comply with the prescription; and
  2. The patient is informed of the name of the controlled substance, prescription-only drug, or prescription-only device, directions for use, precautions, and storage requirements.
- C.** An osteopathic physician shall purchase all controlled substance, prescription-only drugs, or prescription-only devices dispensed from a manufacturer or distributor approved by the United State Food and Drug Administration or a pharmacy holding a current permit from the Arizona Board of Pharmacy.
- D.** The individual who prepares a controlled substance, prescription-only drug, or prescription-only device for dispensing shall countersign and date the original prescription form.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-304. Recordkeeping and Reporting Shortages**

- A.** An osteopathic physician who dispenses a controlled substance or prescription-only drug shall ensure that an original prescription order, as defined in A.R.S. § 32-1901(77), for the controlled substance or prescription-only drug dispensed is dated, consecutively numbered in the order in which originally dispensed, and filed separately from patient medical records. The osteopathic physician shall ensure that original prescription orders are maintained in three separate files, as follows:
1. Schedule II controlled substances, which are listed at A.R.S. § 36-2513;
  2. Schedule III, IV, and V controlled substances, which are defined or listed at A.R.S. §§ 36-2514 through 36-2516, and

3. Prescription-only drugs.
- B.** An osteopathic physician shall ensure that purchase orders and invoices for all dispensed controlled substances and prescription-only drugs are maintained for three years from the date on the purchase order or invoice in three separate files as follows:
  1. Schedule II controlled substances;
  2. Schedule III, IV, and V controlled substances and nalbuphine; and
  3. All other prescription-only drugs.
- C.** An osteopathic physician who discovers a theft or loss of a controlled substance or dangerous drug, as defined in A.R.S. Title 36, Chapter 27, Article 2, from the physician's office shall:
  1. Immediately notify the local law enforcement agency,
  2. Provide the local law enforcement agency with a written report, and
  3. Send a copy of the report to the U.S. Drug Enforcement Administration and the Board within seven days of the discovery of the theft or loss.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-305. Inspections; Denial and Revocation**

- A.** An osteopathic physician shall allow the Board or its representative access to the physician's office and the records required under this Article for inspection of compliance with A.R.S. § 32-1871 and this Article.
- B.** Failure to comply with A.R.S. § 32-1871 and this Article is unprofessional conduct and grounds for revocation of the physician's registration to dispense or denial of renewal of registration to dispense.
- C.** The Board shall revoke an osteopathic physician's registration to dispense upon the occurrence of the following:
  1. Suspending, revoking, surrendering, or canceling the physician's license;
  2. Failing to timely renew the physician's license; or
  3. Restricting the physician's ability to prescribe or administer medication, including loss or expiration of the physician's Drug Enforcement Administration Certificate of Registration.
- D.** If the Board denies a registration to dispense to an osteopathic physician, the physician may appeal the decision by filing a written request with the Board no later than 30 days after service of the notice of denial.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**ARTICLE 4. MEDICAL ASSISTANTS**

**R4-22-401. Approval of Educational Programs for Medical Assistants**

- A.** For purposes of this Section, a Board-approved medical assistant training program is a program:
  1. Accredited by the CAAHEP;
  2. Accredited by the ABHES;
  3. Accredited by any accrediting agency recognized by the United States Department of Education; or
  4. Designed and offered by a licensed osteopathic physician, that meets or exceeds the standards of one of the accrediting programs listed in subsections (A)(1) through (A)(3), and the licensed osteopathic physician verifies that those who complete the program have the entry level competencies referenced in R4-22-402.
- B.** A person seeking approval of a training program for medical assistants shall submit to the Board the application required under R4-22-201 and verification that the program meets the requirements in subsection (A).

**Historical Note**

Section R4-22-401 renumbered from R4-22-110 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-402. Medical Assistants – Authorized Procedures**

- A. A medical assistant may, under the direct supervision of a licensed osteopathic physician, perform the medical procedures listed in the Commission on Accreditation of Allied Health Education Programs' *Standards and Guidelines for the Accreditation of Educational Programs in Medical Assisting*, revised 2008. This material is incorporated by reference, does not include any later revisions, amendments or editions, is on file with the Board, and may be obtained from the Commission on Accreditation of Allied Health Education Programs, 1361 Park Street, Clearwater, FL 33756, 727-210-2350, or www.caahep.org.
- B. Additionally, a medical assistant working under the direct supervision of a licensed osteopathic physician may:
  - 1. Perform physical medicine modalities, including administering whirlpool treatments, diathermy treatments, electronic galvanic stimulation treatments, ultrasound therapy, massage therapy, and traction treatments;
  - 2. Apply Transcutaneous Nerve Stimulation units and hot and cold packs;
  - 3. Administer small volume nebulizers;
  - 4. Draw blood;
  - 5. Prepare proper dosages of medication and administer the medication as directed by the physician;
  - 6. Assist in minor surgical procedures;
  - 7. Perform urine analyses, strep screens, and urine pregnancy tests;
  - 8. Perform EKGs; and
  - 9. Take vital signs.

**Historical Note**

Section R4-22-402 renumbered from R4-22-111 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-403. Medical Assistant Training Requirement**

- A. The licensed osteopathic physician who will provide direct supervision to a medical assistant shall ensure that the medical assistant satisfies one of the following training requirements before the medical assistant is employed:
  - 1. Completes an approved medical assistant training program,
  - 2. Completes an unapproved medical assistant training program and passes a medical assistant examination administered by either the American Association of Medical Assistants or the American Medical Technologists, or
  - 3. Completes a medical services training program of the Armed Forces of the United States.
- B. This Section does not apply to a person who completed a medical assistant training program before August 7, 2004, and was employed continuously as a medical assistant since completing the program.

**Historical Note**

Section R4-22-403 renumbered from R4-22-112 and amended by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**ARTICLE 5. OFFICE-BASED SURGERY**

**R4-22-501. Definitions**

In this Article,

“ACLS” means advanced cardiac life support performed according to certification standards of the American Heart Association.

“Auscultation” means the act of listening to sounds within the human body either directly or through use of a stethoscope or other means.

“BLS” means basic life support performed according to certification standards of the American Heart Association.

“Capnography” means monitoring the concentration of exhaled carbon dioxide of a sedated patient to determine adequacy of the patient's ventilatory function.

“Deep sedation” means a drug-induced depression of consciousness during which a patient:

- Cannot be easily aroused, but
- Responds purposefully following repeated or painful stimulation, and
- May partially lose the ability to maintain ventilatory function.

“Discharge” means a written or electronic documented termination of office-based surgery provided to a patient.

“Emergency” means an immediate threat to the life or health of a patient.

“General anesthesia” means a drug-induced loss of consciousness during which a patient:

- Can not be aroused even with painful stimulus; and
- May partially or completely lose the ability to maintain ventilatory, neuromuscular, or cardiovascular function or airway.

“Health care professional” means a registered nurse or a registered nurse practitioner, as defined in A.R.S. § 32-1601, physician assistant, as defined in A.R.S. § 32-2501, and any individual authorized to perform surgery under A.R.S. Title 32 who participates in office-based surgery.

“Informed consent” means advising a patient of the:

- Purpose for and alternatives to office-based surgery,
- Risks associated with office-based surgery, and
- Possible benefits and complications from office-based surgery.

“Malignant hyperthermia” means a life-threatening condition in an individual who has a genetic sensitivity to inhalant anesthetics and depolarizing neuromuscular blocking drugs that occurs during or after the administration of an inhalant anesthetic or depolarizing neuromuscular blocking drug.

“Minimal sedation” means a drug-induced state during which:

- A patient responds to verbal commands,
- Cognitive function and coordination may be impaired, and
- A patient's ventilatory and cardiovascular functions are unaffected.

“Moderate sedation” means a drug-induced depression of consciousness during which:

- A patient responds to verbal commands or light tactile stimulations, and
- No interventions are required to maintain ventilatory or cardiovascular function.

“Monitor” means to assess the condition of a patient.

“Office-based surgery” means a medical procedure performed by an osteopathic physician in the physician's office or other practice location that is not part of a licensed hospital or licensed ambulatory surgical center while using sedation.

“PALS” means pediatric advanced life support performed according to certification standards of the American Academy of Pediatrics or the American Heart Association.

“Rescue” means to correct adverse physiologic consequences of deeper than intended level of sedation and return the patient to the intended level of sedation.

“Staff member” means an individual who:

- Is not a health care professional, and
- Assists with office-based surgery under the supervision of the osteopathic physician performing the office-based surgery.

“Transfer” means a physical relocation of a patient from the office or other practice location of an osteopathic physician to a licensed health care institution.

#### **Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-502. Health Care Institution License**

An osteopathic physician who performs office-based surgery shall obtain a health care institution license as required by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4 and 9 A.A.C. 10.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-503. Administrative Provisions**

- A.** An osteopathic physician who performs office-based surgery shall:
1. Establish, document, and implement written policies and procedures that cover:
    - a. Patients' rights,
    - b. Informed consent,
    - c. Care of patients in an emergency, and
    - d. Transfer of patients to a local accredited or licensed acute-care hospital;
  2. Ensure that a staff member who assists with or a health care professional who participates in office-based surgery:
    - a. Has sufficient education, training, and experience to perform assigned duties;
    - b. If applicable, has a current license or certification required to perform assigned duties; and
    - c. Performs only those acts that are within the scope of practice established in the staff member's or health care professional's governing statutes;
  3. Ensure that the office or other practice location where office-based surgery is performed has all equipment necessary for:
    - a. The physician to perform the office-based surgery safely,
    - b. The physician or health care professional to administer the sedation safely,
    - c. The physician or health care professional to monitor the use of sedation, and
    - d. The physician and health care professional administering the sedation to rescue a patient after the sedation is administered if the patient enters into a deeper state of sedation than was intended by the physician;
  4. Ensure that a copy of the patients' rights policy is provided to each patient before performing office-based surgery;
  5. Obtain informed consent from the patient before performing office-based surgery that:
    - a. Authorizes the office-based surgery, and
    - b. Authorizes the office-based surgery to be performed at the specific practice location; and
  6. Review all policies and procedures at least every 12 months and update as needed.
- B.** An osteopathic physician who performs office-based surgery shall comply with:
1. The local jurisdiction's fire code;
  2. The local jurisdiction's building codes for construction and occupancy;
  3. The bio-hazardous waste and hazardous waste standards in 18 A.A.C. 13, Article 14; and
  4. The controlled substances administration, supply, and storage standards in 4 A.A.C. 23, Article 5.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-504. Procedure and Patient Selection**

- A.** An osteopathic physician shall ensure that each office-based surgery performed:
1. Can be performed safely with the equipment, staff members, and health care professionals at the physician's office;
  2. Is of duration and degree of complexity that allows a patient to be discharged from the physician's office within 24 hours;
  3. Is within the education, training, experience, skills, and licensure of the physician; and
  4. Is within the education, training, experience, skills, and licensure of the staff members and health care professionals at the physician's office.
- B.** An osteopathic physician shall not perform office-based surgery if the patient:

1. Has a medical condition or other condition that indicates the procedure should not be performed in the physician's office, or
2. Will require inpatient services at a hospital.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-505. Sedation Monitoring Standards**

- A. An osteopathic physician who performs office-based surgery when minimal sedation is administered to a patient shall ensure from the time sedation is administered until post-sedation monitoring begins that a quantitative method of assessing the patient's oxygenation, such as pulse oximetry, is used.
- B. An osteopathic physician who performs office-based surgery when moderate or deep sedation is administered to a patient shall ensure from the time sedation is administered until post-sedation monitoring begins that:
  1. A quantitative method of assessing the patient's oxygenation, such as pulse oximetry, is used;
  2. The patient's ventilatory function is monitored by any of the following:
    - a. Direct observation,
    - b. Auscultation, or
    - c. Capnography;
  3. The patient's circulatory function is monitored by:
    - a. Having a continuously displayed electrocardiogram,
    - b. Documenting arterial blood pressure and heart rate at least every five minutes, and
    - c. Evaluating the patient's cardiovascular function by pulse plethysmography;
  4. The patient's temperature is monitored if the physician expects the patient's temperature to fluctuate; and
  5. A licensed and qualified health care professional, other than the physician performing the office-based surgery, is:
    - a. Present throughout the office-based surgery, and
    - b. Has the sole responsibility of attending to the patient.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-506. Perioperative Period; Patient Discharge**

An osteopathic physician performing office-based surgery shall ensure all of the following:

1. The physician is physically present in the room where office-based surgery is performed while the office-based surgery is performed;
2. After the office-based surgery is performed and until the patient's post-sedation monitoring is discontinued, a physician is at the physician's office and sufficiently free of other duties to respond to an emergency;
3. If using minimal sedation, the physician or a health care professional certified in ACLS, PALS, or BLS is at the physician's office and sufficiently free of other duties to respond to an emergency until the patient is discharged;
4. If using moderate or deep sedation, the physician or a health care professional certified in ACLS or PALS is at the physician's office and sufficiently free of other duties to respond to an emergency until the patient is discharged;
5. A discharge is documented in the patient's medical record including:
  - a. The date and time of the patient's discharge, and
  - b. A description of the patient's medical condition at the time of discharge; and
6. The patient receives discharge instructions and receipt of the discharge instructions is documented in the patient's medical record.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-507. Emergency Drugs; Equipment and Space Used for Office-based Surgery**

- A.** In addition to the requirements in R4-22-503(A)(3) and R4-22-504(A)(1), an osteopathic physician who performs office-based surgery shall ensure that the physician's office has at a minimum:
1. The following:
    - a. A reliable oxygen source with a SaO<sub>2</sub> monitor;
    - b. Suction;
    - c. Resuscitation equipment, including a defibrillator;
    - d. Emergency drugs; and
    - e. A cardiac monitor;
  2. The equipment for patient monitoring according to the standards in R4-22-505;
  3. Space large enough to:
    - a. Allow access to the patient during office-based surgery, recovery, and any emergency;
    - b. Accommodate all equipment necessary to perform the office-based surgery; and
    - c. Accommodate all equipment necessary for sedation monitoring;
  4. A source of auxiliary electrical power available in the event of a power failure;
  5. Equipment, emergency drugs, and resuscitative capabilities required under this Section for patients less than 18 years of age, if office-based surgery is performed on these patients; and
  6. Procedures to minimize the spread of infection.
- B.** An osteopathic physician who performs office-based surgery shall:
1. Ensure that all equipment used for office-based surgery is maintained, tested, and inspected according to manufacturer specifications; and
  2. Maintain documentation of manufacturer-recommended maintenance of all equipment used in office-based surgery.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

**R4-22-508. Emergency and Transfer Provisions**

- A.** An osteopathic physician who performs office-based surgery shall ensure that a health care professional who participates in or a staff member who assists with office-based surgery receives instruction in the following:
1. Policy and procedure in cases of emergency,
  2. Policy and procedure for office evacuation, and
  3. Safe and timely patient transfer.
- B.** When performing office-based surgery, an osteopathic physician shall not use any drug or agent that may trigger malignant hyperthermia.

**Historical Note**

New Section made by final rulemaking at 20 A.A.R. 2654, effective November 8, 2014 (Supp. 14-3).

As of October 21, 2019

32-1800. Definitions

In this chapter, unless the context otherwise requires:

1. "Active license" means a valid license to practice medicine and includes the license of a licensee who has been placed on probation or on whose license the board has placed restrictions.
2. "Address of record" means either:
  - (a) The address where a person who is regulated pursuant to this chapter practices medicine or is otherwise employed.
  - (b) The residential address of a person who is regulated pursuant to this chapter if that person has made a written request to the board that the board use that address as the address of record.
3. "Adequate records" means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another licensed health care practitioner to assume continuity of the patient's care at any point in the course of treatment.
4. "Administrative warning" means a disciplinary action by the board in the form of a written warning to a physician of a violation of this chapter involving patient care that the board determines falls below the community standard.
5. "Approved postgraduate training program" means that an applicant for licensure successfully completed training when the hospital or other facility in which the training occurred was approved for a postgraduate internship, residency or fellowship by the American osteopathic association or by the accreditation council for graduate medical education.
6. "Approved school of osteopathic medicine" means a school or college offering a course of study that, on successful completion, results in the awarding of the degree of doctor of osteopathy and whose course of study has been approved or accredited by the American osteopathic association.
7. "Board" means the Arizona board of osteopathic examiners in medicine and surgery.
8. "Decree of censure" means a formal written reprimand by the board of a physician for a violation of this chapter that constitutes a disciplinary action against a physician's license.
9. "Direct supervision" means that a physician is within the same room or office suite as the unlicensed person in order to be available for consultation regarding those tasks the unlicensed person performs pursuant to section 32-1859.
10. "Dispense" means the delivery by a physician of a prescription drug or device to a patient, except for samples packaged for individual use by licensed manufacturers or repackagers of drugs, and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.

11. "Doctor of osteopathy" means a person who holds a license, registration or permit to practice medicine pursuant to this chapter.
12. "Immediate family" means the spouse, natural or adopted children, father, mother, brothers and sisters of the physician and the natural and adopted children, father, mother, brothers and sisters of the physician's spouse.
13. "Inappropriate fee" means a fee that is not supported by documentation of time, complexity or extreme skill required to perform the service.
14. "Investigative hearing" means a meeting between the board and a physician to discuss issues set forth in the investigative hearing notice and during which the board may hear statements from board staff, the complainant, the physician and witnesses, if any.
15. "Letter of concern" means an advisory letter to notify a physician that while there is insufficient evidence to support disciplinary action against the physician's license there is sufficient evidence for the board to notify the physician of its concern.
16. "Limited license" means a license that restricts the scope and setting of a licensee's practice.
17. "Medical assistant" means an unlicensed person who has completed an educational program approved by the board, who assists in a medical practice under the supervision of a doctor of osteopathic medicine and who performs delegated procedures commensurate with the assistant's education and training but who does not diagnose, interpret, design or modify established treatment programs or violate any statute.
18. "Medicine" means osteopathic medicine as practiced by a person who receives a degree of doctor of osteopathy.
19. "Physician" means a doctor of osteopathy who holds a license, a permit or a locum tenens registration to practice osteopathic medicine pursuant to this chapter.
20. "Practice of medicine" or "practice of osteopathic medicine" means all of the following:
  - (a) To examine, diagnose, treat, prescribe for, palliate, prevent or correct human diseases, injuries, ailments, infirmities and deformities, physical or mental conditions, real or imaginary, by the use of drugs, surgery, manipulation, electricity or any physical, mechanical or other means as provided by this chapter.
  - (b) Suggesting, recommending, prescribing or administering any form of treatment, operation or healing for the intended palliation, relief or cure of any physical or mental disease, ailment, injury, condition or defect.
  - (c) The practice of osteopathic medicine alone or the practice of osteopathic surgery or osteopathic manipulative therapy, or any combination of either practice.
21. "Specialist" means a physician who has successfully completed postdoctoral training in an approved postgraduate training program, an approved preceptorship or an approved residency or who is board certified by a specialty board approved by the board.

22. "Subscription provider of health care" means an entity that, through contractual agreement, is responsible for the payment, in whole or in part, of debts incurred by a person for medical or other health care services.

32-1801. Arizona board of osteopathic examiners in medicine and surgery

A. The Arizona board of osteopathic examiners in medicine and surgery is established consisting of seven members appointed by the governor. One member of the board shall be appointed each year for a term of five years, to begin and end on April 15.

B. Before appointment by the governor, a prospective member of the board shall submit a full set of fingerprints to the governor for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

C. Two members of the board shall be public members who shall not be in any manner connected with, or have an interest in, any school of medicine or any person practicing any form of healing or treatment of bodily or mental ailments and who has demonstrated an interest in the health problems of the state. The other five members of the board shall have engaged in the practice of medicine as an osteopathic physician in this state for at least five years preceding their appointments, hold active licenses in good standing and, at the time of appointment, be practicing medicine with direct patient contact. In making appointments of each professional member of the board, the governor shall consider a list of qualified persons submitted by the Arizona osteopathic medical association and recommendations by any other person. Members of the board shall continue in office until their successors are appointed and qualified. Each board member, before entering on his duties, shall take an oath prescribed by law and in addition thereto shall make an oath as to his qualifications as prescribed in this section. No board member may serve more than two consecutive five year terms.

D. The governor may remove board members if they fail to attend three or more board meetings within twelve months. This does not include telephonic meetings of the board. The governor may also remove board members for malfeasance, misfeasance or incompetence in their office, unprofessional or dishonorable conduct in their office or unprofessional or dishonorable conduct. The governor shall appoint a qualified replacement to fill a vacant position for the unexpired portion of the term.

32-1802. Meetings; organization; compensation; committees

A. The board shall hold an annual meeting during the month of January each year in the Phoenix metropolitan area and may hold other meetings at times and places determined by a majority of the board on notice to each member and the general public pursuant to title 38, chapter 3, article 3.1. A majority of the members of the board constitutes a quorum, and a majority vote of a quorum present at any meeting governs all board actions.

B. At each annual meeting the board shall select from among its membership a president and vice-president who shall serve until their successors are chosen. If either of these offices becomes vacant before the annual meeting, the board may elect a replacement at any other board meeting.

C. Members of the board are eligible to receive compensation in the amount of two hundred fifty dollars for each day of actual service in the business of the board and reimbursement of all expenses necessarily and properly incurred in attending meetings of the board.

D. Board members, the executive director, permanent or temporary board personnel, board consultants, committee members and professional medical investigators are immune from civil liability for any act they do in good faith to implement this chapter.

E. To carry out the functions of the board, the board president may establish committees and define committee duties. The president shall name at least one board member to each committee the president establishes.

### 32-1803. Powers and duties

A. The board shall:

1. Protect the public from unlawful, incompetent, unqualified, impaired and unprofessional practitioners of osteopathic medicine.

2. Issue licenses, conduct hearings, place physicians on probation, revoke or suspend licenses, enter into stipulated orders, issue letters of concern or decrees of censure and administer and enforce this chapter.

3. Maintain a record of its acts and proceedings, including the issuance, denial, renewal, suspension or revocation of licenses to practice according to this chapter. The board shall delete records of complaints only as follows:

(a) If the board dismisses a complaint, the board shall delete the public record of the complaint five years after it dismissed the complaint.

(b) If the board has issued a letter of concern but has taken no further action on the complaint, the board shall delete the public record of the complaint five years after it issued the letter of concern.

(c) If the board has required additional continuing medical education pursuant to section 32-1855 but has not taken further action, the board shall delete the public record of the complaint five years after the person satisfies this requirement.

4. Maintain a public directory of all osteopathic physicians and surgeons who are or were licensed pursuant to this chapter that includes:

(a) The name of the physician.

(b) The physician's current or last known address of record.

(c) The date and number of the license issued to the physician pursuant to this chapter.

(d) The date the license is scheduled to expire if not renewed or the date the license expired or was revoked, suspended or canceled.

(e) Any disciplinary actions taken against the physician by the board.

(f) Letters of concern, remedial continuing medical education ordered and dismissals of complaints against the physician until deleted from the public record pursuant to paragraph 3 of this subsection.

5. Adopt rules regarding the regulation and the qualifications of medical assistants.
  6. Discipline and rehabilitate osteopathic physicians.
  7. Determine 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 public records of the board are open to inspection at all times during office hours.
- C. The board may:
1. Adopt rules necessary or proper to administer this chapter.
  2. Appoint one of its members to the jurisdiction arbitration panel pursuant to section 32-2907, subsection B.
  3. Accept and spend federal monies and private grants, gifts, contributions and devises. These monies do not revert to the state general fund at the end of a fiscal year.
  4. Develop and publish advisory opinions and standards governing the profession.
- D. The board shall adopt and use a seal, the imprint of which, together with the signature of either the president, vice president or executive director, is evidence of its official acts.
- E. In conducting investigations pursuant to this chapter, the board may receive and review confidential internal staff reports relating to complaints and malpractice claims.
- F. The board may make available to academic and research organizations public records regarding statistical information on doctors of osteopathic medicine and applicants for licensure.

**32-1804. Executive director; compensation; duties**

- A. Subject to title 41, chapter 4, article 4, the board shall appoint an executive director who is not a member of the board. The executive director shall serve at the pleasure of the board and shall receive compensation as determined pursuant to section 38-611 to be paid from the board fund.
- B. The executive director or that person's designee shall:
1. Serve as administrative assistant to the board and manage the board's offices.
  2. Collect all monies due and payable to the board.
  3. Deposit, pursuant to sections 35-146 and 35-147, all monies received by the board in the appropriate fund.
  4. Pay all bills for authorized board expenditures.
  5. Administer oaths.

6. Act as custodian of the board's seal and books.
7. Employ special consultants or other agents subject to title 41, chapter 4, article 4 to make investigations, gather information, review complaints, review malpractice claims, suits and settlements, prepare reports and perform other duties the executive director determines are necessary to enforce this chapter.
8. Subject to title 41, chapter 4, article 4 and, as applicable, articles 5 and 6, employ, evaluate, dismiss, discipline and direct professional, clerical, technical, investigative and administrative personnel necessary to carry out the purposes of this chapter. The personnel are eligible to receive compensation pursuant to section 38-611.
9. Issue licenses, limited licenses, registrations, permits, license renewal extensions and waivers to applicants who meet the requirements of this chapter.
10. Enter into contracts pursuant to title 41, chapter 23 for goods and services that are necessary to carry out board policies and directives.
11. Prepare minutes, reports and records of all board transactions and orders.
12. Prepare a biannual budget.
13. As directed by the board, prepare and submit recommendations for changes to this chapter for consideration by the legislature.
14. Initiate an investigation if evidence appears to demonstrate that a physician may be engaged in unprofessional conduct or may be mentally incompetent or physically unable to safely practice medicine.
15. Issue subpoenas to compel the attendance and testimony of a witness and the production of evidence.
16. As directed by the board, provide assistance to the attorney general in preparing and executing disciplinary orders, rehabilitation orders and notices of hearings.
17. Represent the board with the federal government, other states and jurisdictions of the United States, this state, political subdivisions of this state, the news media and the public.
18. If delegated by the board, dismiss complaints that, after an investigation, demonstrate insufficient evidence that the physician's conduct violated this chapter.
19. If delegated by the board, enter into a stipulated agreement with a licensee for the treatment, rehabilitation and monitoring of the licensee's abuse or misuse of a chemical substance.
20. Review all complaints filed pursuant to section 32-1855. If delegated by the board, the executive director may also dismiss a complaint if the complaint is without merit. The executive director shall not dismiss a complaint if a court has entered a medical malpractice judgment against a physician. The executive director shall submit to the board a report of each complaint the executive director dismisses for its review at its next regular board meeting. The report shall include the complaint number, the name of the physician and the investigation timeline for each dismissed complaint.

21. If delegated by the board, refer complaints for an investigative hearing.
22. If delegated by the board, close complaints resolved through mediation.
23. If delegated by the board, issue letters of concern or orders for nondisciplinary education, or both.
24. If delegated by the board, enter into a consent agreement if there is evidence of danger to the public health and safety.
25. If delegated by the board, grant uncontested requests for cancellation of a license pursuant to section 32-1827.
26. Perform any other duty required by the board.

**32-1805. Board fund; disbursements**

A. Before the end of the calendar month, pursuant to sections 35-146 and 35-147, the board shall deposit ten per cent of all monies received by the board from fees and other monies provided for in section 32-1826 in the state general fund and deposit the remaining ninety per cent in the board fund. All monies derived from civil penalties collected pursuant to section 32-1855 shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

B. Monies deposited in the board fund shall be subject to section 35-143.01.

**32-1806. Jurisdiction arbitration panel**

A. When the board receives a complaint concerning a physician who is also licensed pursuant to chapter 29 of this title, the board shall immediately notify the board of homeopathic and integrated medicine examiners. If the boards disagree and if both boards continue to claim jurisdiction over the dual licensee, an arbitration panel shall decide jurisdiction pursuant to section 32-2907, subsections B, C, D and E.

B. If the licensing boards decide without resorting to arbitration which board or boards shall conduct the investigation, the board or boards conducting the investigation shall transmit all investigation materials, findings and conclusions to the other board with which the physician is licensed. The board or boards shall review this information to determine if disciplinary action shall be taken against the physician.

**32-1821. Persons and acts not affected by chapter**

This chapter does not prevent:

1. A duly licensed physician and surgeon of any other state, district or territory from meeting a person licensed pursuant to this chapter within this state for consultation or, pursuant to an invitation by a sponsor, visiting this state for the sole purpose of promoting professional education through lectures, clinics or demonstrations as long as the visiting physician does not open an office, designate a place to meet patients or receive calls relating to the practice of medicine outside of the facilities and programs of the sponsor.
2. The practice of any other method, system or science of healing by a person duly licensed pursuant to the laws of this state.

3. The practice by physicians and surgeons discharging their duties while members of the armed forces of the United States or other federal agencies.
4. Any act, task or function performed by a physician assistant or registered nurse practitioner in the proper discharge of that person's duties.
5. A person administering a lawful domestic or family remedy to a member of that person's immediate family.
6. Providing medical assistance in case of an emergency.
7. The emergency harvesting of donor organs.

32-1822. Qualifications of applicant; application; fingerprinting; fees

A. On a form and in a manner prescribed by the board, an applicant for licensure shall submit proof that the applicant:

1. Is the person named on the application and on all supporting documents submitted.
2. Is a citizen of the United States or a resident alien.
3. Is a graduate of a school of osteopathic medicine approved by the American osteopathic association.
4. Has successfully completed an approved internship, the first year of an approved multiple-year residency or a board-approved equivalency.
5. Has passed the approved examinations for licensure within seven years of application or has the board-approved equivalency of practice experience.
6. Has not engaged in any conduct that, if it occurred in this state, would be considered unprofessional conduct or, if the applicant has engaged in unprofessional conduct, is rehabilitated from the underlying conduct.
7. Is physically, mentally and emotionally able to practice medicine, or, if limited, restricted or impaired in the ability to practice medicine, consents to contingent licensure pursuant to subsection E of this section or to entry into a program prescribed in section 32-1861.
8. Is of good moral character.
9. Beginning September 1, 2017, has submitted a full set of fingerprints to the board 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.

B. An applicant must submit with the application the nonrefundable application fee prescribed in section 32-1826 and pay the prescribed license issuance fee to the board at the time the license is issued.

C. The board or the executive director may require an applicant to submit to a personal interview, a physical examination or a mental evaluation or any combination of these, at the applicant's expense, at a reasonable time and place as prescribed by the board if the board determines that this is necessary to provide the board adequate information regarding the applicant's ability to meet the licensure requirements of this chapter. An interview may include medical knowledge questions and other matters that are relevant to licensure.

D. The board may deny a license for any unprofessional conduct that would constitute grounds for disciplinary action pursuant to this chapter or as determined by a competent domestic or foreign jurisdiction.

E. The board may issue a license that is contingent on the applicant entering into a stipulated order that may include a period of probation or a restriction on the licensee's practice.

F. The executive director may issue licenses to applicants who meet the requirements of this section.

G. A person whose license has been revoked, denied or surrendered in this or any other state may apply for licensure not sooner than five years after the revocation, denial or surrender.

H. A license issued pursuant to this section is valid for the remainder of the calendar year in which it was issued, at which time it is eligible for renewal.

**32-1823. Locum tenens registration; application; term; interview; denial of application; discipline**

A. A doctor of osteopathy who is licensed to practice osteopathic medicine and surgery by another state may be registered to provide locum tenens medical services to substitute for or temporarily assist a doctor of osteopathy who holds an active license pursuant to this chapter or a doctor of medicine who holds an active license pursuant to chapter 13 of this title under the following conditions:

1. The applicant provides on forms and in a manner prescribed by the board proof that the applicant meets the applicable requirements of section 32-1822.

2. The doctor of medicine or doctor of osteopathy for whom the applicant is substituting or assisting provides to the board a written request for locum tenens registration of the applicant.

B. On completion of the registration form prescribed by the board and payment of the required fees, the executive director may register a qualifying doctor of osteopathy by locum tenens registration and authorize the doctor to provide locum tenens services.

C. Locum tenens registration granted pursuant to this section is valid for ninety days and may be extended once for an additional ninety days on written request by the doctor of medicine or doctor of osteopathy who originally initiated the request for this registration, stating the reason extension is necessary, and by submitting the appropriate fees and other documents requested by the executive director.

D. The board or the executive director may require an applicant to submit to a personal interview to provide the board with adequate information regarding the applicant's ability to practice under locum tenens registration. The applicant is responsible for all costs to attend the interview.

E. The board may deny the application for a locum tenens registration for any unprofessional conduct that would constitute grounds for disciplinary action pursuant to this chapter or as determined by a competent domestic or foreign jurisdiction.

F. A locum tenens registrant is subject to the disciplinary provisions pursuant to this chapter.

32-1824. Expedited licensure; medical licensure compact; fingerprinting

Beginning September 1, 2017, applicants for expedited licensure pursuant to section 32-3241 shall submit a full set of fingerprints to the board 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. Communication between the board and the interstate medical licensure compact commission regarding verification of physician eligibility for licensure under the medical licensure compact may not include any information received from the federal bureau of investigation relating to a state and federal criminal records check performed for the purposes of section 32-3241, section 5, subsection B, paragraph 2.

32-1825. Renewal of licenses; continuing medical education; failure to renew; penalty; reinstatement; waiver of continuing medical education

A. Except as provided in section 32-4301, each licensee shall renew the license every other year on or before January 1 on an application form approved by the board. At least sixty days before that renewal date, the executive director shall notify each licensee of this requirement. The executive director shall send this notification by mail to the licensee at the licensee's address.

B. With the application prescribed pursuant to subsection A of this section, the licensee shall furnish to the executive director a statement of having attended before the license renewal date educational programs, approved by the board, totaling at least forty clock hours during the two preceding years, and a statement that the licensee reported any conduct that may constitute unprofessional conduct in this state or elsewhere. The application must also include the prescribed renewal fee. The executive director shall then issue a renewal receipt to the licensee. The board may require a licensee to submit documentation of continuing medical education.

C. The board shall not renew the license of a licensee who does not fully document the licensee's compliance with the continuing education requirements of subsection B of this section unless that person receives a waiver of those requirements. The board may waive the continuing education requirements of subsection B of this section for a particular period if it is satisfied that the licensee's noncompliance was due to the licensee's disability, military service or absence from the United States or to other circumstances beyond the control of the licensee. If a licensee fails to attend the required number of clock hours for reasons other than those specified in this subsection, the board may grant an extension until May 1 of that year for the licensee to comply.

D. Unless the board grants an extension pursuant to subsection C of this section, a licensee who fails to renew the license within thirty days after the renewal date shall pay a penalty fee and a reimbursement fee in addition to the prescribed renewal fee. Except as provided in sections 32-3202 and 32-4301, a license expires if a person does not renew the license within four months after the renewal date. A person who practices osteopathic medicine after that time is in violation of this chapter. A person whose license expires may reapply for a license pursuant to this chapter.

32-1826. Fees; penalty

A. The board shall establish fees of not to exceed the following:

1. For an application to practice osteopathic medicine, four hundred dollars.
2. For issuance of a license, two hundred dollars, prorated by each month remaining in the calendar year of issuance.
3. For biennial renewal of a license, eight hundred dollars.
4. For locum tenens registration or extension, three hundred dollars.
5. For issuance of a duplicate license, one hundred dollars.
6. For an annual training permit for an approved postgraduate training program or short-term residency program, one hundred dollars.
7. For an annual teaching license issued pursuant to section 32-1831, four hundred dollars.
8. For a five-day educational teaching permit at an approved school of medicine or at an approved teaching hospital's accredited graduate medical education program, two hundred dollars.
9. For the sale of a computerized format of the board's licensee directory that does not require programming, one hundred dollars.
10. For initial and annual registration to dispense drugs and devices, two hundred fifty dollars, prorated by each month remaining in the calendar year of issuance.

B. The board shall charge a one hundred fifty dollar penalty fee for late renewal of a license and a twenty-five dollar reimbursement fee to cover the board's expenses in collecting late renewal fees. The board shall deposit this fee in the board fund.

C. The board may charge additional fees for services the board determines are necessary and appropriate to carry out this chapter. These fees shall not exceed the actual cost of providing the services.

#### 32-1827. Cancellation of a license; requirements

The board shall cancel a license at the licensee's request if the licensee is not the subject of a board investigation or disciplinary proceeding.

#### 32-1828. Education teaching permits

A. The dean of a school of osteopathic medicine approved by the American osteopathic association or the chairman of a teaching hospital's accredited graduate medical education program may invite a doctor of osteopathy who is not licensed in this state to demonstrate and perform medical procedures and surgical techniques for the sole purpose of promoting professional education for students, interns, residents, fellows and doctors of osteopathy in this state.

B. The chairman or dean of the inviting institution shall provide to the board evidence that an applicant for an educational permit has malpractice insurance in an amount that meets the requirements of that

institution and that the applicant accepts all responsibility and liability for the procedures the applicant performs within the scope of the applicant's permit.

C. In a letter to the board, the chairman or dean of the inviting institution shall outline the procedures and techniques that the doctor of medicine will perform or demonstrate and the dates that this activity will occur. The letter shall also include a summary of the doctor of osteopathy's education and professional background and shall be accompanied by the fee required pursuant to this chapter.

D. The inviting institutions shall submit the fees and documents required pursuant to this section no later than two weeks before the scheduled activity.

E. The board through its staff shall issue an educational teaching permit for not more than five days for each approved activity.

### 32-1829. Training permits; issuance of permits

A. The board may grant a one-year renewable training permit to a person who is participating in a teaching hospital's accredited internship, residency or clinical fellowship training program to allow that person to practice medicine only in the supervised setting of that program. Before the board issues the permit, the person shall:

1. Submit an application on a form and in a manner prescribed by the board and proof that the applicant:

(a) Is the person named on the application and on all supporting documentation.

(b) Is a citizen of the United States or a resident alien.

(c) Is a graduate of a school approved by the American osteopathic association.

(d) Participated in postgraduate training, if any.

(e) Has passed approved examinations appropriate to the applicant's level of education and training.

(f) Has not engaged in any conduct that, if it occurred in this state, would be considered unprofessional conduct or, if the applicant has engaged in unprofessional conduct, is rehabilitated from the underlying conduct.

(g) Is of good moral character.

(h) Is physically, mentally and emotionally able to practice medicine, or, if limited, restricted or impaired in the ability to practice medicine, consents to a contingent permit or to entry into a program described in section 32-1861.

2. Pay the nonrefundable application fee prescribed by the board.

B. If a permittee who is participating in a teaching hospital's accredited internship, residency or clinical fellowship training program must repeat or make up time in the program due to resident progression or for other reasons, the board may grant that person an extension of the training permit if requested to do so by the program's director of medical education or a person who holds an equivalent position. The

extended permit limits the permittee to practicing only in the supervised setting of that program for a period of time sufficient to repeat or make up the training.

C. The board may grant a training permit to a person who is not licensed in this state and who is participating in a short-term training program of four months or less for continuing medical education conducted in an approved school of osteopathic medicine or a hospital that has an accredited hospital internship, residency or clinical fellowship training program in this state. Before the board issues the permit, the person shall:

1. Submit an application on a form and in a manner prescribed by the board and proof that the applicant meets the requirements prescribed in subsection A, paragraph 1 of this section.

2. Pay the nonrefundable application fee prescribed by the board.

D. A permittee is subject to the disciplinary provisions of this chapter.

E. The executive director may issue a permit to an applicant who meets the requirements of this chapter.

F. If a permit is not issued pursuant to subsection E of this section, the board may issue a permit or may:

1. Issue a permit that is contingent on the applicant entering into a stipulated agreement that may include a period of probation or a restriction on the permittee's practice.

2. Deny a permit to an applicant who does not meet the requirements of this chapter.

### 32-1830. [Training permits; approved schools](#)

The executive director may grant a one-year training permit to a person who:

1. Participates in a program at an approved school of medicine or a hospital that has an approved hospital internship, residency or clinical fellowship training program if the purpose of the program is to exchange technical and educational information.

2. Pays the fee as prescribed by the board.

3. Submits a written statement from the dean of the approved school of osteopathic medicine or from the chairman of a teaching hospital's accredited graduate medical education program that:

- (a) Includes a request for the permit and describes the purpose of the exchange program.

- (b) Specifies that the host institution shall provide liability coverage.

- (c) Provides proof that a doctor of medicine will serve as the preceptor of the host institution and provide appropriate supervision of the participant.

- (d) States that the host institution has advised the participant that the participant may serve as a member of an organized medical team but shall not practice medicine independently and that this training does not accrue toward postgraduate training requirements for licensure.

32-1831. Teaching licenses; definitions

A. A doctor of osteopathic medicine who is not licensed in this state may be employed as a full-time faculty member by a school of osteopathic medicine in this state approved by the American osteopathic association or a teaching hospital's accredited graduate medical education program in this state to provide professional education through lectures, clinics or demonstrations if the doctor holds a teaching license issued pursuant to this section.

B. An applicant for a teaching license shall:

1. Submit a completed application as prescribed by the board.
2. Pay all fees prescribed by the board. Application fees are nonrefundable.
3. Meet the requirements of section 32-1822.

C. A person who is licensed pursuant to this section shall not open an office or designate a place to meet patients or receive calls relating to the practice of osteopathic medicine in this state outside of the facilities and programs of the approved school or teaching hospital.

D. A person who is licensed pursuant to this section shall comply with the requirements of this chapter, with the exception of those that relate to licensing examinations.

E. The board or the executive director may require an applicant to submit to a personal interview, a physical examination or a mental health evaluation, or any combination of these, at the applicant's expense. The board shall prescribe a reasonable time and place if the board determines that this is necessary to provide the board with adequate information regarding the applicant's ability to meet the licensure requirements of this chapter. The interview may include questions regarding medical knowledge and other matters relevant to licensure.

F. The board may deny a license for any unprofessional conduct that would constitute grounds for disciplinary action pursuant to this chapter or as determined by a competent domestic or foreign jurisdiction.

G. A person who is licensed pursuant to this section is subject to the disciplinary provisions pursuant to this chapter.

H. A license issued pursuant to this section is valid for two years. A doctor of osteopathic medicine may apply for licensure once every two years, subject to the continuing medical education requirements prescribed in section 32-1825.

I. For the purposes of this section:

1. "Accredited" means that the school or teaching hospital has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American osteopathic association or a similar body that is approved by the board.
2. "Full-time faculty member" means a full-time faculty member as prescribed by the school of osteopathic medicine or the teaching hospital.

32-1832. Retired license; waiver of fees; reinstatement; limited license; volunteer work

A. The board shall waive a physician's biennial renewal fee if the physician has paid all past fees, presents an affidavit to the board stating that the physician has permanently retired from the practice of osteopathic medicine and does not have any pending complaints or open disciplinary matters before the board.

B. A retired physician whose biennial fee has been waived by the board pursuant to this section is not required to comply with any continuing medical education requirements of this chapter.

C. After retired status is granted by the board, a retired physician shall submit a renewal of retired status every two years on a form and in a manner prescribed by the board.

D. Except as provided in subsection F of this section, a retired physician who has had the biennial renewal fee waived by the board pursuant to this section and who engages in the practice of osteopathic medicine is subject to the same penalties that are imposed pursuant to this chapter on a person who practices medicine without a license or without being exempt from licensure.

E. The board may reinstate a retired physician to active status on payment of the biennial renewal fee and presentation of evidence satisfactory to the board that the physician meets the qualifications prescribed pursuant to section 32-1822. The board may deny the request for reinstatement, place the licensee on probation or issue a limited license that requires general or direct supervision by another licensed doctor of osteopathy for not more than one year.

F. A retired physician who has had the biennial renewal fee waived by the board pursuant to this section may perform volunteer work of not more than ten hours each week and may teach or provide instruction at an approved school of osteopathic medicine.

32-1833. Pro bono registration

A. The board may issue a pro bono registration to allow a doctor of osteopathy who is not a licensee to practice in this state for a total of sixty days each calendar year if the doctor meets all of the following requirements:

1. Holds an active and unrestricted license to practice medicine in a state, territory or possession of the United States.
2. Has never had a license revoked or suspended by a health profession regulatory board of another jurisdiction.
3. Is not the subject of an unresolved complaint.
4. Applies for registration on an annual basis as prescribed by the board.
5. Agrees to render all medical services without accepting a fee or salary or performs only initial or follow-up examinations at no cost to the patient and the patient's family through a charitable organization.

B. The sixty days of practice prescribed pursuant to subsection A of this section may be performed consecutively or cumulatively during each calendar year.

C. For the purpose of meeting the requirements of subsection A of this section, an applicant under this section shall provide the board the name of each state in which the person is licensed or has held a license. The board shall verify with the applicable regulatory board of each state that the applicant is licensed or has held a license, has never had a license revoked or suspended and is not the subject of an unresolved complaint. The board may accept the verification of the information required by subsection A, paragraphs 1, 2 and 3 of this section from each of the other state's regulatory boards either electronically or by hard copy.

32-1834. Temporary licensure; requirements; fee

A. Beginning July 1, 2017, the board may issue a temporary license, which may not be renewed or extended, to allow a physician who is not a licensee to practice in this state for a total of up to two hundred fifty consecutive days if the physician meets all of the following requirements:

1. Holds an active and unrestricted license to practice medicine in a state, territory or possession of the United States.
2. Has never had a license revoked or suspended or surrendered a license for disciplinary reasons.
3. Is not the subject of an unresolved complaint.
4. Has applied for a license pursuant to section 32-1822.
5. Has paid any applicable fees.

B. The physician shall submit to the board a notarized affidavit attesting that the physician meets the requirements of subsection A, paragraphs 1, 2 and 3 of this section. The physician shall notify the board immediately if any circumstance specified in subsection A, paragraphs 1, 2 and 3 of this section changes during the application period for a temporary license or while holding a temporary license, at which time the board may deny or revoke the temporary license.

C. The board shall approve or deny an application under this section within thirty days after an applicant files a complete application. The approval of a temporary license pursuant to this section allows the physician to practice in this state without restriction.

D. If granted, the physician's temporary license expires the earlier of two hundred fifty days after the date the temporary license is granted or on approval or denial of the physician's license application submitted pursuant to section 32-1822.

E. For the purpose of meeting the requirements of subsection A of this section, an applicant shall provide the board the name of each state, territory or possession of the United States in which the person is licensed or has held a license and the board shall verify with the applicable regulatory board that the applicant holds an active and unrestricted license to practice medicine, has never had a license revoked or suspended or surrendered a license for disciplinary reasons and is not the subject of an unresolved complaint. The board may accept the verification of this information from each other regulatory board verbally, which shall be followed by either an electronic or hard copy before the physician's permanent license is granted. If the board is unable to verify the information within the initial thirty days as required by subsection C of this section, the board may extend the time frame by an additional thirty days to receive the necessary verification.

F. The board may establish a fee in rule for temporary licensure under this section.

32-1835. Specialty certification; prohibited requirement for licensure; definition

A. The board may not require an applicant for licensure pursuant to this article to hold or maintain a specialty certification as a condition of licensure in this state. This subsection does not prohibit the board from considering an applicant's specialty certification as a factor in whether to grant a license to the applicant.

B. For the purposes of this section, "specialty certification" means certification by a board that specializes in one particular area of medicine and that may require examinations in addition to those required by this state to be licensed to practice medicine.

32-1851. Prohibited acts

The following acts are prohibited:

1. Practicing medicine and surgery as an osteopathic physician and surgeon without holding a license issued by the board under the provisions of this chapter.

2. Misusing the designation "D.O." in a way that leads the public to believe that a person is licensed to practice medicine in this state.

3. Using the designation "doctor of osteopathy", "doctor of osteopathic medicine", "osteopathic physician", "osteopathic surgeon", "osteopathic physician and surgeon" or any combination of these terms unless the designation additionally contains the description of another branch of the healing arts.

4. Using any other words, initials or symbols or a combination of these that leads the public to believe a person is licensed to practice medicine in this state.

32-1852. Rights and duties of osteopathic physicians and surgeons; scope of practice

A person holding a license under this chapter to practice medicine and surgery as an osteopathic physician and surgeon shall be subject to all state and local laws and regulations pertaining to public health. In diagnosing, prognosticating and treating any human ills he shall be subjected to all the same duties and obligations and authorized to exercise all the same rights and privileges possessed by physicians and surgeons of other complete schools of medicine in the practice of their profession.

32-1853. Use of title

A person licensed under this chapter shall use the title "osteopathic physician and surgeon", "osteopathic physician" or "doctor of osteopathy" or affix the initials "D.O." after the licensee's name.

32-1853.01. Use of title by a medical assistant

It is unlawful for a person to use the title "medical assistant" or a related abbreviation unless the person is working as a medical assistant under the supervision of a doctor of osteopathic medicine pursuant to rules adopted by the board.

### 32-1854. Definition of unprofessional conduct

For the purposes of this chapter, "unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

1. Knowingly betraying a professional secret or wilfully violating a privileged communication except as either of these may otherwise be required by law. This paragraph does not prevent members of the board from exchanging information with the licensing and disciplinary boards of other states, territories or districts of the United States or with foreign countries or with osteopathic medical organizations located in this state or in any state, district or territory of this country or in any foreign country.
2. Committing a felony or a misdemeanor involving moral turpitude. In either case conviction by any court of competent jurisdiction is conclusive evidence of the commission of the offense.
3. Practicing medicine while under the influence of alcohol, a dangerous drug as defined in section 13-3401, narcotic or hypnotic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.
4. Being diagnosed by a physician licensed under this chapter or chapter 13 of this title or a psychologist licensed under chapter 19.1 of this title as excessively or illegally using alcohol or a controlled substance.
5. Prescribing, dispensing or administering controlled substances or prescription-only drugs for other than accepted therapeutic purposes.
6. Engaging in the practice of medicine in a manner that harms or may harm a patient or that the board determines falls below the community standard.
7. Impersonating another physician.
8. Acting or assuming to act as a member of the board if this is not true.
9. Procuring, renewing or attempting to procure or renew a license to practice osteopathic medicine by fraud or misrepresentation.
10. Having professional connection with or lending one's name to an illegal practitioner of osteopathic medicine or any of the other healing arts.
11. Representing that a manifestly incurable disease, injury, ailment or infirmity can be permanently cured or that a curable disease, injury, ailment or infirmity can be cured within a stated time, if this is not true.
12. Failing to reasonably disclose and inform the patient or the patient's representative of the method, device or instrumentality the licensee uses to treat the patient's disease, injury, ailment or infirmity.
13. Refusing to divulge to the board on demand the means, method, device or instrumentality used in the treatment of a disease, injury, ailment or infirmity.
14. Charging a fee for services not rendered or dividing a professional fee for patient referrals. This paragraph does not apply to payments from a medical researcher to a physician in connection with

identifying and monitoring patients for clinical trial regulated by the United States food and drug administration.

15. Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or when applying for or renewing privileges at a health care institution or a health care program.

16. Advertising in a false, deceptive or misleading manner.

17. Representing or claiming to be an osteopathic medical specialist if the physician has not satisfied the applicable requirements of this chapter or board rules.

18. Having a license denied or disciplinary action taken against a license by any other state, territory, district or country, unless it can be shown that this occurred for reasons that did not relate to the person's ability to safely and skillfully practice osteopathic medicine or to any act of unprofessional conduct as provided in this section.

19. Committing any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.

20. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of the provisions of this chapter.

21. Failing or refusing to establish and maintain adequate records on a patient as follows:

(a) If the patient is an adult, for at least six years after the last date the licensee provided the patient with medical or health care services.

(b) If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least six years after the last date the licensee provided that patient with medical or health care services, whichever date occurs later.

22. Using controlled substances or prescription-only drugs unless they are provided by a medical practitioner, as defined in section 32-1901, as part of a lawful course of treatment.

23. Prescribing controlled substances to members of one's immediate family unless there is no other physician available within fifty miles to treat a member of the family and an emergency exists.

24. Committing nontherapeutic use of injectable amphetamines.

25. Violating a formal order, probation or a stipulation issued by the board under this chapter.

26. Charging or collecting an inappropriate fee. This paragraph does not apply to a fee that is fixed in a written contract between the physician and the patient and entered into before treatment begins.

27. Using experimental forms of therapy without adequate informed patient consent or without conforming to generally accepted criteria and complying with federal and state statutes and regulations governing experimental therapies.

28. Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, physician or homeopathic physician licensed under chapter 7, 8, 13, 14 or 29 of this title on receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.
29. Failing to allow properly authorized board personnel to have, on presentation of a subpoena, access to any documents, reports or records that are maintained by the physician and that relate to the physician's medical practice or medically related activities pursuant to section 32-1855.01.
30. Signing a blank, undated or predated prescription form.
31. Obtaining a fee by fraud, deceit or misrepresentation.
32. Failing to report to the board an osteopathic physician and surgeon who is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine.
33. Referring a patient to a diagnostic or treatment facility or prescribing goods and services without disclosing that the physician has a direct pecuniary interest in the facility, goods or services to which the patient has been referred or prescribed. This paragraph does not apply to a referral by one physician to another physician within a group of physicians practicing together.
34. Exhibiting a lack of or inappropriate direction, collaboration or supervision of a licensed, certified or registered health care provider or office personnel employed by or assigned to the physician in the medical care of patients.
35. Violating a federal law, a state law or a rule applicable to the practice of medicine.
36. Prescribing or dispensing controlled substances or prescription-only medications without establishing and maintaining adequate patient records.
37. Dispensing a schedule II controlled substance that is an opioid, except as provided in section 32-1871.
38. Failing to dispense drugs and devices in compliance with article 4 of this chapter.
39. Committing any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.
40. Committing any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.
41. With the exception of heavy metal poisoning, using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy without adequate informed patient consent and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.

42. Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.

43. Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this paragraph, "sexual conduct" includes:

(a) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.

(b) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical conduct of a sexual nature.

44. Committing conduct that is in violation of section 36-2302.

45. Committing conduct that the board determines constitutes gross negligence, repeated negligence or negligence that results in harm or death of a patient.

46. Committing conduct in the practice of medicine that evidences moral unfitness to practice medicine.

47. Engaging in disruptive or abusive behavior in a professional setting.

48. Failing to disclose to a patient that the licensee has a direct financial interest in a prescribed treatment, good or service if the treatment, good or service is available on a competitive basis. This paragraph does not apply to a referral by one licensee to another licensee within a group of licensees who practice together. A licensee meets the disclosure requirements of this paragraph if both of the following are true:

(a) The licensee makes the disclosure on a form prescribed by the board.

(b) The patient or the patient's guardian or parent acknowledges by signing the form that the licensee has disclosed the licensee's direct financial interest.

49. Prescribing, dispensing or furnishing a prescription medication or a prescription-only device to a person if the licensee has not conducted a physical or mental health status examination of that person or has not previously established a physician-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This paragraph does not apply to:

(a) Emergencies.

(b) A licensee who provides patient care on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(c) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing or dispensing physician.

(d) Prescriptions for epinephrine auto-injectors written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157 or for an authorized entity to be stocked pursuant to section 36-2226.01.

(e) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(f) Prescriptions for naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration that are written or dispensed for use pursuant to section 36-2228 or 36-2266.

50. If a licensee provides medical care by computer, failing to disclose the licensee's license number and the board's address and telephone number.

32-1855. Disciplinary action; duty to report; hearing; notice; independent medical examinations; surrender of license

A. Except as otherwise provided in this subsection, the board on its own motion may investigate any information that appears to show that an osteopathic physician and surgeon is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. A physician who conducts an independent medical examination pursuant to an order by a court or pursuant to section 23-1026 is not subject to a complaint for unprofessional conduct unless, in the case of a court-ordered examination, the complaint is made or referred by a court to the board, or in the case of an examination conducted pursuant to section 23-1026, the complaint alleges unprofessional conduct based on some act other than a disagreement with the findings and opinions expressed by the physician as a result of the examination. Any osteopathic physician or surgeon or the Arizona osteopathic medical association or any health care institution as defined in section 36-401 shall, and any other person may, report to the board any information the physician or surgeon, association, health care institution or other person may have that appears to show that an osteopathic physician and surgeon is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. The board shall notify the doctor about whom information has been received as to the content of the information as soon as reasonable after receiving the information. Any person who reports or provides information to the board in good faith is not subject to civil damages as a result of that action. If requested the board shall not disclose the informant's name unless it is essential to the disciplinary proceedings conducted pursuant to this section. It is an act of unprofessional conduct for any osteopathic physician or surgeon to fail to report as required by this section. The board shall report any health care institution that fails to report as required by this section to that institution's licensing agency. A person who reports information in good faith pursuant to this subsection is not subject to civil liability. For the purposes of this subsection, "independent medical examination" means a professional analysis of medical status that is based on a person's past and present physical, medical and psychiatric history and conducted by a licensee or group of licensees on a contract basis for a court or for a workers' compensation carrier, self-insured employer or claims processing representative if the examination was conducted pursuant to section 23-1026.

B. The board may require a physician under investigation pursuant to subsection A of this section to be interviewed by the board or its representatives. The board or the executive director may require a licensee who is under investigation pursuant to subsection A of this section to undergo at the licensee's expense any combination of medical, physical or mental examinations the board finds necessary to determine the physician's competence.

C. If the board finds, based on the information it received under subsection A or B of this section, that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, the board may order a summary suspension of a license pending proceedings for revocation or other action. If an order of summary suspension is issued, the licensee shall also be served with a written notice of complaint and formal hearing setting forth the charges made against the licensee and is entitled to a formal hearing on the charges pursuant to title 41, chapter 6, article 10. Formal proceedings shall be promptly instituted and determined.

D. If, after completing its investigation, the board finds that the information provided pursuant to this section is not of sufficient seriousness to merit direct action against the physician's license, it may take any combination of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.
2. Issue a letter of concern.
3. In addition to the requirements of section 32-1825, require continuing medical education on subjects and within a time period determined by the board.
4. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

E. If, in the opinion of the board, it appears that information provided pursuant to this section is or may be true, the board may request an investigative hearing with the physician concerned. At an investigative hearing the board may receive and consider sworn statements of persons who may be called as witnesses and other pertinent documents. Legal counsel may be present and participate in the meeting. If the physician refuses the request or if the physician accepts the request and the results of the investigative hearing indicate suspension of more than twelve months or revocation of the license may be in order, a complaint shall be issued and an administrative hearing shall be held pursuant to title 41, chapter 6, article 10. After the investigative hearing and a mental, physical or medical competence examination as the board deems necessary, the board may take any of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.
2. Issue a letter of concern.
3. In addition to the requirements of section 32-1825, require continuing medical education on subjects and within a time period determined by the board.
4. Issue a decree of censure, which constitutes an official action against a physician's license.
5. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the physician concerned. Any costs incidental to the terms of probation are at the physician's own expense.
6. Restrict or limit the physician's practice in a manner and for a time determined by the board.
7. Suspend the physician's license for not more than twelve months.

8. Impose a civil penalty of not to exceed five hundred dollars for each violation of this chapter.
9. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.
10. Issue an administrative warning.

F. If, in the opinion of the board, it appears the charge is of such magnitude as to warrant suspension for more than twelve months or revocation of the license, the board shall immediately initiate formal revocation or suspension proceedings pursuant to title 41, chapter 6, article 10. The board shall notify a licensee of a complaint and hearing by certified mail addressed to the licensee's last known address on record in the board's files.

G. A licensee shall respond in writing to the board within thirty days after the notice of formal or administrative hearing is served. A licensee who fails to answer the charges in a complaint and notice of formal or administrative hearing issued pursuant to this article and title 41, chapter 6, article 10 is deemed to admit the acts charged in the complaint, and the board may revoke or suspend the license without a hearing.

H. A physician who, after an investigative or administrative hearing, is found to be guilty of unprofessional conduct or is found to be mentally or physically unable safely to engage in the practice of osteopathic medicine is subject to any combination of censure, probation, suspension of license, revocation of license, an order to return patient fees, imposition of hearing costs, imposition of a civil penalty of not to exceed five hundred dollars for each violation for a period of time, or permanently, and under conditions the board deems appropriate for the protection of the public health and safety and just in the circumstances. The board may charge the costs of an investigative or administrative hearing to the licensee if pursuant to that hearing the board determines that the licensee violated this chapter or board rules.

I. If the board acts to modify a physician's prescription writing privileges, it shall immediately notify the state board of pharmacy and the federal drug enforcement administration in the United States department of justice of the modification.

J. The board shall report allegations of evidence of criminal wrongdoing to the appropriate criminal justice agency.

K. Notice of a complaint and administrative hearing is effective when a true copy of the notice is sent by certified mail to the licensee's last known address of record in the board's files and is complete on the date of its deposit in the mail. The board shall hold an administrative hearing within one hundred twenty days after that date.

L. The board may accept the surrender of an active license from a licensee who admits in writing to having committed an act of unprofessional conduct, to having violated this chapter or board rules or to being unable to safely practice medicine.

[32-1855.01. Right to examine and copy evidence; summoning witnesses and documents; taking testimony; right to counsel; court aid; process](#)

A. Pursuant to an investigation conducted under this chapter, the board and its authorized agents and employees may examine any documents, reports, records or other physical evidence of any person being investigated, as well as the reports, records and other documents maintained by and in possession of any hospital, clinic, physician's office, laboratory, pharmacy or other public or private agency and health care institution as defined in section 36-401, that relate to medical competence, unprofessional conduct or the licensee's mental or physical ability to safely practice medicine. The investigators may copy evidence on site and at the licensee's expense. Failing to permit access on request is unprofessional conduct.

B. For the purpose of all investigations and proceedings conducted by the board:

1. The board, the executive director and the administrative law judges on their own initiative, or on application of any person involved in the investigation, may issue subpoenas to compel the attendance and testimony of witnesses or to demand the production for examination or copying of documents or any other physical evidence that relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee to safely practice medicine. Within five days after the service of a subpoena requiring the production of evidence, the recipient of the subpoena may petition the board to revoke, limit or modify the subpoena. The board shall take the requested action if in its opinion the evidence required does not relate to unlawful practices covered by this chapter, is not relevant to the charge that is the subject matter of the hearing or investigation or does not describe with sufficient particularity the physical evidence whose production is required. Any member of the board or any agent designated by the board may administer oaths or affirmations, examine witnesses and receive evidence. The superior court may enforce a subpoena issued by the board.

2. Any person appearing before the board has the right to be represented by counsel.

3. The superior court on application by the board has jurisdiction to issue an order to require the subject of the subpoena to appear before the board or its agent and produce evidence relating to the matter under investigation. On application by the subject of the subpoena, the court may revoke, limit or modify the subpoena if in the court's opinion the evidence demanded does not relate to unlawful practices covered by this chapter, is not relevant to the charge that is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence whose production is required.

4. The superior court, on application by the board, has jurisdiction to issue an order enforcing a board-ordered examination for mental, physical or medical competence as provided in section 32-1855, subsection B.

### 32-1855.03. Health care institution duty to report; immunity; patient records; confidentiality

A. A health care institution as defined in section 36-401 or a subscription provider of health care shall report to the board any information it may have that appears to show that a physician may be guilty of unprofessional conduct or may be mentally or physically unable safely to engage in the practice of medicine. A health care institution or subscription provider of health care that provides information to the board in good faith is not subject to an action for civil damages as a result and, if requested, the board shall not disclose its name unless the testimony is essential to the disciplinary proceedings conducted pursuant to section 32-1855. The board shall report a health care institution or subscription provider of health care that fails to report as required by this section to the institution's licensing agency.

B. The chief executive officer, the medical director or the medical chief of staff of a health care institution or subscription provider of health care shall inform the board when the privileges of a physician to practice in the health care institution or subscription provider of health care are denied, revoked,

suspended or limited because of actions by the physician that jeopardized patient health and welfare or when the physician resigned during pending proceedings for denial, revocation, suspension or limitation of privileges. A report to the board pursuant to this subsection shall contain a general statement of the reasons the health care institution or subscription provider of health care took an action to deny, revoke, suspend or limit a physician's privileges.

C. Hospital records, medical staff records, medical staff review committee records and testimony concerning these records and proceedings related to the creation of these records are confidential and are subject to the same discovery and use in legal actions only as are the original records in the possession and control of hospitals, their medical staff and their medical staff review committees. The board shall use these records and testimony only during the course of investigations and proceedings pursuant to this chapter.

D. Patient records, including clinical records, medical reports, laboratory statements and reports, any file or film, any other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or the patient's family might be identified or information received and records kept by the board as a result of the investigation made pursuant to this chapter are confidential.

E. Nothing in this chapter or any other provision of law relating to privileged communications between a physician and patient applies to investigations or proceedings conducted pursuant to this chapter. The board and its employees, agents and representatives shall keep confidential the name of a patient whose records are reviewed during the course of an investigation and proceedings.

### 32-1856. Judicial review

Except as provided in section 41-1092.08, subsection H, an appeal to the superior court in Maricopa county may be taken from any final decision of the board pursuant to title 12, chapter 7, article 6.

### 32-1857. Injunction

A. An injunction may be issued to enjoin the practice of osteopathic medicine by either of the following:

1. A person not licensed to practice osteopathic medicine nor exempt from the licensing requirement under this chapter.

2. A physician whose continued practice will or may cause irreparable damage to the public health and safety.

B. In a petition for injunction under subsection A, paragraph 1 it is sufficient to charge that the respondent on a certain day in a named county engaged in the practice of osteopathic medicine without a license and without being exempt from the licensing requirement under this chapter. For the purpose of this subsection damage or injury as a result of such practice is presumed.

C. A petition for injunction shall be filed in the name of this state by the board or at the request of the attorney general in Maricopa county or the county where the respondent resides or may be found.

D. Issuance of an injunction does not relieve the respondent from being subject to any other proceedings under law provided for in this chapter or otherwise. Violation of an injunction shall be punished as for contempt of court.

E. In all other respects injunction proceedings under this section shall be conducted in the same manner as other injunctions.

### 32-1858. Violations; classification

A. A person who practices medicine and surgery as an osteopathic physician and surgeon without compliance with this chapter or a person who violates any of the provisions of this chapter is guilty of a class 5 felony.

B. A violation of each section of this chapter constitutes a separate offense and each day of continuing violation constitutes a separate offense.

### 32-1859. Medical assistants

Nothing in this chapter shall be construed to prevent a medical assistant from assisting a doctor of osteopathic medicine pursuant to rules adopted by the board.

### 32-1860. Acquired immune deficiency syndrome; disclosure of patient information; immunity; definition

A. Notwithstanding section 32-1854, it is not an act of unprofessional conduct for a physician to report to the department of health services the name of a patient's spouse or sex partner or a person with whom the patient has shared hypodermic needles or syringes if the physician knows that the patient has contracted or tests positive for the human immunodeficiency virus and that the patient has not or will not notify these people and refer them to testing. Before making the report to the department of health services, the physician shall first consult with the patient and ask the patient to release this information voluntarily.

B. It is not an act of unprofessional conduct for a physician who knows or has reason to believe that a significant exposure has occurred between a patient infected with the human immunodeficiency virus and a health care or public safety employee to inform the employee of the exposure. Before informing the employee, the physician shall consult with the patient and ask the patient to release this information voluntarily. If the patient does not release this information the physician may do so in a manner that does not identify the patient.

C. This section does not impose a duty to disclose information. A physician is not civilly or criminally liable for either disclosing or not disclosing information.

D. If a physician decides to make a disclosure pursuant to this section, he may request that the department of health services make the disclosure on his behalf.

E. For the purposes of this section, "significant exposure" means contact of a person's ruptured or broken skin or mucous membranes with another person's blood or body fluids, other than tears, saliva or perspiration, of a magnitude that the centers for disease control of the United States public health service have epidemiologically demonstrated can result in transmission of the human immunodeficiency virus.

### 32-1861. Substance abuse treatment and rehabilitation program; private contract; funding

A. The board may establish a confidential program for the treatment and rehabilitation of licensees who are impaired by substance abuse. This program may include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. The board may contract with other organizations to operate the program established pursuant to subsection A of this section. A contract with a private organization shall include the following requirements:

1. Periodic reports to the board regarding treatment program activity.
2. Release to the board on demand of all treatment records.
3. Quarterly reports to the board regarding each physician's diagnosis and prognosis and recommendations for continuing care, treatment and supervision.
4. Immediate reporting to the board of the name of an impaired physician who the treating organization believes to be incapable of safely practicing medicine.

C. The board may allocate an amount of not more than twenty dollars from each fee it collects from the renewal of licenses pursuant to section 32-1826 for the administration of the program established by this section.

**32-1871. Dispensing of drugs and devices; conditions; exception; civil penalty**

A. Except as provided in subsection B of this section, an osteopathic physician may dispense drugs and devices kept by the physician if:

1. All drugs are dispensed in packages labeled with the following information:
  - (a) The dispensing physician's name, address and telephone number.
  - (b) The date the drug is dispensed.
  - (c) The patient's name.
  - (d) The name and strength of the drug, directions for its use and any cautionary statements.
2. The dispensing physician enters into the patient's medical record the name and strength of the drug dispensed, the date the drug is dispensed and the therapeutic reason.
3. The dispensing physician keeps all drugs in a locked cabinet or room, controls access to the cabinet or room by a written procedure and maintains an ongoing inventory of its contents.
4. The dispensing physician annually registers with the board to dispense drugs and devices.
5. The dispensing physician pays the registration fee prescribed by the board pursuant to section 32-1826. This paragraph does not apply if the physician is dispensing in a nonprofit practice and neither the patient nor a third party pays or reimburses the physician or the nonprofit practice for the drugs or devices dispensed.
6. The dispensing physician labels dispensed drugs and devices and stores them according to rules adopted by the board.

B. An osteopathic physician may not dispense a schedule II controlled substance that is an opioid, except for an implantable device or an opioid that is for medication-assisted treatment for substance use disorders.

C. Except in an emergency situation, a physician who dispenses drugs without being registered by the board to do so is subject to a civil penalty by the board of not less than three hundred dollars and not more than one thousand dollars for each transaction and is prohibited from further dispensing for a period of time as prescribed by the board.

D. Before dispensing a drug pursuant to this section, the patient shall be given a written prescription on which appears the following statement in bold type: "This prescription may be filled by the prescribing physician or by a pharmacy of your choice."

E. A physician shall dispense only to the physician's patient and only for conditions being treated by that physician.

F. The board shall enforce this section and shall establish rules regarding labeling, recordkeeping, storage and packaging of drugs that are consistent with the requirements of chapter 18 of this title. The board may conduct periodic inspections of dispensing practices to ensure compliance with this section and applicable rules.

G. If a physician fails to renew a registration to dispense or ceases to dispense for any reason, within thirty days that physician must notify the board in writing of the remaining inventory of drugs and devices and the manner in which they were disposed.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND  
SURGERY**

1. Identification of the rulemaking:

In this rulemaking, the Board makes changes identified as needed in a five-year-review report approved by the Council on June 8, 2010, makes new rules regarding dispensing drugs and office-based surgery, establishes standards for reentering medical practice, and establishes a program for treatment and rehabilitation of impaired physicians. The Board also makes the rules consistent with statute, agency practice, and current rule-writing standards.

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

Without this rulemaking, the Board will lack necessary standards regarding dispensing drugs, office-based surgery, reentering medical practice, and treatment and rehabilitation of impaired physicians. Although most of the Board's licensees comply with community standards regarding dispensing drugs and office-based surgery, there have been some out-lying cases with which having the specific standards in this rulemaking would have made discipline easier.

The rules regarding reentering medical practice and treatment and rehabilitation of impaired physicians are fact based and decided on a case-by-case basis. Having these standards assists the Board to assist licensees or former licensees who may have experienced or are experiencing difficulties.

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

The Board believes the rules in this rulemaking will assist it to fulfill its statutory responsibility to protect public health and safety. The standards regarding dispensing

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

drugs and office-based surgery will protect the public from those who might be tempted to practice in a manner that might cause harm. Allowing a manner in which a physician can reenter practice protects the public's investment in the physician and enables the physician to again contribute to the medical care of the public. Having a program for the treatment and rehabilitation of an impaired physician not only protects the public's investment in the physician but also protects the public from potential harm caused by the physician's impairment and protects the physician from potential harm arising from the impairment.

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

When the rulemaking is complete, the Board will have rules that are consistent with statute and agency practice and specify standards that enable the Board to fulfill its statutory responsibility to protect public health and safety.

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

The Board believes the rulemaking will have minimal economic impact. The following rule changes will have economic impact on applicants and licensees:

- Increasing the charge for verification of a license issued by the Board;
- Establishing minimum requirements for dispensing drugs;
- Establishing standards for reentering medical practice;
- Establishing a program for treatment and rehabilitation of impaired physicians;
- Expanding the procedures that a medical assistant is permitted to perform under direct supervision; and
- Establishing minimum standards for performing office-based surgery.

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: Jenna Jones, Executive Director

Address: Board of Examiners in Osteopathic Medicine and Surgery  
9535 E. Doubletree Ranch Road

Scottsdale, AZ 85258

Telephone: (602) 771-2522

Fax: (480) 657-7715

E-mail: Jenna.Jones@azdo.gov

Web site: www.azdo.gov

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

Licenseses and applicants will be directly affected by, bear the costs of, and directly benefit from the rulemaking. The Board currently has 2,738 licenseses. It added 164 new licenseses in FY2013. The Board received dispensing registrations from 125 physicians.

The Board expects the newly established standards for dispensing drugs to have minimal effect because licenseses currently register with the Board and dispense drugs. The new standards simply align the rules with agency practice and, if the licensee dispenses controlled substances, federal law.

Based on the number of license verifications provided in FY2013, the Board expects the increase in its charge to provide a license verification to generate approximately \$1,700 annually.

The Board expects the newly established standards regarding office-based surgery to have minimal economic impact on physicians because the standards are consistent with community standards designed to protect public health and safety and most physicians already comply with the standards. Having the standards in rule will make it easier for the Board to deal with complaints involving a licensee's performance of office-based surgery.

The Board expects the new procedure for reentry into practice will affect fewer than 10 individuals annually. This is a fact-based procedure that enables individuals to resume practice when the Board determines that doing so will not endanger public health and safety. The economic impact for the individuals allowed to reenter practice may be significant.

The Board currently has about 12 licensees participating in a confidential program for treatment and rehabilitation of impaired licensees. The Board expects the program specified in the rulemaking to have minimal economic impact because the Board has been and will continue dealing with the treatment and rehabilitation of impaired licensees on a case-by-case basis.

Medical assistants are not required to be licensed by the Board. Expanding the list of procedures that a medical assistant may perform under the direct supervision of a licensee will have an economic benefit to the licensee. However, requiring that the direct supervision be provided by a licensee rather than a physician assistant may impose a small economic cost of the licensee.

During FY2013, the Board received 229 complaints. Most of the complaints alleged inappropriate prescribing, failure to provide medical records, substandard care, and issues involving communication, boundaries, and billing. Hearings were held in 95 cases. Thirteen physicians were disciplined. Discipline ranged from censuring to revocation.

During FY2013, the Board generated \$888,397 in fees and \$1,000 in civil penalties. The Board was appropriated \$669,200 and authorized to employ 6.7 FTEs.

The Board will also be directly affected by, bear the costs of, and directly benefit from the rulemaking. The Board incurred the cost of doing this rulemaking and will incur the cost of

implementing the rule changes. The Board will benefit from having rules that are consistent with statute and agency practice and rule-writing standards.

5. Cost-benefit analysis:

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

The Board is the only state agency directly affected by the rulemaking. Its costs and benefits are described in Item 4. The Board will not require a new full-time employee to implement or enforce the rulemaking.

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

No political subdivisions are directly affected by the rulemaking.

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

Osteopathic physicians are businesses directly affected by the rulemaking. Their costs and benefits are described in Item 4.

6. Impact on private and public employment:

The Board expects the rulemaking to have no impact on private or public employment.

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

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

Osteopathic physicians are small businesses directly affected by the rulemaking.

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

Costs required for compliance with the rulemaking result from requirements to submit an application for licensure and license renewal, pay licensing fees, take continuing medical education, register with the Board if dispensing controlled substances or prescription-only drugs or devices, adhere to community standards regarding prescribing, dispensing, and recordkeeping, supervise medical assistants, and adhere to community standards designed to protect public health and safety if

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<sup>2</sup> Small business has the meaning specified in A.R.S. § 41-1001(21).

office-based surgery is performed. Most of these requirements are specified in statute. As a result, most of the cost for compliance results from statutory requirements. The rulemaking simply provides information regarding the manner in which to comply with statutory requirements.

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

Because the Board can fulfill its statutory responsibility to protect public health and safety only if all licensees comply with the statutory and rule standards, no methods were used to reduce the impact on small businesses.

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

No private persons or consumers are directly affected by the rulemaking. Users of osteopathic medical services may be indirectly affected.

9. Probable effects on state revenues:

Ten percent of the fees generated by the Board and all of the civil penalties are placed in the state's general fund. The Board expects the increased amount charged for license verification to result in an additional \$170 being deposited to the general fund.

10. Less intrusive or less costly alternative methods considered:

The Board determined there are no less intrusive or less costly alternative methods that enable it to fulfill its statutory responsibility to protect public health and safety.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

1. Identification of the rulemaking:

The Board is amending its rules in response to two factors. The first is Laws 2015, Chapter 135, which amended A.R.S. § 32-1825(B) to require 40 hours of continuing education during each biennial renewal period rather than 20 hours during each year. The second is a report by the Arizona Auditor General dated June 2016 which indicated the Board should add a time frame for acting on an application to retired a license. The Board makes both of these changes in this rulemaking.

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

Until the rulemaking is completed, the Board's rules regarding continuing education and time frames will be inconsistent with statute.

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:

It is not good government for the Board to have rules that are inconsistent with statute. Inconsistent rules confuse those required to comply with them.

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

When the rulemaking is completed, the Board's rules will be consistent with statute and a source of possible confusion will be eliminated.

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

The Board determined the rulemaking will have minimal impact. It is statute rather than this rulemaking that enables a licensee to obtain required continuing education during a biennial renewal period rather than annually. Adding a time frame for Board action on an application to retired a license and to renew a retired license will provide certainty to the applicant.

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: Jenna Jones, Executive Director

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<sup>1</sup> If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms.

Address: Board of Examiners in Osteopathic Medicine and Surgery  
9535 E. Doubletree Ranch Road  
Scottsdale, AZ 85258

Telephone: (480) 657-7703

Fax: (480) 657-7715

E-mail: Jenna.Jones@azdo.gov

Web site: www.azdo.gov

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

A licensee required to complete continuing education during a biennial renewal period, a licensee seeking to place the license on retired status, and the Board will be directly affected by, bear the costs of, and directly benefit from the rulemaking.

5. Cost-benefit analysis:

There are currently 3,107 licensed osteopathic physicians. The Board has been accepting 40 hours of CE obtained during a biennial license renewal period, which is consistent with statute, rather than insisting a licensee obtain 20 hours of CE during each year of the biennial license renewal period. As a result, the rulemaking aligns the Board's rule with statute but does not change the manner in which a licensee may obtain the required CE so the rulemaking will have minimal economic impact. It will benefit licensees who might be confused by the inconsistency between the rule and statute.

There are currently 17 licensees on retired status. During the last fiscal year, seven licensees requested retired status. The Board complies with its time frames and will do so for the time frames added in this rulemaking for requesting and renewing retired status. The rulemaking will benefit the Board by ensuring its rules are consistent with statute.

The Board collected \$857,195 in licensing fees last year. Its work is supported by 6.75 FTE employees.

The Board incurred the cost of completing this rulemaking and will incur the cost of implementing the rules. These costs were minimal.

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(A.R.S. § 41-1055(C)).

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

The Board is the only state agency directly affected by the rulemaking. Its minimal costs and benefits are discussed above. The Board will require no new FTE employees to implement or enforce the rules.
- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

No political subdivision is directly affected by the rulemaking.
- c. Costs and benefits to businesses directly affected by the rulemaking:

Licensed osteopathic physicians are businesses directly affected by the rulemaking. Their minimal costs and benefits are discussed above.
6. Impact on private and public employment:

The rulemaking will have no impact on private or public employment.
7. Impact on small businesses<sup>2</sup>:
  - a. Identification of the small business subject to the rulemaking:

Licensed osteopathic physicians are small business directly affected by the rulemaking. Their minimal costs and benefits are discussed above.
  - b. Administrative and other costs required for compliance with the rulemaking:

A licensee is required to obtain CE and provide evidence of completing the required CE. However, those requirements currently exist. They are not added in this rulemaking.
  - c. Description of methods that may be used to reduce the impact on small businesses:

Because the economic impact of rulemaking is so minimal, it is not possible to reduce the impact on small businesses. Indeed, the rulemaking has only positive economic benefits for licensees because it aligns the rule with the longer statutory time frame for obtaining CE.
8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

Private persons and consumers are not directly affected by the rulemaking.
9. Probable effects on state revenues:

There will be no effect on state revenues.
10. Less intrusive or less costly alternative methods considered:

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<sup>2</sup> Small business has the meaning specified in A.R.S. § 41-1001(21).

There is nothing intrusive or costly about this rulemaking. It simply aligns the Board's rules with statute. No alternative methods were considered.

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

## TITLE 4. PROFESSIONS AND OCCUPATIONS

### CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

1. Identification of the rulemaking:

The Board is amending its rules to address three recent statutory changes. Under Laws 2016, Chapter 137, the legislature adopted the Interstate Medical Licensure Compact (See A.R.S. §§ 32-3241 to 32-3246) and created a new, temporary license to allow an applicant for Arizona licensure to obtain a non-renewable, temporary license to practice osteopathic medicine in Arizona while the application for full licensure is processed. A.R.S. § 32-1834 authorizes the Board to establish a fee for the temporary license. This rulemaking establishes the fee and as required under A.R.S. § 41-1073, establishes the time frame within which the Board will act on an application for a temporary license.

Under Laws 2017, Chapter 265, the legislature required all applicants for licensure to submit to the Board a full set of fingerprints for the purpose of obtaining a state and federal criminal records check. This rulemaking places the fingerprint requirement into rule and adds the charge for processing the fingerprints.

Under Laws 2018, Chapter 1, the legislature added A.R.S. § 32-3248.02, which requires a health professional authorized to prescribe or dispense schedule II controlled substances to complete three hours of opioid-related, substance use disorder-related, or addiction-related continuing medical education during each license renewal cycle. This rulemaking establishes the new CME requirement.

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

Until the rulemaking is completed, the Board's rules will be inconsistent with statute.

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:

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

It is not good government and potentially causes confusion for applicants and licensees to have rules that are inconsistent with statute.

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

When the rulemaking is completed, the Board's rules will be consistent with statute.

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

Under statute, no one is required to obtain a temporary license so no one is required to pay the fee established in this rulemaking. An osteopathic physician voluntarily obtains a temporary license and pays the fee because the osteopathic physician believes the cost is outweighed by the benefit of being able to practice medicine while the application for full licensure is processed.

An applicant will incur the expense of submitting to the Board a full set of fingerprints for the purpose of obtaining a state and federal criminal records check. This is a cost the legislature determined is offset by the concern for public health and safety.

The impact of the change to the CME requirement will be minimal. Licensees are not being required to obtain an additional hour of CME. Rather, they are being required to ensure three of the 40 statutorily required CME hours address opioid-related, substance use disorder-related, or addiction-related prescribing.

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: Justin Bohall, Executive Director

Address: Board of Examiners in Osteopathic Medicine and Surgery  
1740 W Adams Street, Suite 2410  
Phoenix, AZ 85007

Telephone: (602) 771-2522

Fax: (480) 657-7715

E-mail: Justin.bohall@azdo.gov

Web site: www.azdo.gov

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

Applicants for licensure, licensees, and the Board will be directly affected by, bear the costs of, or directly benefit from this rulemaking.

There currently are 3,451 osteopathic licensees. During FY2018, the Board received 16 applications for a temporary license. The 16 individuals voluntarily paid the \$250 for the temporary license. During FY2018, the Board received two additional applications. The 18 individuals who applied for licensure in FY2018 incurred the cost of having a full set of fingerprints made and the \$50 charge for criminal-record processing of the fingerprints. These expenses result primarily from statute rather than rule.

One hour of category 1A CME costs approximately \$20 so the three hours regarding opioid-related, substance use disorder-related, or addiction-related prescribing cost \$60. However, this is not a new or additional expense. It is simply a redirection of an existing expense.

The Board incurred the cost of making these rules and will incur the cost of implementing and enforcing them. These costs are offset by the benefit of having rules consistent with statute.

5. Cost-benefit analysis:

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

The Board is the only state agency directly affected by the rulemaking. Its costs and benefits are listed under item 4. The Board will not need to employ an additional full-time employee to implement the rule changes.

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

No political subdivision is directly affected by the rulemaking.

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

Osteopathic physicians are the only businesses directly affected by the rulemaking. Their costs and benefits are listed under item 4.

6. Impact on private and public employment:

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

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

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

Osteopathic physicians are small businesses subject to the rulemaking.

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

The \$250 fee for a temporary license is a voluntarily assumed cost of the rulemaking. The cost of obtaining a full set of fingerprints and submitting them for a criminal records check is a cost of statute rather than rule. There is no cost associated with redirecting three hours of the CME, as required by statute.

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

Because all osteopathic physicians are small businesses and because the cost of complying with this rulemaking is minimal, no method may be used to reduce the impact on small businesses.

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

No private persons or consumers are directly affected by the rulemaking. Consumers of osteopathic services may be indirectly affected.

9. Probable effects on state revenues:

Ten percent of the fees collected by the Board are required to be deposited in the state's general fund. Sixteen individuals paid \$250 for a temporary license in FY2018. This resulted in an additional \$400 being deposited in the state's general fund.

10. Less intrusive or less costly alternative methods considered:

Because of the minimal economic impact of the rulemaking, no less intrusive or less costly alternative method was considered.

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<sup>2</sup> Small business has the meaning specified in A.R.S. § 41-1001(21).

**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) (F20-0306)**

Title 9, Chapter 22, Article 16, Hospital Presumptive Eligibility



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** April 7, 2020

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

**FROM:** Council Staff

**DATE:** March 13, 2020

**SUBJECT:** ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (F20-0306)  
Title 9, Chapter 22, Article 16, Hospital Presumptive Eligibility

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### **Summary**

This Five-Year Review Report (5YRR) from the Arizona Health Care Cost Containment System (AHCCCS) relates to one rule in Title 9, Chapter 22, Article 16 related to the general eligibility requirements for the Hospital Presumptive Eligibility (HPE) program. Specifically, this rule allows a hospital to determine HPE, on the basis of preliminary information, that an individual is eligible for AHCCCS medical coverage during a presumptive eligibility period.

This is the first 5YRR for this rule which was created in a rulemaking which became effective January 1, 2015.

### **Proposed Action**

AHCCCS proposes to take no action with regards to this rule.

**1. Has the agency analyzed whether the rules are authorized by statute?**

Yes. AHCCCS cites both general and specific statutory authority for these rules.

2. **Summary of the agency's economic impact comparison and identification of stakeholders:**

The Stakeholders include: The Administration, AHCCCS members and eligible people, health care providers, and the public.

There is no Economic Impact Statement to evaluate because there have been no changes to the rules.

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?**

In 2015, the Hospital Presumptive Eligibility (HPE) program was enacted by AHCCCS pursuant to the Affordable Care Act. The Administration states that the HPE program is required under the ACA, continuing the option of hospitals registering under the program is still the most cost effective method of complying with federal requirements, despite the choice of hospitals to not take advantage of the program.

4. **Has the agency received any written criticisms of the rules over the last five years?**

AHCCCS indicates it has not received any written criticisms of the rules in the last five years.

5. **Has the agency analyzed the rules' clarity, conciseness, and understandability, consistency with other rules and statutes, and effectiveness?**

AHCCCS indicates the rule is clear, concise, understandable, consistent with other rules and statutes, and effective in achieving its regulatory objective.

6. **Has the agency analyzed the current enforcement status of the rules?**

AHCCCS indicates the rule is currently enforced as written.

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

AHCCCS indicates that the rule is not more stringent than corresponding federal law including 42 U.S.C. § 1396a(a)(47)(B) and 42 C.F.R. § 435.1110.

8. **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.

**9. Conclusion**

AHCCCS finds this rule related to HPE is clear, concise, understandable, consistent, and effective. AHCCCS indicates the rule is enforced as written. AHCCCS has not received any written criticisms on this rule. AHCCCS proposes to take no action regarding this rule. Council staff recommends approval of this report.

December 23, 2019

**VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)**

Nicole Sornsin, Chair  
Governor's Regulatory Review Council  
100 North 15th Avenue, Suite 305  
Phoenix, Arizona 85007

RE: AHCCCS Title 9, Chapter 22, Article 16, Five Year Review Report

Dear Ms. Sornsin:

Please find enclosed the Five Year Review Report of AHCCCS for Title 9, Chapter 22, Article 16 which is due on December 31, 2019.

AHCCCS reviewed the following rules on this date because the Council rescheduled the initial review of an article under A.R.S. 41-1056(H).

AHCCCS hereby certifies compliance with A.R.S. 41-1091.

For questions about this report, please contact Nicole Fries at 602-417-4232 or [nicole.fries@azahcccs.gov](mailto:nicole.fries@azahcccs.gov).

Sincerely,



Matthew Devlin  
Assistant Director

Attachments

Arizona Health Care Cost Containment System (AHCCCS)

5 YEAR REVIEW REPORT

A.A.C. Title 9, Chapter 22, Article 16

December 2019

1. **Authorization of the rule by existing statutes**

General Statutory Authority: A.R.S. §§ 36-2903 and 36-2903.01

Specific Statutory Authority: A.R.S. § 36-2901

2. **The objective of each rule:**

Rule	Objective
R9-22-1601	This rule provides the eligibility bases for the hospital presumptive eligibility program.

3. **Are the rules effective in achieving their objectives?** Yes X No \_\_\_

4. **Are the rules consistent with other rules and statutes?** Yes X No \_\_\_

5. **Are the rules enforced as written?** Yes X No \_\_\_

6. **Are the rules clear, concise, and understandable?** Yes X No \_\_\_

7. **Has the agency received written criticisms of the rules within the last five years?** Yes \_\_\_ No X

8. **Economic, small business, and consumer impact comparison:**

When the rulemaking was enacted in 2015, AHCCCS was unable to calculate the cost to the State, businesses, or the public. However, there is currently no utilization by any of the six hospitals registered in the program, and over the last year no AHCCCS members had their eligibility determined through the Hospital Presumptive Eligibility (HPE) program.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes \_\_\_ No X

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

There was no prior Five Year Review Report because R9-22-1601 was created in a rulemaking five years ago.

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:**

In 2015, the Hospital Presumptive Eligibility program was enacted by AHCCCS pursuant to the Affordable Care Act. When the rulemaking for R9-22-Article 16 was enacted, AHCCCS was unable to estimate any costs due to a knowledge gap regarding how many AHCCCS members might be found eligible through this new initiative. Although AHCCCS does not have a ready estimate of how many members have entered AHCCCS coverage through the HPE program, for the last year,

zero member have had their eligibility determined by any of the six hospitals currently registered under the program. AHCCCS believes this is due to the quality check AHCCCS does on every single HPE application and the costs the hospital must bear for any patient found ineligible after receiving services. Therefore, it is AHCCCS's understanding that the hospitals instead have community assistors help eligible members of the public apply through more traditional channels rather than risk an additional cost burden. However, since the HPE program is required under the ACA, continuing the option of hospitals registering under the program is still the most cost effective method of complying with federal requirements, despite the choice of hospitals to not take advantage of the program.

12. **Are the rules more stringent than corresponding federal laws?** Yes \_\_\_ No X

It is not more stringent than 42 U.S.C. § 1396a(a)(47)(B); 42 C.F.R. § 435.1110

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:** Not applicable.

14. **Proposed course of action:** There are no proposed changes.

## CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

- C. The Administration shall determine whether the applicant's countable income, as described in R9-22-1503, without deducting the amount from earned income under 42 U.S.C. 1382a(b)(4)(B)(iii), is less than or equal to 100 percent FPL as adjusted annually.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

**R9-22-1505. Eligibility for Special Groups****A.** The following are considered special groups:

1. A person meeting the requirements in A.R.S. § 36-2903.03 who:
  - a. Is aged, blind, or disabled under 42 CFR 435.520, 42 CFR 435.530, or 42 CFR 435.540 as of October 1, 2012, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
  - b. Received SSI cash or AHCCCS medical coverage under this subsection, or subsections (A)(2), (A)(3), or (A)(4) on or before August 21, 1996;
  - c. Was residing in the United States under color of law on or before August 21, 1996; and
  - d. Meets the requirements under this Article;
2. A disabled child (DC) under 42 U.S.C. 1396a(a)(10)(A)(i)(II). A disabled child is a child who:
  - a. Was receiving SSI cash benefits as a disabled child on August 22, 1996;
  - b. Lost SSI cash benefits effective July 1, 1997, or later, due to a disability determination under Section 211(d) of Subtitle B of P.L. 104-193;
  - c. Continues to meet the disability requirements for a child that were in effect on August 21, 1996; and
  - d. Meets the requirements under this Article;
3. A disabled adult child (DAC), under 42 U.S.C. 1383c(c) who:
  - a. Was determined disabled by the Social Security Administration before attaining the age of 22 years,
  - b. Became entitled to or received an increase in child's insurance benefits under Title II of the Act on the basis of blindness or disability,
  - c. Was terminated from SSI cash benefits due to entitlement to or an increase in income under Title II of the Act,
  - d. Meets the requirements under this Article, and
  - e. Is 18 years of age or older;
4. A disabled widow or widower (DWW) under 42 U.S.C. 1383c(b) and (d) who:
  - a. Is blind or disabled,
  - b. Is ineligible for Medicare Part A benefits,
  - c. Received SSI cash benefits the month before Title II of the Act benefit payments began,
  - d. Meets the requirements under this Article;
  - e. Is at least 50 years of age but under age 65; and
  - f. Is unmarried.
5. Under 42 CFR 435.135, a person who:
  - a. Is aged, blind, or disabled;
  - b. Receives benefits under Title II of the Act;
  - c. Received SSI cash benefits in the past;

- d. Received SSI cash benefits and Title II of the Social Security Act benefits concurrently for at least one month anytime after April 1977;
- e. Became ineligible for SSI cash benefits while receiving SSI and benefits under Title II of the Act concurrently; and
- f. Meets the requirements under this Article.

**B.** Income for special groups.

1. Except as provided in subsection (B)(2), income eligibility is determined using the income criteria in R9-22-1503.
  2. Exceptions to income for special groups.
    - a. For a person in the DAC coverage group under subsection (A)(3), the applicant's Title II of the Social Security Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(c).
    - b. For a person in the DWW coverage group, under subsection (A)(4), the applicant's Title II of the Social Security Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(b) and (d).
    - c. For an applicant or member in the coverage group under subsection (A)(5), the portion of the applicant's or member's Title II of the Social Security Act benefits attributed to cost-of-living adjustments received by the applicant since the effective date of SSI ineligibility is disregarded in determining income eligibility under 42 CFR 435.135.
- C. 100 percent FBR. As a condition of eligibility for all special groups, countable income shall be equal to or less than 100 percent of the SSI FBR, as adjusted annually.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1).

**R9-22-1506. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1507. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**R9-22-1508. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

**ARTICLE 16. HOSPITAL PRESUMPTIVE ELIGIBILITY****R9-22-1601. General Eligibility Requirements**

## CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

- A.** Notwithstanding Article 3, a qualified hospital may determine Hospital Presumptive Eligibility (HPE), on the basis of preliminary information, that an individual is eligible for AHCCCS medical coverage during the presumptive eligibility period described in this section, if the individual is a United States citizen or eligible qualified alien, and the individual is:
1. Pregnant with gross household income that does not exceed 156% of the FPL;
  2. An adult who meets the requirements of R9-22-1427(E);
  3. A caretaker relative as defined in R9-22-1401(B) with gross household income that does not exceed 106% of the FPL;
  4. Under age 19 with gross household income that does not exceed the limit set in R9-22-1427(D) for the child's age;
  5. A woman screened for breast or cervical cancer by an Arizona program of the National Breast and Cervical Cancer Early Detection Program who meets the requirements of R9-22-2003(A); or
  6. A former foster care child who meets the requirements of R9-22-1432.
- B.** Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article have the following meanings unless the context explicitly requires another meaning: "Qualified hospital" means a hospital that has signed an agreement with the Administration to process HPE applications and has not been disqualified.
- C.** Application Process:
1. Right to apply. A person may apply for presumptive eligibility for AHCCCS medical coverage by submitting an Administration-approved application to the qualified hospital.
  2. Application. To initiate the application process, the qualified hospital will accept an application from the applicant, an adult who is in the applicant's household, as defined in 42 CFR 435.603(f), or family, as defined in section 36B(d)(1) of the Internal Revenue Service (IRS) Code, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant by submitting a written or online application under 42 CFR 435.907.
- D.** To establish presumptive eligibility, an applicant must complete and submit an AHCCCS-approved presumptive eligibility application signed under penalty of perjury to a qualified hospital. The applicant must attest to the name(s), relationship(s), and income of all persons in the household. In addition, the applicant must provide and attest to the following information regarding each household member on whose behalf AHCCCS medical coverage is sought:
1. The individual's date of birth;
  2. Whether the individual is pregnant;
  3. Whether the individual has been determined eligible for Breast and Cervical Cancer Treatment Program, described under Article 20;
  4. Whether the individual is a former foster child, described under R9-22-1432;
  5. The U.S. citizenship status or eligible qualified alien status under A.R.S. 36-2903.03 of the individual; and
  6. The individual's permanent and mailing addresses;
  7. The individual's Arizona residency status; and
  8. Whether the individual has Medicare coverage.
- E.** Presumptive eligibility begins on the date the hospital determines an individual's presumptive eligibility and ends with the earlier of:
1. In the case of an individual on whose behalf an application has been submitted to AHCCCS or its designee under Article 3, the day on which AHCCCS or its designee makes a determination on that application; or
  2. In the case of an individual on whose behalf an application has not been submitted to AHCCCS or its designee under Article 3, on the last day of the following month in which the determination of presumptive eligibility was made by the qualified hospital.
- F.** An individual may not be determined presumptively eligible more often than once every two years.
- G.** Coverage and reimbursement of services.
1. The Administration shall provide coverage of medically necessary services described under Article 2 to persons determined eligible for HPE on a fee-for-service basis.
  2. Providers shall submit claims for services provided to persons determined eligible for HPE to the Administration as described under Article 7.
- H.** A member may withdraw from HPE coverage by notifying the Administration or its designee.
- I.** Upon determining an individual presumptively eligible, the qualified hospital shall:
1. Notify the applicant at the time a determination regarding presumptive eligibility is made, in writing and orally if appropriate, of the determination for each individual on whose behalf presumptive eligibility was requested and the effective date of the presumptive eligibility;
  2. Provide the applicant with a regular AHCCCS-approved application form and inform the applicant that the applicant may file an application for Medicaid with the Administration or its designee;
  3. Notify AHCCCS of the presumptive eligibility determination;
  4. Notify the applicant at the time the determination is made that presumptive eligibility ends with the earlier of:
    - a. In the case of an individual on whose behalf an application has been submitted to AHCCCS or its designee under Article 3, the day on which AHCCCS or its designee makes a determination on that application; or
    - b. In the case of an individual on whose behalf an application has not been submitted to AHCCCS or its designee under Article 3, on the last day of the following month in which the determination of presumptive eligibility was made by the qualified hospital.
- J.** A determination by a qualified hospital that an individual is not presumptively eligible is not appealable under Chapter 34. If a qualified hospital denies an individual presumptive eligibility, the individual may apply for coverage by submitting an application to the Administration or its designee.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4). New Section made by final rulemaking at 20 A.A.R. 3436, effective January 1, 2015 (Supp. 14-4).

**R9-22-1602. Expired****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by

### 36-2901. Definitions

In this article, unless the context otherwise requires:

1. "Administration" means the Arizona health care cost containment system administration.
2. "Administrator" means the administrator of the Arizona health care cost containment system.
3. "Contractor" means a person or entity that has a prepaid capitated contract with the administration pursuant to section 36-2904 or chapter 34 of this title to provide health care to members under this article or persons under chapter 34 of this title either directly or through subcontracts with providers.
4. "Department" means the department of economic security.
5. "Director" means the director of the Arizona health care cost containment system administration.
6. "Eligible person" means any person who is:
  - (a) Any of the following:
    - (i) Defined as mandatorily or optionally eligible pursuant to title XIX of the social security act as authorized by the state plan.
    - (ii) Defined in title XIX of the social security act as an eligible pregnant woman with a family income that does not exceed one hundred fifty percent of the federal poverty guidelines, as a child under the age of six years and whose family income does not exceed one hundred thirty-three percent of the federal poverty guidelines or as children who have not attained nineteen years of age and whose family income does not exceed one hundred thirty-three percent of the federal poverty guidelines.
    - (iii) Under twenty-six years of age and who was in the custody of the department of child safety pursuant to title 8, chapter 4 when the person became eighteen years of age.
    - (iv) Defined as eligible pursuant to section 36-2901.01.
    - (v) Defined as eligible pursuant to section 36-2901.04.
    - (vi) Defined as eligible pursuant to section 36-2901.07.
  - (b) A full-time officer or employee of this state or of a city, town or school district of this state or other person who is eligible for hospitalization and medical care under title 38, chapter 4, article 4.
  - (c) A full-time officer or employee of any county in this state or other persons authorized by the county to participate in county medical care and hospitalization programs if the county in which such officer or employee is employed has authorized participation in the system by resolution of the county board of supervisors.
  - (d) An employee of a business within this state.
  - (e) A dependent of an officer or employee who is participating in the system.
  - (f) Not enrolled in the Arizona long-term care system pursuant to article 2 of this chapter.
  - (g) Defined as eligible pursuant to section 1902(a)(10)(A)(ii)(XV) and (XVI) of title XIX of the social security act and who meets the income requirements of section 36-2929.
7. "Graduate medical education" means a program, including an approved fellowship, that prepares a physician for the independent practice of medicine by providing didactic and clinical education in a medical discipline to a

medical student who has completed a recognized undergraduate medical education program.

8. "Malice" means evil intent and outrageous, oppressive or intolerable conduct that creates a substantial risk of tremendous harm to others.

9. "Member" means an eligible person who enrolls in the system.

10. "Modified adjusted gross income" has the same meaning prescribed in 42 United States Code section 1396a(e)(14).

11. "Noncontracting provider" means a person who provides health care to members pursuant to this article but not pursuant to a subcontract with a contractor.

12. "Physician" means a person licensed pursuant to title 32, chapter 13 or 17.

13. "Prepaid capitated" means a mode of payment by which a health care contractor directly delivers health care services for the duration of a contract to a maximum specified number of members based on a fixed rate per member notwithstanding:

(a) The actual number of members who receive care from the contractor.

(b) The amount of health care services provided to any member.

14. "Primary care physician" means a physician who is a family practitioner, general practitioner, pediatrician, general internist, or obstetrician or gynecologist.

15. "Primary care practitioner" means a nurse practitioner certified pursuant to title 32, chapter 15 or a physician assistant certified pursuant to title 32, chapter 25. This paragraph does not expand the scope of practice for nurse practitioners as defined pursuant to title 32, chapter 15, or for physician assistants as defined pursuant to title 32, chapter 25.

16. "Regional behavioral health authority" has the same meaning prescribed in section 36-3401.

17. "Section 1115 waiver" means the research and demonstration waiver granted by the United States department of health and human services.

18. "Special health care district" means a special health care district organized pursuant to title 48, chapter 31.

19. "State plan" has the same meaning prescribed in section 36-2931.

20. "System" means the Arizona health care cost containment system established by this article.

36-2903. Arizona health care cost containment system; administrator; powers and duties of director and administrator; exemption from attorney general representation; definition

A. The Arizona health care cost containment system is established consisting of contracts with contractors for the provision of hospitalization and medical care coverage to members. Except as specifically required by federal law and by section 36-2909, the system is only responsible for providing care on or after the date that the person has been determined eligible for the system, and is only responsible for reimbursing the cost of care rendered on or after the date that the person was determined eligible for the system.

B. An agreement may be entered into with an independent contractor, subject to title 41, chapter 23, to serve as the statewide administrator of the system. The administrator has full operational responsibility, subject to supervision by the director, for the system, which may include any or all of the following:

1. Development of county-by-county implementation and operation plans for the system that include reasonable access to hospitalization and medical care services for members.
2. Contract administration and oversight of contractors, including certification instead of licensure for title XVIII and title XIX purposes.
3. Provision of technical assistance services to contractors and potential contractors.
4. Development of a complete system of accounts and controls for the system including provisions designed to ensure that covered health and medical services provided through the system are not used unnecessarily or unreasonably including but not limited to inpatient behavioral health services provided in a hospital. Periodically the administrator shall compare the scope, utilization rates, utilization control methods and unit prices of major health and medical services provided in this state in comparison with other states' health care services to identify any unnecessary or unreasonable utilization within the system. The administrator shall periodically assess the cost effectiveness and health implications of alternate approaches to the provision of covered health and medical services through the system in order to reduce unnecessary or unreasonable utilization.
5. Establishment of peer review and utilization review functions for all contractors.
6. Assistance in the formation of medical care consortiums to provide covered health and medical services under the system for a county.
7. Development and management of a contractor payment system.
8. Establishment and management of a comprehensive system for assuring the quality of care delivered by the system.
9. Establishment and management of a system to prevent fraud by members, subcontracted providers of care, contractors and noncontracting providers.
10. Coordination of benefits provided under this article to any member. The administrator may require that contractors and noncontracting providers are responsible for the coordination of benefits for services provided under this article. Requirements for coordination of benefits by noncontracting providers under this section are limited to coordination with standard health insurance and disability insurance policies and similar programs for health coverage.
11. Development of a health education and information program.
12. Development and management of an enrollment system.
13. Establishment and maintenance of a claims resolution procedure to ensure that ninety per cent of the clean claims shall be paid within thirty days of receipt and ninety-nine per cent of the remaining clean claims shall be

paid within ninety days of receipt. For the purposes of this paragraph, "clean claims" has the same meaning prescribed in section 36-2904, subsection G.

14. Establishment of standards for the coordination of medical care and patient transfers pursuant to section 36-2909, subsection B.

15. Establishment of a system to implement medical child support requirements, as required by federal law. The administration may enter into an intergovernmental agreement with the department of economic security to implement this paragraph.

16. Establishment of an employee recognition fund.

17. Establishment of an eligibility process to determine whether a medicare low income subsidy is available to persons who want to apply for a subsidy as authorized by title XVIII.

C. If an agreement is not entered into with an independent contractor to serve as statewide administrator of the system pursuant to subsection B of this section, the director shall ensure that the operational responsibilities set forth in subsection B of this section are fulfilled by the administration and other contractors as necessary.

D. If the director determines that the administrator will fulfill some but not all of the responsibilities set forth in subsection B of this section, the director shall ensure that the remaining responsibilities are fulfilled by the administration and other contractors as necessary.

E. The administrator or any direct or indirect subsidiary of the administrator is not eligible to serve as a contractor.

F. Except for reinsurance obtained by contractors, the administrator shall coordinate benefits provided under this article to any eligible person who is covered by workers' compensation, disability insurance, a hospital and medical service corporation, a health care services organization, an accountable health plan or any other health or medical or disability insurance plan including coverage made available to persons defined as eligible by section 36-2901, paragraph 6, subdivisions (b), (c), (d) and (e), or who receives payments for accident-related injuries, so that any costs for hospitalization and medical care paid by the system are recovered from any other available third party payors. The administrator may require that contractors and noncontracting providers are responsible for the coordination of benefits for services provided under this article. Requirements for coordination of benefits by noncontracting providers under this section are limited to coordination with standard health insurance and disability insurance policies and similar programs for health coverage. The system shall act as payor of last resort for persons eligible pursuant to section 36-2901, paragraph 6, subdivision (a), section 36-2974 or section 36-2981, paragraph 6 unless specifically prohibited by federal law. By operation of law, eligible persons assign to the system and a county rights to all types of medical benefits to which the person is entitled, including first party medical benefits under automobile insurance policies based on the order of priorities established pursuant to section 36-2915. The state has a right to subrogation against any other person or firm to enforce the assignment of medical benefits. The provisions of this subsection are controlling over the provisions of any insurance policy that provides benefits to an eligible person if the policy is inconsistent with the provisions of this subsection.

G. Notwithstanding subsection E of this section, the administrator may subcontract distinct administrative functions to one or more persons who may be contractors within the system.

H. The director shall require as a condition of a contract with any contractor that all records relating to contract compliance are available for inspection by the administrator and the director subject to subsection I of this section and that such records be maintained by the contractor for five years. The director shall also require that these records be made available by a contractor on request of the secretary of the United States department of health and human services, or its successor agency.

I. Subject to existing law relating to privilege and protection, the director shall prescribe by rule the types of information that are confidential and circumstances under which such information may be used or released, including requirements for physician-patient confidentiality. Notwithstanding any other provision of law, such rules shall be designed to provide for the exchange of necessary information among the counties, the administration and the department of economic security for the purposes of eligibility determination under this article. Notwithstanding any law to the contrary, a member's medical record shall be released without the member's consent in situations or suspected cases of fraud or abuse relating to the system to an officer of the state's certified Arizona health care cost containment system fraud control unit who has submitted a written request for the medical record.

J. The director shall prescribe rules that specify methods for:

1. The transition of members between system contractors and noncontracting providers.
2. The transfer of members and persons who have been determined eligible from hospitals that do not have contracts to care for such persons.

K. The director shall adopt rules that set forth procedures and standards for use by the system in requesting county long-term care for members or persons determined eligible.

L. To the extent that services are furnished pursuant to this article, and unless otherwise required pursuant to this chapter, a contractor is not subject to title 20.

M. As a condition of the contract with any contractor, the director shall require contract terms as necessary in the judgment of the director to ensure adequate performance and compliance with all applicable federal laws by the contractor of the provisions of each contract executed pursuant to this chapter. Contract provisions required by the director shall include at a minimum the maintenance of deposits, performance bonds, financial reserves or other financial security. The director may waive requirements for the posting of bonds or security for contractors that have posted other security, equal to or greater than that required by the system, with a state agency for the performance of health service contracts if funds would be available from such security for the system on default by the contractor. The director may also adopt rules for the withholding or forfeiture of payments to be made to a contractor by the system for the failure of the contractor to comply with a provision of the contractor's contract with the system or with the adopted rules. The director may also require contract terms allowing the administration to operate a contractor directly under circumstances specified in the contract. The administration shall operate the contractor only as long as it is necessary to assure delivery of uninterrupted care to members enrolled with the contractor and accomplish the orderly transition of those members to other system contractors, or until the contractor reorganizes or otherwise corrects the contract performance failure. The administration shall not operate a contractor unless, before that action, the administration delivers notice to the contractor and provides an opportunity for a hearing in accordance with procedures established by the director. Notwithstanding the provisions of a contract, if the administration finds that the public health, safety or welfare requires emergency action, it may operate as the contractor on notice to the contractor and pending an administrative hearing, which it shall promptly institute.

N. The administration for the sole purpose of matters concerning and directly related to the Arizona health care cost containment system and the Arizona long-term care system is exempt from section 41-192.

O. Notwithstanding subsection F of this section, if the administration determines that according to federal guidelines it is more cost-effective for a person defined as eligible under section 36-2901, paragraph 6, subdivision (a) to be enrolled in a group health insurance plan in which the person is entitled to be enrolled, the administration may pay all of that person's premiums, deductibles, coinsurance and other cost sharing obligations for services covered under section 36-2907. The person shall apply for enrollment in the group health insurance plan as a condition of eligibility under section 36-2901, paragraph 6, subdivision (a).

P. The total amount of state monies that may be spent in any fiscal year by the administration for health care shall not exceed the amount appropriated or authorized by section 35-173 for all health care purposes. This

article does not impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

Q. Notwithstanding section 36-470, a contractor or program contractor may receive laboratory tests from a laboratory or hospital-based laboratory for a system member enrolled with the contractor or program contractor subject to all of the following requirements:

1. The contractor or program contractor shall provide a written request to the laboratory in a format mutually agreed to by the laboratory and the requesting health plan or program contractor. The request shall include the member's name, the member's plan identification number, the specific test results that are being requested and the time periods and the quality improvement activity that prompted the request.
2. The laboratory data may be provided in written or electronic format based on the agreement between the laboratory and the contractor or program contractor. If there is no contract between the laboratory and the contractor or program contractor, the laboratory shall provide the requested data in a format agreed to by the noncontracted laboratory.
3. The laboratory test results provided to the member's contractor or program contractor shall only be used for quality improvement activities authorized by the administration and health care outcome studies required by the administration. The contractors and program contractors shall maintain strict confidentiality about the test results and identity of the member as specified in contractual arrangements with the administration and pursuant to state and federal law.
4. The administration, after collaboration with the department of health services regarding quality improvement activities, may prohibit the contractors and program contractors from receiving certain test results if the administration determines that a serious potential exists that the results may be used for purposes other than those intended for the quality improvement activities. The department of health services shall consult with the clinical laboratory licensure advisory committee established by section 36-465 before providing recommendations to the administration on certain test results and quality improvement activities.
5. The administration shall provide contracted laboratories and the department of health services with an annual report listing the quality improvement activities that will require laboratory data. The report shall be updated and distributed to the contracting laboratories and the department of health services when laboratory data is needed for new quality improvement activities.
6. A laboratory that complies with a request from the contractor or program contractor for laboratory results pursuant to this section is not subject to civil liability for providing the data to the contractor or program contractor. The administration, the contractor or a program contractor that uses data for reasons other than quality improvement activities is subject to civil liability for this improper use.

R. For the purposes of this section, "quality improvement activities" means those requirements, including health care outcome studies specified in federal law or required by the centers for medicare and medicaid services or the administration, to improve health care outcomes.

36-2903.01. Additional powers and duties; report; definition

A. The director of the Arizona health care cost containment system administration may adopt rules that provide that the system may withhold or forfeit payments to be made to a noncontracting provider by the system if the noncontracting provider fails to comply with this article, the provider agreement or rules that are adopted pursuant to this article and that relate to the specific services rendered for which a claim for payment is made.

B. The director shall:

1. Prescribe uniform forms to be used by all contractors. The rules shall require a written and signed application by the applicant or an applicant's authorized representative, or, if the person is incompetent or incapacitated, a family member or a person acting responsibly for the applicant may obtain a signature or a reasonable facsimile and file the application as prescribed by the administration.

2. Enter into an interagency agreement with the department to establish a streamlined eligibility process to determine the eligibility of all persons defined pursuant to section 36-2901, paragraph 6, subdivision (a). At the administration's option, the interagency agreement may allow the administration to determine the eligibility of certain persons, including those defined pursuant to section 36-2901, paragraph 6, subdivision (a).

3. Enter into an intergovernmental agreement with the department to:

(a) Establish an expedited eligibility and enrollment process for all persons who are hospitalized at the time of application.

(b) Establish performance measures and incentives for the department.

(c) Establish the process for management evaluation reviews that the administration shall perform to evaluate the eligibility determination functions performed by the department.

(d) Establish eligibility quality control reviews by the administration.

(e) Require the department to adopt rules, consistent with the rules adopted by the administration for a hearing process, that applicants or members may use for appeals of eligibility determinations or redeterminations.

(f) Establish the department's responsibility to place sufficient eligibility workers at federally qualified health centers to screen for eligibility and at hospital sites and level one trauma centers to ensure that persons seeking hospital services are screened on a timely basis for eligibility for the system, including a process to ensure that applications for the system can be accepted on a twenty-four hour basis, seven days a week.

(g) Withhold payments based on the allowable sanctions for errors in eligibility determinations or redeterminations or failure to meet performance measures required by the intergovernmental agreement.

(h) Recoup from the department all federal fiscal sanctions that result from the department's inaccurate eligibility determinations. The director may offset all or part of a sanction if the department submits a corrective action plan and a strategy to remedy the error.

4. By rule establish a procedure and time frames for the intake of grievances and requests for hearings, for the continuation of benefits and services during the appeal process and for a grievance process at the contractor level. Notwithstanding sections 41-1092.02, 41-1092.03 and 41-1092.05, the administration shall develop rules to establish the procedure and time frame for the informal resolution of grievances and appeals. A grievance that is not related to a claim for payment of system covered services shall be filed in writing with and received by the administration or the prepaid capitated provider or program contractor not later than sixty days after the date of the adverse action, decision or policy implementation being grieved. A grievance that is related to a claim for payment of system covered services must be filed in writing and received by the administration or the prepaid capitated provider or program contractor within twelve months after the date of service, within twelve months

after the date that eligibility is posted or within sixty days after the date of the denial of a timely claim submission, whichever is later. A grievance for the denial of a claim for reimbursement of services may contest the validity of any adverse action, decision, policy implementation or rule that related to or resulted in the full or partial denial of the claim. A policy implementation may be subject to a grievance procedure, but it may not be appealed for a hearing. The administration is not required to participate in a mandatory settlement conference if it is not a real party in interest. In any proceeding before the administration, including a grievance or hearing, persons may represent themselves or be represented by a duly authorized agent who is not charging a fee. A legal entity may be represented by an officer, partner or employee who is specifically authorized by the legal entity to represent it in the particular proceeding.

5. Apply for and accept federal funds available under title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)) in support of the system. The application made by the director pursuant to this paragraph shall be designed to qualify for federal funding primarily on a prepaid capitated basis. Such funds may be used only for the support of persons defined as eligible pursuant to title XIX of the social security act or the approved section 1115 waiver.

6. At least thirty days before the implementation of a policy or a change to an existing policy relating to reimbursement, provide notice to interested parties. Parties interested in receiving notification of policy changes shall submit a written request for notification to the administration.

7. In addition to the cost sharing requirements specified in subsection D, paragraph 4 of this section:

(a) Charge monthly premiums up to the maximum amount allowed by federal law to all populations of eligible persons who may be charged.

(b) Implement this paragraph to the extent permitted under the federal deficit reduction act of 2005 and other federal laws, subject to the approval of federal waiver authority and to the extent that any changes in the cost sharing requirements under this paragraph would permit this state to receive any enhanced federal matching rate.

C. The director is authorized to apply for any federal funds available for the support of programs to investigate and prosecute violations arising from the administration and operation of the system. Available state funds appropriated for the administration and operation of the system may be used as matching funds to secure federal funds pursuant to this subsection.

D. The director may adopt rules or procedures to do the following:

1. Authorize advance payments based on estimated liability to a contractor or a noncontracting provider after the contractor or noncontracting provider has submitted a claim for services and before the claim is ultimately resolved. The rules shall specify that any advance payment shall be conditioned on the execution before payment of a contract with the contractor or noncontracting provider that requires the administration to retain a specified percentage, which shall be at least twenty percent, of the claimed amount as security and that requires repayment to the administration if the administration makes any overpayment.

2. Defer liability, in whole or in part, of contractors for care provided to members who are hospitalized on the date of enrollment or under other circumstances. Payment shall be on a capped fee-for-service basis for services other than hospital services and at the rate established pursuant to subsection G of this section for hospital services or at the rate paid by the health plan, whichever is less.

3. Deputize, in writing, any qualified officer or employee in the administration to perform any act that the director by law is empowered to do or charged with the responsibility of doing, including the authority to issue final administrative decisions pursuant to section 41-1092.08.

4. Notwithstanding any other law, require persons eligible pursuant to section 36-2901, paragraph 6, subdivision (a), section 36-2931 and section 36-2981, paragraph 6 to be financially responsible for any cost sharing requirements established in a state plan or a section 1115 waiver and approved by the centers for medicare and

medicaid services. Cost sharing requirements may include copayments, coinsurance, deductibles, enrollment fees and monthly premiums for enrolled members, including households with children enrolled in the Arizona long-term care system.

E. The director shall adopt rules that further specify the medical care and hospital services that are covered by the system pursuant to section 36-2907.

F. In addition to the rules otherwise specified in this article, the director may adopt necessary rules pursuant to title 41, chapter 6 to carry out this article. Rules adopted by the director pursuant to this subsection shall consider the differences between rural and urban conditions on the delivery of hospitalization and medical care.

G. For inpatient hospital admissions and outpatient hospital services on and after March 1, 1993, the administration shall adopt rules for the reimbursement of hospitals according to the following procedures:

1. For inpatient hospital stays from March 1, 1993 through September 30, 2014, the administration shall use a prospective tiered per diem methodology, using hospital peer groups if analysis shows that cost differences can be attributed to independently definable features that hospitals within a peer group share. In peer grouping the administration may consider such factors as length of stay differences and labor market variations. If there are no cost differences, the administration shall implement a stop loss-stop gain or similar mechanism. Any stop loss-stop gain or similar mechanism shall ensure that the tiered per diem rates assigned to a hospital do not represent less than ninety percent of its 1990 base year costs or more than one hundred ten percent of its 1990 base year costs, adjusted by an audit factor, during the period of March 1, 1993 through September 30, 1994. The tiered per diem rates set for hospitals shall represent no less than eighty-seven and one-half percent or more than one hundred twelve and one-half percent of its 1990 base year costs, adjusted by an audit factor, from October 1, 1994 through September 30, 1995 and no less than eighty-five percent or more than one hundred fifteen percent of its 1990 base year costs, adjusted by an audit factor, from October 1, 1995 through September 30, 1996. For the periods after September 30, 1996 no stop loss-stop gain or similar mechanisms shall be in effect. An adjustment in the stop loss-stop gain percentage may be made to ensure that total payments do not increase as a result of this provision. If peer groups are used, the administration shall establish initial peer group designations for each hospital before implementation of the per diem system. The administration may also use a negotiated rate methodology. The tiered per diem methodology may include separate consideration for specialty hospitals that limit their provision of services to specific patient populations, such as rehabilitative patients or children. The initial per diem rates shall be based on hospital claims and encounter data for dates of service November 1, 1990 through October 31, 1991 and processed through May of 1992. The administration may also establish a separate reimbursement methodology for claims with extraordinarily high costs per day that exceed thresholds established by the administration.

2. For rates effective on October 1, 1994, and annually through September 30, 2011, the administration shall adjust tiered per diem payments for inpatient hospital care by the data resources incorporated market basket index for prospective payment system hospitals. For rates effective beginning on October 1, 1999, the administration shall adjust payments to reflect changes in length of stay for the maternity and nursery tiers.

3. Through June 30, 2004, for outpatient hospital services, the administration shall reimburse a hospital by applying a hospital specific outpatient cost-to-charge ratio to the covered charges. Beginning on July 1, 2004 through June 30, 2005, the administration shall reimburse a hospital by applying a hospital specific outpatient cost-to-charge ratio to covered charges. If the hospital increases its charges for outpatient services filed with the Arizona department of health services pursuant to chapter 4, article 3 of this title, by more than 4.7 percent for dates of service effective on or after July 1, 2004, the hospital specific cost-to-charge ratio will be reduced by the amount that it exceeds 4.7 percent. If charges exceed 4.7 percent, the effective date of the increased charges will be the effective date of the adjusted Arizona health care cost containment system cost-to-charge ratio. The administration shall develop the methodology for a capped fee-for-service schedule and a statewide cost-to-charge ratio. Any covered outpatient service not included in the capped fee-for-service schedule shall be reimbursed by applying the statewide cost-to-charge ratio that is based on the services not included in the capped fee-for-service schedule. Beginning on July 1, 2005, the administration shall reimburse clean claims with dates of service on or after July 1, 2005, based on the capped fee-for-service schedule or the statewide cost-to-charge

ratio established pursuant to this paragraph. The administration may make additional adjustments to the outpatient hospital rates established pursuant to this section based on other factors, including the number of beds in the hospital, specialty services available to patients and the geographic location of the hospital.

4. Except if submitted under an electronic claims submission system, a hospital bill is considered received for purposes of this paragraph on initial receipt of the legible, error-free claim form by the administration 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.

Payment received by a hospital from the administration pursuant to this subsection or from a contractor either by contract or pursuant to section 36-2904, subsection I is considered payment by the administration or the contractor of the administration's or contractor'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 services rendered on and after October 1, 1997, the administration 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 administration 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 administration 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 administration 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. In developing the reimbursement methodology, if a review of the reports filed by a hospital pursuant to section 36-125.04 indicates that further investigation is considered necessary to verify the accuracy of the information in the reports, the administration may examine the hospital's records and accounts related to the reporting requirements of section 36-125.04. The administration shall bear the cost incurred in connection with this examination unless the administration finds that the records examined are significantly deficient or incorrect, in which case the administration may charge the cost of the investigation to the hospital examined.

7. Except for privileged medical information, the administration shall make available for public inspection the cost and charge data and the calculations used by the administration to determine payments under the tiered per diem system, provided that individual hospitals are not identified by name. The administration shall make the data and calculations available for public inspection during regular business hours and shall provide copies of the data and calculations to individuals requesting such copies within thirty days of receipt of a written request. The administration may charge a reasonable fee for the provision of the data or information.

8. The prospective tiered per diem payment methodology for inpatient hospital services shall include a mechanism for the prospective payment of inpatient hospital capital related costs. The capital payment shall

include hospital specific and statewide average amounts. For tiered per diem rates beginning on October 1, 1999, the capital related cost component is frozen at the blended rate of forty percent of the hospital specific capital cost and sixty percent of the statewide average capital cost in effect as of January 1, 1999 and as further adjusted by the calculation of tier rates for maternity and nursery as prescribed by law. Through September 30, 2011, the administration shall adjust the capital related cost component by the data resources incorporated market basket index for prospective payment system hospitals.

9. For graduate medical education programs:

(a) Beginning September 30, 1997, the administration shall establish a separate graduate medical education program to reimburse hospitals that had graduate medical education programs that were approved by the administration as of October 1, 1999. The administration shall separately account for monies for the graduate medical education program based on the total reimbursement for graduate medical education reimbursed to hospitals by the system in federal fiscal year 1995-1996 pursuant to the tiered per diem methodology specified in this section. The graduate medical education program reimbursement shall be adjusted annually by the increase or decrease in the index published by the global insight hospital market basket index for prospective hospital reimbursement. Subject to legislative appropriation, on an annual basis, each qualified hospital shall receive a single payment from the graduate medical education program that is equal to the same percentage of graduate medical education reimbursement that was paid by the system in federal fiscal year 1995-1996. Any reimbursement for graduate medical education made by the administration shall not be subject to future settlements or appeals by the hospitals to the administration. The monies available under this subdivision shall not exceed the fiscal year 2005-2006 appropriation adjusted annually by the increase or decrease in the index published by the global insight hospital market basket index for prospective hospital reimbursement, except for monies distributed for expansions pursuant to subdivision (b) of this paragraph.

(b) The monies available for graduate medical education programs pursuant to this subdivision shall not exceed the fiscal year 2006-2007 appropriation adjusted annually by the increase or decrease in the index published by the global insight hospital market basket index for prospective hospital reimbursement. Graduate medical education programs eligible for such reimbursement are not precluded from receiving reimbursement for funding under subdivision (c) of this paragraph. Beginning July 1, 2006, the administration shall distribute any monies appropriated for graduate medical education above the amount prescribed in subdivision (a) of this paragraph in the following order or priority:

(i) For the direct costs to support the expansion of graduate medical education programs established before July 1, 2006 at hospitals that do not receive payments pursuant to subdivision (a) of this paragraph. These programs must be approved by the administration.

(ii) For the direct costs to support the expansion of graduate medical education programs established on or before October 1, 1999. These programs must be approved by the administration.

(c) The administration shall distribute to hospitals any monies appropriated for graduate medical education above the amount prescribed in subdivisions (a) and (b) of this paragraph for the following purposes:

(i) For the direct costs of graduate medical education programs established or expanded on or after July 1, 2006. These programs must be approved by the administration.

(ii) For a portion of additional indirect graduate medical education costs for programs that are located in a county with a population of less than five hundred thousand persons at the time the residency position was created or for a residency position that includes a rotation in a county with a population of less than five hundred thousand persons at the time the residency position was established. These programs must be approved by the administration.

(d) The administration shall develop, by rule, the formula by which the monies are distributed.

(e) Each graduate medical education program that receives funding pursuant to subdivision (b) or (c) of this paragraph shall identify and report to the administration the number of new residency positions created by the funding provided in this paragraph, including positions in rural areas. The program shall also report information related to the number of funded residency positions that resulted in physicians locating their practices in this state. The administration shall report to the joint legislative budget committee by February 1 of each year on the number of new residency positions as reported by the graduate medical education programs.

(f) Local, county and tribal governments and any university under the jurisdiction of the Arizona board of regents may provide monies in addition to any state general fund monies appropriated for graduate medical education in order to qualify for additional matching federal monies for providers, programs or positions in a specific locality and costs incurred pursuant to a specific contract between the administration and providers or other entities to provide graduate medical education services as an administrative activity. Payments by the administration pursuant to this subdivision may be limited to those providers designated by the funding entity and may be based on any methodology deemed appropriate by the administration, including replacing any payments that might otherwise have been paid pursuant to subdivision (a), (b) or (c) of this paragraph had sufficient state general fund monies or other monies been appropriated to fully fund those payments. These programs, positions, payment methodologies and administrative graduate medical education services must be approved by the administration and the centers for medicare and medicaid services. The administration shall report to the president of the senate, the speaker of the house of representatives and the director of the joint legislative budget committee on or before July 1 of each year on the amount of money contributed and number of residency positions funded by local, county and tribal governments, including the amount of federal matching monies used.

(g) Any funds appropriated but not allocated by the administration for subdivision (b) or (c) of this paragraph may be reallocated if funding for either subdivision is insufficient to cover appropriate graduate medical education costs.

10. Notwithstanding section 41-1005, subsection A, paragraph 9, the administration shall adopt rules pursuant to title 41, chapter 6 establishing the methodology for determining the prospective tiered per diem payments that are in effect through September 30, 2014.

11. For inpatient hospital services rendered on or after October 1, 2011, the prospective tiered per diem payment rates are permanently reset to the amounts payable for those services as of October 1, 2011 pursuant to this subsection.

12. The administration shall adopt a diagnosis-related group based hospital reimbursement methodology consistent with title XIX of the social security act for inpatient dates of service on and after October 1, 2014. The administration may make additional adjustments to the inpatient hospital rates established pursuant to this section for hospitals that are publicly operated or based on other factors, including the number of beds in the hospital, the specialty services available to patients, the geographic location and diagnosis-related group codes that are made publicly available by the hospital pursuant to section 36-437. The administration may also provide additional reimbursement for extraordinarily high cost cases that exceed a threshold above the standard payment. The administration may also establish a separate payment methodology for specific services or hospitals serving unique populations.

H. The director may adopt rules that specify enrollment procedures, including notice to contractors of enrollment. The rules may provide for varying time limits for enrollment in different situations. The administration shall specify in contract when a person who has been determined eligible will be enrolled with that contractor and the date on which the contractor will be financially responsible for health and medical services to the person.

I. The administration may make direct payments to hospitals for hospitalization and medical care provided to a member in accordance with this article and rules. The director may adopt rules to establish the procedures by which the administration shall pay hospitals pursuant to this subsection if a contractor fails to make timely payment to a hospital. Such payment shall be at a level determined pursuant to section 36-2904, subsection H

or I. The director may withhold payment due to a contractor in the amount of any payment made directly to a hospital by the administration on behalf of a contractor pursuant to this subsection.

J. The director shall establish a special unit within the administration for the purpose of monitoring the third-party payment collections required by contractors and noncontracting providers pursuant to section 36-2903, subsection B, paragraph 10 and subsection F and section 36-2915, subsection E. The director shall determine by rule:

1. The type of third-party payments to be monitored pursuant to this subsection.

2. The percentage of third-party payments that is collected by a contractor or noncontracting provider and that the contractor or noncontracting provider may keep and the percentage of such payments that the contractor or noncontracting provider may be required to pay to the administration. Contractors and noncontracting providers must pay to the administration one hundred percent of all third-party payments that are collected and that duplicate administration fee-for-service payments. A contractor that contracts with the administration pursuant to section 36-2904, subsection A may be entitled to retain a percentage of third-party payments if the payments collected and retained by a contractor are reflected in reduced capitation rates. A contractor may be required to pay the administration a percentage of third-party payments that are collected by a contractor and that are not reflected in reduced capitation rates.

K. The administration shall establish procedures to apply to the following if a provider that has a contract with a contractor or noncontracting provider seeks to collect from an individual or financially responsible relative or representative a claim that exceeds the amount that is reimbursed or should be reimbursed by the system:

1. On written notice from the administration or oral or written notice from a member that a claim for covered services may be in violation of this section, the provider that has a contract with a contractor or noncontracting provider shall investigate the inquiry and verify whether the person was eligible for services at the time that covered services were provided. If the claim was paid or should have been paid by the system, the provider that has a contract with a contractor or noncontracting provider shall not continue billing the member.

2. If the claim was paid or should have been paid by the system and the disputed claim has been referred for collection to a collection agency or referred to a credit reporting bureau, the provider that has a contract with a contractor or noncontracting provider shall:

(a) Notify the collection agency and request that all attempts to collect this specific charge be terminated immediately.

(b) Advise all credit reporting bureaus that the reported delinquency was in error and request that the affected credit report be corrected to remove any notation about this specific delinquency.

(c) Notify the administration and the member that the request for payment was in error and that the collection agency and credit reporting bureaus have been notified.

3. If the administration determines that a provider that has a contract with a contractor or noncontracting provider has billed a member for charges that were paid or should have been paid by the administration, the administration shall send written notification by certified mail or other service with proof of delivery to the provider that has a contract with a contractor or noncontracting provider stating that this billing is in violation of federal and state law. If, twenty-one days or more after receiving the notification, a provider that has a contract with a contractor or noncontracting provider knowingly continues billing a member for charges that were paid or should have been paid by the system, the administration may assess a civil penalty in an amount equal to three times the amount of the billing and reduce payment to the provider that has a contract with a contractor or noncontracting provider accordingly. Receipt of delivery signed by the addressee or the addressee's employee is prima facie evidence of knowledge. Civil penalties collected pursuant to this subsection shall be deposited in the state general fund. Section 36-2918, subsections C, D and F, relating to the imposition, collection and enforcement of civil penalties, apply to civil penalties imposed pursuant to this paragraph.

L. The administration may conduct postpayment review of all claims paid by the administration and may recoup any monies erroneously paid. The director may adopt rules that specify procedures for conducting postpayment review. A contractor may conduct a postpayment review of all claims paid by the contractor and may recoup monies that are erroneously paid.

M. Subject to title 41, chapter 4, article 4, the director or the director's designee may employ and supervise personnel necessary to assist the director in performing the functions of the administration.

N. The administration may contract with contractors for obstetrical care who are eligible to provide services under title XIX of the social security act.

O. Notwithstanding any other law, on federal approval the administration may make disproportionate share payments to private hospitals, county operated hospitals, including hospitals owned or leased by a special health care district, and state operated institutions for mental disease beginning October 1, 1991 in accordance with federal law and subject to legislative appropriation. If at any time the administration receives written notification from federal authorities of any change or difference in the actual or estimated amount of federal funds available for disproportionate share payments from the amount reflected in the legislative appropriation for such purposes, the administration shall provide written notification of such change or difference to the president and the minority leader of the senate, the speaker and the minority leader of the house of representatives, the director of the joint legislative budget committee, the legislative committee of reference and any hospital trade association within this state, within three working days not including weekends after receipt of the notice of the change or difference. In calculating disproportionate share payments as prescribed in this section, the administration may use either a methodology based on claims and encounter data that is submitted to the administration from contractors or a methodology based on data that is reported to the administration by private hospitals and state operated institutions for mental disease. The selected methodology applies to all private hospitals and state operated institutions for mental disease qualifying for disproportionate share payments.

P. Disproportionate share payments made pursuant to subsection O of this section include amounts for disproportionate share hospitals designated by political subdivisions of this state, tribal governments and universities under the jurisdiction of the Arizona board of regents. Subject to the approval of the centers for medicare and medicaid services, any amount of federal funding allotted to this state pursuant to section 1923(f) of the social security act and not otherwise spent under subsection O of this section shall be made available for distribution pursuant to this subsection. Political subdivisions of this state, tribal governments and universities under the jurisdiction of the Arizona board of regents may designate hospitals eligible to receive disproportionate share payments in an amount up to the limit prescribed in section 1923(g) of the social security act if those political subdivisions, tribal governments or universities provide sufficient monies to qualify for the matching federal monies for the disproportionate share payments.

Q. Notwithstanding any law to the contrary, the administration may receive confidential adoption information to determine whether an adopted child should be terminated from the system.

R. The adoption agency or the adoption attorney shall notify the administration within thirty days after an eligible person receiving services has placed that person's child for adoption.

S. If the administration implements an electronic claims submission system, it may adopt procedures pursuant to subsection G of this section requiring documentation different than prescribed under subsection G, paragraph 4 of this section.

T. In addition to any requirements adopted pursuant to subsection D, paragraph 4 of this section, notwithstanding any other law, subject to approval by the centers for medicare and medicaid services, beginning July 1, 2011, members eligible pursuant to section 36-2901, paragraph 6, subdivision (a), section 36-2931 and section 36-2981, paragraph 6 shall pay the following:

1. A monthly premium of fifteen dollars, except that the total monthly premium for an entire household shall not exceed sixty dollars.

2. A copayment of five dollars for each physician office visit.
3. A copayment of ten dollars for each urgent care visit.
4. A copayment of thirty dollars for each emergency department visit.

U. Subject to the approval of the centers for medicare and medicaid services, political subdivisions of this state, tribal governments and any university under the jurisdiction of the Arizona board of regents may provide to the Arizona health care cost containment system administration monies in addition to any state general fund monies appropriated for critical access hospitals in order to qualify for additional federal monies. Any amount of federal monies received by this state pursuant to this subsection shall be distributed as supplemental payments to critical access hospitals.

V. For the purposes of this section, "disproportionate share payment" means a payment to a hospital that serves a disproportionate share of low-income patients as described by 42 United States Code section 1396r-4.

**GAME AND FISH COMMISSION (F20-0402)**

Title 12, Chapter 4, Article 8, Wildlife Areas and Department Property



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** April 7, 2020

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

**FROM:** Council Staff

**DATE:** March 13, 2020

**SUBJECT: GAME AND FISH COMMISSION (F20-0402)**  
Title 12, Chapter 4, Article 8, Wildlife Areas and Department Property

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### Summary

This Five-Year Review Report from the Arizona Game and Fish Commission (Commission) relates to three rules listed under Article 8, Wildlife Areas and Department Property. Specifically, the rules establish the purposes for wildlife areas, specify the types of Commission-owned or managed property that may be designated as a wildlife area, and provide notice to the public of restrictions that apply to each specific wildlife area. These rules were promulgated under an exemption from the Administrative Procedure Act (APA) pursuant to A.R.S. § 41-1005(A)(1) which states the APA does not apply to any "[r]ule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals." The Commission indicates that "public works" is not defined under Title 17, but the ordinary dictionary definition is "[a]ny building or structure on land...built by the government for public use and paid for by public funds." As such, the Commission indicates these rules identify public usage requirements for public works under the Commission's jurisdiction.

In the last 5YRR for these rules, approved by the Council at the May 5, 2015 Council Meeting, the Commission indicated it would be submitting a final exempt rulemaking to the Secretary of State's office by March 2016 to address issues in the rules. The Commission completed this proposed course of action, filing a Notice of Final Exempt Rulemaking which

appeared in the April 29, 2016 issue of the Arizona Administrative Register. 22 A.A.R. 951, April 29, 2016.

### **Proposed Action**

The Commission proposes to submit a Notice of Final Exempt Rulemaking to the Secretary of State's office to address the issues discussed in the report and outlined in more detail below by February 2021.

**1. Has the agency analyzed whether the rules are authorized by statute?**

Yes. The Commission cites both general and specific statutory authority for these rules.

**2. Summary of the agency's economic impact comparison and identification of stakeholders:**

There are no previous economic impact statements for the rulemaking associated with the Article 8 rules because the Commission made the rules under an exemption from the Administrative Procedure Act.

While the rules have resulted in minimal administrative costs to the Commission, the Commission believes the rules do not impose any direct or indirect costs on the regulated community, other state agencies, political subdivisions, private businesses, or the public.

**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?**

Wildlife areas provide a benefit to the general public by providing quality space for people to recreate and, when authorized by Commission Order, hunt and fish. The rules provide balance to protect and ensure public access to and use of these properties, while also affording protection to wildlife. The Commission believes the rules impose the least burden and costs to persons regulated by the rules.

The Commission typically amends the Article 8 rules on a biennial basis to implement recommendations resulting from the most recent data/research for specific wildlife areas and boundary descriptions which includes adjusting wildlife boundary descriptions for properties acquired and sold by the Commission, increasing consistency between wildlife areas regarding camping, recreational shooting, and travel; and ensuring public safety. The Commission anticipates submitting the Notice of Final Exempt Rulemaking for such proposed actions to the Secretary of State's office by February 2021.

**4. Has the agency received any written criticisms of the rules over the last five years?**

The Commission indicates it has not received any written criticism of the rules in the last five years.

5. **Has the agency analyzed the rules' clarity, conciseness, and understandability, consistency with other rules and statutes, and effectiveness?**

The Commission indicates that the rules are clear, concise, and understandable. The Commission acknowledges that the legal descriptions of the wildlife areas provided under R12-4-803 are complex, but are necessary from a legal standpoint as they identify the areas in a manner consistent with real property standards and facilitate enforcement of restrictions established under R12-4-802.

The Commission indicates that the rules are consistent with other rules and statutes. However, the Commission indicates that it is aware of some confusion resulting from differences between the Department's wildlife area camping restrictions. The Commission establishes regulations (and/or restrictions) for the lawful activities that may be conducted on that area of land. In some cases, there may be differences between the type and/or the duration of allowed activities. For example, a person camping at a designated wildlife area may be restricted to stays of no more than 14 days within a 45-day period; a person camping at a designated wildlife area may be restricted to stays of no more than 14 days within a 365-day period. The Commission proposes to amend R12-4-802 to establish camping time-frames applicable to all wildlife areas that are less restrictive, reduce confusion, and increase consistency between the Commission's wildlife area rules (14/30 for all wildlife areas)

6. **Has the agency analyzed the current enforcement status of the rules?**

The Commission that the rules are currently enforced as written. However, the Commission indicates there are times when the Department finds it necessary to post signs placing additional restrictions on the use of wildlife areas (e.g., timing, type, duration, nature of use, or to prohibit access). These restrictions are in addition to the restrictions established under R12-4-802 (Wildlife Area and Other Department Managed Property Restrictions) and there are concerns that the signs alone are unenforceable.

The Department proposes to amend R12-4-801 to establish the Department may post signs placing additional restrictions on the use of wildlife areas related to timing, type, duration, nature of use, or to prohibit access.

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

The Commission indicates there are no directly applicable federal laws.

8. **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 Commission indicates that the rules do not require the issuance of a regulatory permit, license, or agency authorization.

## **9. Conclusion**

The Commission indicates that the rules are mostly clear, concise, understandable, consistent, effective, and enforced. However, the Commission indicates that some of the rules could be improved, as outlined above. The Commission proposes to submit a Notice of Final Exempt Rulemaking for the actions proposed in the report to the Secretary of State's office by February 2021. Council staff recommends approval of this report.



January 24, 2020

**VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)**  
Nicole Sornsins, Chair  
Governor's Regulatory Review Council  
100 North 15th Avenue, Suite 305  
Phoenix, Arizona 85007

**RE: Arizona Game and Fish Department, Natural Resources, Game and Fish Commission, Article 8 Wildlife Areas and Department Property**

Dear Nicole Sornsins:

Please find enclosed the Five Year Review Report of Arizona Game and Fish Department for Natural Resources, Game and Fish Commission, Article 8 Wildlife Areas and Department Property which is due on March 31, 2020.

The Arizona Game and Fish Department hereby certifies compliance with A.R.S. 41-1091.

For questions about this report, please contact Celeste Cook at (623) 236-7390 or [CCook@azgfd.gov](mailto:CCook@azgfd.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Ty Gray", is written over the word "Sincerely,".

Ty Gray, Director

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**[azgfd.gov](http://azgfd.gov) | 602.942.3000**

**5000 W. CAREFREE HIGHWAY, PHOENIX AZ 85086**

**GOVERNOR: DOUGLAS A. DUCEY COMMISSIONERS: CHAIRMAN, ERIC S. SPARKS, TUCSON | KURT R. DAVIS, PHOENIX  
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**ARIZONA GAME AND FISH COMMISSION  
2020 FIVE-YEAR-REVIEW REPORT**



**TITLE 12. NATURAL RESOURCES  
CHAPTER 4. GAME AND FISH COMMISSION  
ARTICLE 8. WILDLIFE AREAS AND  
DEPARTMENT PROPERTY**

**PREPARED FOR THE  
GOVERNOR'S REGULATORY REVIEW COUNCIL**

Under A.R.S. § 41-1056, every agency shall review its rules at least once every five years to determine whether any rule should be amended or repealed. Each agency shall prepare a report summarizing its findings, its supporting reasons, and any proposed course of action; and obtain approval of the report from the Governor's Regulatory Review Council (G.R.R.C.).

G.R.R.C. determines the review schedule. The Arizona Game and Fish Commission's rules listed under Article 8, Wildlife Areas and Department Property, are scheduled to be reviewed by March 2020.

This five-year-review report covers three rules in A.A.C. Title 12, Chapter 4, Article 8 that relate to wildlife areas and Department property:

- R12-4-801. General Provisions
- R12-4-802. Wildlife Area and Other Department Managed Property Restrictions
- R12-4-803. Wildlife Area and Other Department Managed Property Boundary Descriptions

The Commission promulgated the rules in Article 8 under an exemption from the Administrative Procedure Act (Act). Under A.R.S. § 41-1005(A)(1), the Act does not apply to any "[r]ule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals." The term "public works" is not defined under Title 17, but the ordinary dictionary definition is "[a]ny building or structure on land . . . built by the government for public use and paid for by public funds." The rules identify public usage requirements for public works under the Department's jurisdiction.

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.**

For all of the Article 8 rules, the authorizing statute is A.R.S. § 17-231(A)(1) and the implementing statutes are A.R.S. §§ 17-231(B)(2) and 41-1005(A)

**2. Objective of the rule, including the purpose for the existence of the rule.**

For R12-4-801 General Provisions, the objective of this rule is to establish the purposes for wildlife areas, to specify the types of Commission-owned or -managed property that may be designated as a wildlife area, and to notice the public of restrictions that apply to each specific wildlife area. The rule provides protections to Commission-owned and -managed wildlife areas and other properties, while maximizing public access and use of the same properties.

For R12-4-802 Wildlife Area and Other Department Managed Property Restrictions, the objective of this rule is to establish the restrictions applicable to the use of wildlife areas and other Department managed property. The

rule provides protections to Commission-owned and -managed wildlife areas and other properties, while maximizing public access and use of the same properties.

For R12-4-803 Wildlife Area and Other Department Managed Property Boundary Descriptions, the objective of the rule is to establish the legal boundary descriptions for designated wildlife areas.

**3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.**

For all of the Article 8 rules, the rules appear to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rules are understandable and applicable. The Department believes this data indicates the rules are effective.

The Department typically amends the Article 8 rules on a biennial basis to implement recommendations resulting from the most recent data/research for specific wildlife areas and boundary descriptions which includes adjusting wildlife boundary descriptions for properties acquired and sold by the Department, increasing consistency between wildlife areas regarding camping, recreational shooting, and travel; and ensuring public safety. Each year, recommendations are submitted to the Compliance and Strategies Section by Department wildlife managers and biologists after the previous year's wildlife, harvest, and habitat data are collected and evaluated. Recommendations are intended to promote and maintain public safety and protect and enhance Arizona's diverse wildlife.

The Department proposes to amend R12-4-802 and R12-4-803 to implement recommendations resulting from data and research gathered over the last two years for specific wildlife areas and to incorporate new wildlife areas.

**4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

For R12-4-801 through R12-4-803, which relate to wildlife areas, the Commission may “[e]stablish game management units or refuges for the preservation and management of wildlife.” A.R.S. § 17-231(B)(2). Game management unit boundaries are prescribed under R12-4-108, while wildlife area boundaries are prescribed under R12-4-803. A “management unit” is defined as “an area established by the Commission for management purposes” only. In contrast, a “wildlife area” designation is used for “preservation and management of wildlife.”

For all of the Article 8 rules, the rules appear to be consistent with and are not in conflict with applicable

statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4."

However, the Department is aware of some confusion resulting from differences between the Department's wildlife area camping restrictions. The Commission establishes regulations (and/or restrictions) for the lawful activities that may be conducted on that area of land. In some cases, there may be differences between the type and/or the duration of allowed activities. For example, a person camping at a designated wildlife area may be restricted to stays of no more than 14 days within a 45-day period; a person camping at a designated wildlife area may be restricted to stays of no more than 14 days within a 365-day period. The Commission proposes to amend R12-4-802 to establish camping time-frames applicable to all wildlife areas that are less restrictive, reduce confusion, and increase consistency between the Commission's wildlife area rules (14/30 for all wildlife areas)

The Department proposes to amend R12-4-802 and R12-4-803, based on comments submitted by regional personnel to reduce confusion and lessen burdens and costs wherever practical, and make other changes supported by data gathered over the last two years.

**5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

For all of the Article 8 rules, the rules are currently being enforced.

However, there are times when the Department finds it necessary to post signs placing additional restrictions on the use of wildlife areas (e.g., timing, type, duration, nature of use, or to prohibit access). These restrictions are in addition to the restrictions established under R12-4-802 (Wildlife Area and Other Department Managed Property Restrictions) and there are concerns that the signs alone are unenforceable.

The Department proposes to amend R12-4-801 to establish the Department may post signs placing additional restrictions on the use of wildlife areas related to timing, type, duration, nature of use, or to prohibit access.

**6. Clarity, conciseness, and understandability of the rule.**

For all of the Article 8 rules, the rules are clear, concise, and understandable. While the legal descriptions of the wildlife areas provided under R12-4-803 (Wildlife Area and Other Department Managed Property Boundary Descriptions) are often complex, previous Attorney General reviews indicate the wildlife area boundary descriptions are necessary from a legal standpoint as they identify areas in a manner consistent with real property standards and facilitate enforcement of the restrictions established under R12-4-802 (Wildlife Area and

Other Department Managed Property Restrictions).

- 7. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the Five-year Review Report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rules is based on scientific or reliable principles, or methods, and written allegations made in litigation and administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the conclusion of the litigation and administrative proceedings.**

The Department has not received any written criticisms related to the Article 8 rules.

- 8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

There are no previous economic impact statements for the rulemakings associated with the Article 8 rules because the Department made the rules under an exemption from the Act. The Act does not apply to any “[r]ule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.”

With respect to the Article 8 rules, the rules do not impose any direct or indirect costs on the regulated community, other state agencies, political subdivisions, private business, or the public.

The Department believes the rules do not impose any costs to agencies or political subdivisions of this state directly affected by the implementation and enforcement of the rules, and does not impose any additional costs or reduction in revenues to businesses (large or small). The Department believes the rules have no effect on the revenues or payroll expenditures of employers in the state. The rules have resulted in minimal administrative costs to the Department. The Department has determined that the benefits of the rules outweigh any costs.

- 9. Any analysis submitted to the agency by another person regarding the rule’s impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

**10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

The previous report was approved by G.R.R.C. at the May 5, 2015 Council Meeting, which stated the Department anticipated submitting the final exempt rules to the Secretary of State's office by Council by March 2016. The Department completed the courses of action indicated in the previous five-year review report as follows:

- Notice of Final Exempt Rulemaking: 22 A.A.R. 951, April 29, 2016.

**11. A determination after analysis that the probable benefits of the rule within this state outweigh 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.**

The Arizona Game and Fish Department tasked a team of employees to review the rules contained within Article 8. The Department prepared a report of its findings based on G.R.R.C. standards. In its report, the review team addressed all internal comments from agency staff; no comments were received from the public over the last five years. The team took a customer-focused approach, considering each comment from a resource perspective and determining whether the request would cause undue harm to the state's wildlife or negatively affect the Department's wildlife objectives. The review team then determined whether the request was consistent with the Department's overall mission, if it could be effectively implemented given agency resources, and if it was acceptable to the public.

Wildlife areas are intended to conserve and protect wildlife and to provide public recreational opportunities. Wildlife areas are comprised of lands owned or leased by the Commission, federally-owned lands of unique wildlife habitat where cooperative agreements provide wildlife management and research implementation, and any lands with property interest conveyed to the Commission through an approved land use agreement, where said property interest is sufficient for management of the lands consistent with the objectives of the wildlife area. Wildlife areas provide a benefit to the general public by providing quality space for people to recreate and, when authorized by Commission Order, hunt and fish. In addition, these activities and public visitation can draw people into local communities and businesses, positively impacting local economies.

Wildlife areas provide a benefit to the general public by providing quality space for people to recreate and, when authorized by Commission Order, hunt and fish. In addition, these recreational activities and public visitation can draw visitors into local communities and businesses. The rules provide balance to protect and ensure public access to and use of these properties, while also affording protection to wildlife. The Department believes that once the proposed amendments indicated in the report are made, the rules will impose the least

burden and costs to persons regulated by the rules.

- 12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.**

Federal law is not directly applicable to the subject of the rule; the rule is based on state law.

- 13. For a rule adopted after July 29, 2010, that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.**

The rules do not require the issuance of a regulatory permit, license, or agency authorization.

- 14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council, if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.**

The Department anticipates submitting the Notice of Final Exempt Rulemaking for actions proposed in this report to the Secretary of State's office by February 2021.

**ARTICLE 8. WILDLIFE AREAS AND DEPARTMENT PROPERTY**

*Article 8, consisting of Sections R12-4-801 through R12-4-803, adopted by exempt rulemaking at 6 A.A.R. 1731, effective May 1, 2000 (Supp. 00-2).*

**ARTICLE 8. WILDLIFE AREAS AND DEPARTMENT PROPERTY**

Section

- R12-4-801. General Provisions
- R12-4-802. Wildlife Area and Other Department Managed Property Restrictions
- R12-4-803. Wildlife Area and Other Department Managed Property Boundary Descriptions
- R12-4-804. Renumbered

**ARTICLE 8. WILDLIFE AREAS AND DEPARTMENT PROPERTY**

**R12-4-801. General Provisions**

**A. Wildlife Areas:**

1. Wildlife areas shall be established to:
  - a. Provide protective measures for wildlife, habitat, or both;
  - b. Allow for hunting, fishing, and other recreational activities that are compatible with wildlife habitat conservation and education;
  - c. Allow for special management or research practices; and
  - d. Enhance wildlife and habitat conservation.
2. Wildlife areas shall be:
  - a. Lands owned, leased, or otherwise managed by the Commission;
  - b. Federally-owned lands of unique wildlife habitat where cooperative agreements provide wildlife management and research implementation; or
  - c. Any lands with property interest conveyed to the Commission by any entity, through an approved land use agreement, including but not limited to deeds, patents, leases, conservation easements, special use permits, licenses, management agreements, inter-agency agreements, letter agreements, and right-of-entry, where the property interest conveyed is sufficient for management of the lands consistent with the objectives of the wildlife area.
3. Land qualified for wildlife areas shall be:
  - a. Lands with unique topographic or vegetative characteristics that contribute to wildlife,
  - b. Lands where certain wildlife species are confined because of habitat demands,
  - c. Lands that can be physically managed and modified to attract wildlife, or
  - d. Lands that are identified as critical habitat for certain wildlife species during critical periods of their life cycles.
4. The Department may restrict public access to and public use of wildlife areas and the resources of wildlife areas for up to 90 days when necessary to protect property, ensure public safety, or to ensure maximum benefits to wildlife. Closures or restrictions exceeding 90 days shall require Commission approval.
5. Closures of all or any part of a wildlife area to public entry, and any restriction to public use of a wildlife area, shall be listed in this Article or shall be clearly posted at each entrance to the wildlife area. No person

shall conduct an activity restricted by this Article or by such posting.

6. When a wildlife area is posted against travel except on existing roads, no person shall drive a motor-operated vehicle over the countryside except by road.
7. The Department may post signs that place additional restrictions on the use of wildlife areas. Such restrictions may include the timing, type, or duration of certain activities, including the prohibition of access or nature of use.

**B. Commission-owned real property other than Wildlife Areas:**

1. The Department may take action to manage public access and use of any Commission-owned real property or facilities. Such actions may include restrictions on the timing, type, or duration of certain activities, including the prohibition of access or nature of use.
2. No person shall access or use any Commission-owned real property or facilities in violation of any Department actions authorized under subsection (B)(1), if signs are posted providing notice of the restrictions.

**Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1731, effective May 1, 2000 (Supp. 00-2). Amended by exempt rulemaking at 17 A.A.R. 800, effective June 20, 2011 (Supp. 11-2). Amended by exempt rulemaking at 18 A.A.R. 1070, effective June 15, 2012 (Supp. 12-2). Amended by exempt rulemaking at 22 A.A.R. 951, effective June 7, 2016 (Supp. 16-2).

**R12-4-802. Wildlife Area and Other Department Managed Property Restrictions**

**A. No person shall violate the following restrictions on Wildlife Areas:**

1. Alamo Wildlife Area (located in Units 16A and 44A):
  - a. Wood collecting limited to dead and down material, for onsite noncommercial use only.
  - b. Overnight public camping in the wildlife area outside of Alamo State Park allowed for no more than 14 days within a 45-day period.
  - c. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - d. Posted portions closed to all public entry.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
2. Allen Severson Wildlife Area (located in Unit 3B):
  - a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.

- e. Posted portions closed to discharge of all firearms from April 1 through July 25 annually.
  - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting from April 1 through July 25 annually.
3. Aravaipa Canyon Wildlife Area (located in Units 31 and 32):
- a. Access through the Aravaipa Canyon Wildlife Area within the Aravaipa Canyon Wilderness Area is by permit only, available through the Safford Office of the Bureau of Land Management.  
Motorized vehicle travel is not permitted on the wildlife area. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - b. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of all firearms.
4. Arlington Wildlife Area (located in Unit 39):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). No motorized travel is permitted within agriculture and crop production areas. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Target or clay bird shooting permitted in designated areas only.
  - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except:
    - i. Posted portions around Department housing are closed to the discharge of all firearms; and
    - ii. Wildlife area is closed to the discharge of centerfire rifled firearms.
5. Base and Meridian Wildlife Area (located in Units 39, 26M, and 47M):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel is not permitted on the wildlife area. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. No target or clay bird shooting.
  - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of rifled firearms.
6. Becker Lake Wildlife Area (located in Unit 1):
- a. No open fires.
  - b. No overnight public camping.
  - c. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.

- d. The Becker Lake boat launch access road and parking areas along with any other posted portions of the wildlife area will be closed to all public entry from one hour after sunset to one hour before sunrise daily.
  - e. Posted portions closed to all public entry.
  - f. Posted portions closed to hunting.
  - g. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of rifled firearms.
7. Bog Hole Wildlife Area (located in Unit 35B):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel is not permitted on the wildlife area. This subsection does not apply to Department authorized vehicles or law enforcement, fire response or other emergency vehicles.
  - e. Open to all hunting in season, by foot access only, as permitted under R12-4-304 and R12-4-318.
8. Chevelon Canyon Ranches Wildlife Area (located in Unit 4A):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads and areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
9. Chevelon Creek Wildlife Area (located in Unit 4B):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads and areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Posted portions closed to all public entry.
  - f. Additional posted portions closed to all public entry from October 1 through February 1 annually.
  - g. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting from October 1 through February 1 annually.
10. Cibola Valley Conservation and Wildlife Area (located in unit 43A):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.

- d. Motorized vehicle travel permitted on designated and administrative roads and areas only, except as permitted under R12-4-110(H). No motorized travel is permitted within agriculture and crop production areas. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Posted portions closed to all public entry.
  - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of rifled firearms.
11. Clarence May and C.H.M. May Memorial Wildlife Area (located in Unit 29):
- a. Closed to the discharge of all firearms, except as authorized under subsection (A)(11)(b).
  - b. Closed to hunting, except for predator hunts authorized by Commission Order.
12. Cluff Ranch Wildlife Area (located in Unit 31):
- a. Open fires allowed in designated areas only.
  - b. Wood collecting limited to dead and down material, for onsite noncommercial use only.
  - c. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day period.
  - d. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Posted portions around Department housing and Pond Three are closed to discharge of all firearms.
  - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of centerfire rifled firearms.
13. Colorado River Nature Center Wildlife Area (located in Unit 15D):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads or areas only. This subsection does not apply to Department authorized vehicles, law enforcement, fire response, or other emergency vehicles.
  - e. Closed to hunting.
14. Fool Hollow Lake Wildlife Area (located in Unit 3C):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads, trails, or areas only. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. The parking area adjacent to Sixteenth Avenue and other posted portions of the wildlife area will be closed to all public entry daily from one hour after sunset to one hour before sunrise, except for anglers

- possessing a valid fishing license accessing Fool Hollow Lake/Show Low Creek.
- f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
15. House Rock Wildlife Area (located in Unit 12A):
- a. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles, law enforcement, fire response, or other emergency vehicles.
  - b. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
  - c. Members of the public are prohibited from being within 1/4 mile of the House Rock bison herd while on House Rock Wildlife Area, except when taking bison or accompanied by Department personnel.
16. Jacques Marsh Wildlife Area (located in Unit 3B):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of rimfire and centerfire rifled firearms.
17. Lamar Haines Wildlife Area (located in Unit 7):
- a. Wood cutting by permit only and collecting limited to dead and down material, for noncommercial use only. Upon request, a person may obtain a wood cutting permit from the Flagstaff Game and Fish Department regional office.
  - b. No overnight public camping.
  - c. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - d. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
18. Lower San Pedro River Wildlife Area (located in Units 32 and 37B):
- a. Open fires allowed in designated areas only. The following acts are prohibited:
    - i. Building, attending, maintaining, or using a fire without removing all flammable material from around the fire to adequately prevent the fire from spreading from the fire pit.
    - ii. Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire.
    - iii. Building, attending, maintaining, or using a fire in any area that is closed to fires.
    - iv. Leaving a fire without completely extinguishing it.
  - b. Wood collecting limited to dead and down material, for onsite noncommercial use only.
  - c. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day

- period.
- d. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Posted portions closed to all public entry.
  - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting.
  - g. Parking allowed within 300 feet of designated open roads and in designated areas only.
  - h. Discharge of a firearm or pre-charged pneumatic weapon prohibited within ¼ mile of buildings.
  - i. A person shall not use a metal detector or similar device except as authorized by the Department. This subsection does not apply to law enforcement officers in the scope of their official duties, or to persons duly licensed, permitted, or otherwise authorized to investigate historical or cultural artifacts by a government agency with regulatory authority over cultural or historic artifacts.
19. Luna Lake Wildlife Area (located in Unit 1):
- a. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - b. Posted portions closed to all public entry from February 15 through July 31 annually.
  - c. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except when closed to hunting from April 1 through July 31 annually.
20. Mittry Lake Wildlife Area (located in Unit 43B):
- a. Open fires allowed in designated areas only.
  - b. Overnight public camping allowed in designated areas only, for no more than 10 days per calendar year.
  - c. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - d. Posted portions closed to all public entry.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting.
21. Planet Ranch Conservation and Wildlife Area (located in Units 16A and 44A):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day period.
  - d. Motorized vehicle travel:
    - i. Is permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H).

- ii. Is prohibited within the posted Lower Colorado River Multi-Species Conservation Program habitat area.
  - iii. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting.
22. Powers Butte (Mumme Farm) Wildlife Area (located in Unit 39):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on posted designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. If conducted during an event approved under R12-4-125, target or clay bird shooting is permitted in designated areas only.
  - f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except:
    - i. Posted portions around Department housing are closed to the discharge of all firearms; and
    - ii. Wildlife area is closed to the discharge of centerfire rifled firearms.
23. Quigley-Achee Wildlife Area (located in Unit 41):
- a. No open fires.
  - b. No overnight public camping.
  - c. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). No motorized travel is permitted within agriculture and crop production areas. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - d. Posted portions closed to all public entry.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting.
24. Raymond Wildlife Area (located in Unit 5B):
- a. Overnight public camping permitted in designated sites only, for no more than 14 days within a 45-day period.
  - b. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110 (G). All-terrain and utility type vehicles are prohibited. For the purpose of this subsection, all-terrain and utility type vehicle means a motor vehicle having three or more wheels fitted with large tires and is designed chiefly for recreational use over roadless, rugged terrain. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.

- c. Posted portions closed to all public entry from May 1 through July 29 annually.
  - d. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting periodically during hunting seasons.
  - e. Members of the public are prohibited from being within 1/4 mile of the Raymond bison herd while on Raymond Wildlife Area, except when taking bison or accompanied by Department personnel.
  - f. Prior to entering Raymond Wildlife Area, members of the public shall sign in at a posted sign-in kiosk and by doing so acknowledge they have read and shall comply with the posted Raymond Wildlife Areas restrictions.
25. Robbins Butte Wildlife Area (located in Unit 39):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads, trails, or areas only from one hour before sunrise to one hour after sunset daily, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Parking in designated areas only.
  - f. If conducted during an event approved under R12-4-125, target or clay bird shooting is permitted in designated areas only.
  - g. Open to all hunting in season as permitted under R12-4-304 and R12-4-318 except the wildlife area is closed to the discharge of centerfire rifled firearms.
26. Roosevelt Lake Wildlife Area (located in Units 22, 23, and 24B):
- a. Posted portions closed to all public entry from November 15 through February 15 annually.
  - b. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). No motorized travel is permitted within agriculture and crop production areas. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - c. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting from November 15 through February 15 annually.
27. Santa Rita Wildlife Area (located in Unit 34A):
- a. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). Portions of the wildlife area may be posted as closed to motorized vehicle travel for periodical research purposes. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - b. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except that the take of wildlife with firearms is prohibited from March 1 through August 31.
28. Sipe White Mountain Wildlife Area (located in Unit 1):

- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions around Department housing is closed to the discharge of all firearms.
29. Springerville Marsh Wildlife Area (located in Unit 2B):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads or areas only. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Closed to the discharge of all firearms.
  - f. Open to all hunting as permitted under R12-4-304 and R12-4-318, except the wildlife area is closed to the discharge of all firearms.
30. Sunflower Flat Wildlife Area (located in Unit 8):
- a. No overnight public camping.
  - b. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - c. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
31. Three Bar Wildlife Area (located in Unit 22):
- a. Motorized vehicle travel:
    - i. Is permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H).
    - ii. Is prohibited within the Three Bar Wildlife and Habitat Study Area.
    - iii. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - b. Open to all hunting in season, as permitted under R12-4-304 and R12-4-318, except the area within the fenced enclosure inside the loop formed by Tonto National Forest Road 647, also known as the Walnut Canyon Enclosure, which is closed to hunting, unless otherwise provided under Commission Order.
32. Tucson Mountain Wildlife Area (located in Unit 38M):
- a. Motorized vehicle travel permitted on designated roads and trails as part of the road system managed and regulated by the City of Tucson and Pima County. This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - b. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except:

- i. Portions posted as closed to hunting, and
    - ii. Wildlife area is closed to the discharge of all firearms.
  - c. Archery deer and archery javelina hunters must check in with the Arizona Game and Fish Tucson Regional Office prior to going afield.
33. Upper Verde River Wildlife Area (located in Unit 8 and 19A):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel is not permitted. This subsection does not apply to Department authorized vehicles or law enforcement, fire department, or other emergency vehicles.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
  - f. All dogs must remain on leash except for hunting dogs during a legal open season.
34. Wenima Wildlife Area (located in Unit 2B):
- a. No open fires.
  - b. No firewood cutting or gathering.
  - c. No overnight public camping.
  - d. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
35. White Mountain Grasslands Wildlife Area (located in Unit 1):
- a. No open fires.
  - b. No overnight public camping.
  - c. Motorized vehicle travel permitted on designated roads or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - d. Posted portions closed to all public entry.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318.
36. Whitewater Draw Wildlife Area (located in Unit 30B):
- a. Open fires allowed in designated areas only.
  - b. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day period.
  - c. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
  - d. Posted portions closed to all public entry from October 15 through March 15 annually.
  - e. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except the wildlife area is

closed to the discharge of centerfire rifled firearms.

37. Willcox Playa Wildlife Area (located in Unit 30A):

- a. Open fires allowed in designated areas only.
- b. No firewood cutting or gathering.
- c. Overnight public camping allowed in designated areas only, for no more than 14 days within a 45-day period.
- d. Motorized vehicle travel permitted on designated roads, trails, or areas only, except as permitted under R12-4-110(H). This subsection does not apply to Department authorized vehicles or law enforcement, fire response, or other emergency vehicles.
- e. Posted portions closed to all public entry from October 15 through March 15 annually.
- f. Open to all hunting in season as permitted under R12-4-304 and R12-4-318, except posted portions closed to hunting from October 15 through March 15 annually.

**B.** Notwithstanding Commission Order 40, public access and use of the Hirsch Conservation Education Area and Biscuit Tank is limited to activities conducted and offered by the Department and in accordance with the Department's special management objectives for the property, which include, but are not limited to, flexible harvest, season, and methods that:

1. Allow for a variety of fishing techniques, fish harvest, fish consumption, and catch and release educational experiences;
2. Maintain a healthy, productive, and balanced fish community and
3. Provide public education activities and training courses that are compatible with the management of aquatic wildlife.

#### **Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1731, effective May 1, 2000 (Supp. 00-2). Amended by exempt rulemaking at 8 A.A.R. 2107, effective May 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9 A.A.R. 3141, effective August 23, 2003 (Supp. 03-2). Amended by exempt rulemaking at 10 A.A.R. 1976, effective May 14, 2004 (Supp. 04-2). Amended by exempt rulemaking at 11 A.A.R. 1927, effective May 20, 2005 (Supp. 05-2). Amended by exempt rulemaking at 12 A.A.R. 1698, effective May 19, 2006 (Supp. 06-2). Amended by exempt rulemaking at 13 A.A.R. 1741, effective May 18, 2007 (Supp. 07-2). Amended by exempt rulemaking at 14 A.A.R. 1841, effective April 22, 2008 (Supp. 08-2). Amended by exempt rulemaking at 16 A.A.R. 397, effective March 5, 2010 (Supp. 10-1). Amended by exempt rulemaking at 17 A.A.R. 800, effective June 20, 2011 (Supp. 11-2). Amended by exempt rulemaking at 18 A.A.R. 1070, effective June 15, 2012 (Supp. 12-2). Amended by exempt rulemaking at 19 A.A.R. 931, effective June 17, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 841, effective June 17, 2014 (Supp. 14-1). Amended by exempt rulemaking at 22 A.A.R. 951, effective June 7, 2016 (Supp. 16-2). Amended by exempt rulemaking at 22 A.A.R. 2209, effective October 4, 2016 (Supp. 16-4).

**R12-4-803. Wildlife Area and Other Department Managed Property Boundary Descriptions**

**A.** For the purposes of this Section:

“B.C.” means brass cap.

“B.C.F.” means brass cap flush.

“G&SRB&M” means Gila and Salt River Base and Meridian.

“M&B” means metes and bounds.

“R” means Range line.

“T” means Township line.

**B.** Wildlife Areas are described as follows:

1. Alamo Wildlife Area: The Alamo Wildlife Area shall be those areas described as follows:

T10N, R13W; Section 3 N1/2, SW1/4, SE1/4 Mohave County only; Section 4, E1/2SW1/4, SE1/4; Section 9, NE1/4, E1/2NW1/4; Section 10, NW1/4NW1/4, NE1/4NW1/4 within designated Wilderness Area. T11N, R11W; Section 7, S1/2SW1/4; Section 18, N1/2 NW1/4; T11N, R12W; Section 4, Lots 2, 3 and 4, SW1/4NE1/4, S1/2NW1/4, SW1/4, W1/2SE1/4; Section 5, Lot 1, SE1/4NE1/4, E1/2SE1/4; Section 7, S1/2, SE1/4 NE1/4; Section 8, NE1/4, S1/2NW1/4, S1/2; Section 9; Section 10, S1/2NW1/4, S1/2; Section 11, S1/2S1/2; Section 12, S1/2S1/2; Section 13, N1/2, N1/2SW1/4, NW1/4SE1/4; Section 14, N1/2, E1/2SE1/4; Section 15, N1/2, SW1/4SW1/4, SW1/4SE1/4; Section 16, 17, 18 and 19; Section 20, N1/2, N1/2SW1/4; Section 21, NW1/4; Section 29, SW1/4, SW1/4SE1/4; Section 30; Section 31, N1/2, N1/2S1/2; Section 32, NW1/4, N1/2SW1/4; T11N, R13W; Section 12, SE1/4SW1/4, SW1/4SE1/4, E1/2SE1/4; Section 13; Section 14, S1/2NE1/4, SE1/4SW1/4, SE1/4; Section 22, S1/2SW1/4, SE1/4; Section 23, E1/2, E1/2NW1/4, SW1/4NW1/4, SW1/4; Section 24, 25 and 26; Section 27, E1/2, E1/2W1/2; Section 34, E1/2, E1/2NW1/4, SW1/4; Section 35 W1/2, W1/2NE1/4; T12N, R12W; Section 19, E1/2, SE1/4SW1/4; Section 20, NW1/4NW1/4, SW1/4SW1/4; Section 28, W1/2SW1/4; Section 29, W1/2NW1/4, S1/2, SE1/4NW1/4; Section 30, E1/2, E1/2NW1/4, NE1/4SW1/4; Section 31, NE1/4NE1/4; Section 32, N1/2, N1/2SE1/4, SE1/4SE1/4; Section 33, W1/2E1/2, W1/2; all in G&SRB&M, Mohave and La Paz Counties, Arizona.

2. Allen Severson Memorial Wildlife Area: The Allen Severson Memorial Wildlife Area shall be that area including Pintail Lake and South Marsh lying within the fenced and posted portions of:

T11N, R22E; Section 32, SE1/4; Section 33, S1/2SW1/4; T10N, R22E; Section 4, N1/2NW1/4; T10N, R22E; Section 4: the posted portion of the NW1/4SW1/4; all in G&SRB&M, Navajo County, Arizona, consisting of approximately 300 acres.

3. Aravaipa Canyon Wildlife Area: The Aravaipa Canyon Wildlife Area shall be that area within the flood plain of Aravaipa Creek and the first 50 vertical feet above the streambed within the boundaries of the Aravaipa Canyon Wilderness Area administered by the Bureau of Land Management (BLM), Graham and Pinal Counties, Arizona.

4. Arlington Wildlife Area: The Arlington Wildlife Area shall be those areas described as follows:

T1S, R5W, Section 33, E1/2SE1/4; T2S, R5W, Section 3, W1/2W1/2, Section 4, E1/2, and Parcel 401-58-

001A as described by the Maricopa County Assessor's Office; a parcel of land lying within Section 4, T2S, R5W, more particularly described as follows: commencing at the southwest corner of said Section 4, 2-inch aluminum cap (A.C.) in pothole stamped "RLS 36562", from which the northwest corner of said Section, a 1 1/2-inch B.C. stamped "T1S R5W S32 S33 S5 S4 1968", bears N 00°09'36" E (basis of bearing) a distance of 4130.10 feet, said southwest corner being the point of beginning; thence along the west line of said Section, N 00°09'36" E a distance of 16.65 feet; thence leaving said west line, S 89°48'28" E a distance of 986.79 feet; thence N 00°47'35" E a distance of 2002.16 feet; thence N 01°07'35" E a distance of 2102.65 feet to the north line of said Section; thence along said north line S 89°18'45" E a distance of 1603.61 feet to the N1/4 corner of said Section, a 1/2-inch metal rod; thence leaving said north line, along the north-south midsection line of said Section, S 00°08'44" E a distance of 4608.75 feet to the S1/4 corner of said Section, a 3-inch B.C.F. stamped "T2S R5W 1/4S4 S9 RLS 46118 2008"; thence leaving said north-south midsection line, along the south line of said Section, N 79°10'54" W a distance of 2719.41 feet to the point of beginning. Subject to existing rights-of-way and easements. This parcel description is based on the Record of Survey for Alma Richardson Property, recorded in Book 996, page 25, Maricopa County Records and other client provided information. This parcel description is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of April, 2008 and October, 2009 and any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey; all in G&SRB&M, Maricopa County, Arizona. Section 9; NW1/4 and SW1/4; Section 3; LOT 4 SW1/4NW1/4, W1/2SW1/4 NE1/4SE1/4; Section 3; M&B in LOT 1 SE1/4NE1/4E1/2SE1/4; Section 9; M&B in NE1/4NE1/4; Section 10; SW1/4NW1/4; Section 15; those portions of S1/2W1/4 and N1/2SW1/4 lying west of the primary through road; Section 16; W1/2 M&B in E1/2E1/2 W1/2E1/2; Section 21; NE1/4NW1/4 and Parcel 401-61-008D as described by the Maricopa County Assessor's Office, more particularly described as follows: commencing at the BLM B.C. marking the northeast corner of said Section 21, from which the BLM B.C. marking the northwest corner of said Section 21 bears N 82°26'05" W a distance of 5423.64 feet; thence N 82°26'05" W along the north line of Section 21 a distance of 2711.82 feet to the NW1/4 corner of said Section 21; thence S 00°33'45" W along the north-southerly midsection line of said Section 21 a distance of 33.25 feet to the True Point of Beginning; thence continuing S 00° 33'45" W along said north-south midsection line a distance of 958.00 feet to a point on a line which is parallel with and 983.85 feet southerly, as measured at right angles from the north line of said Section 21; thence N 82°26'05" W along said parallel line a distance of 925.54 feet; thence N 26°12'18" W a distance of 153.32 feet; thence N 13°26'18" W a distance of 303.93 feet; thence N 34°15'49" W a distance of 189.27 feet; thence N 21°32'45" W a distance of 215.60 feet; thence N 89°25'47" W a distance of 95.37 feet to a point on the west line of the NE1/4N1/4 of said Section 21; thence N 00°34'13" E, along said west line a distance of 223.54 feet to a point on a line which is parallel with and 33.00 feet southerly, as measured at right angles from the north line of said Section 21; thence S 82°26'05" E along said parallel line, a distance of 1355.91 feet to the True Point of Beginning; all in G&SRB&M, Maricopa County,

Arizona.

5. Base and Meridian Wildlife Area: The Base and Meridian Wildlife Area shall be those areas described as follows:

T1N, R1E, Section 31; Maricopa County APN 101-44-023, also known as Lots 3, 5, 6, 7, 8 and NE1/4SW1/4, and Maricopa County APN 101-44-003J, also known as the S1/2S1/2SW1/4NW1/4 except the west 55 feet thereof; and 101-44-003K, also known as the S1/2S1/2SW1/4NW1/4 except the west 887.26 feet thereof; and Maricopa County APN 104-44-002S, also known as that portion of the N1/2SE1/4, described as follows: commencing at the aluminum cap set at the E1/4 corner of said Section 31, from which the 3" iron pipe set at the southeast corner of said Section 31, S 00°20'56" W a distance of 2768.49 feet; thence S 00°20' 56" W along the east line of said SE1/4 of Section 31 a distance of 1384.25 feet to the southeast corner of said N1/2SE1/4; thence S 89°25'13" W along the south line of said N1/2SE1/4 a distance of 2644.35 feet to the southwest corner of said N1/2SE1/4 and the point of beginning; thence N 00°03'37" W along the west line of said SE1/4 a distance of 746.86 feet to the south line of the north 607.00 feet of said N1/2SE1/4; thence N 88°46' 12" E along said south line of the north 607.00 feet of the N1/2SE1/4 a distance of 656.09 feet; thence S 00°03'37" E parallel with said west line of the SE1/4 a distance of 754.31 feet to said south line of the N1/2SE1/4; Thence S 89°25' 13" W along said south line of the N1/2SE1/4 a distance of 655.98 feet to the point of beginning. T1N, R1W, Section 34, N1/2SE1/4; Section 35, S1/2; Section 36. The Maricopa County APN 500-69-099; the W1/2SE1/4NE1/4. APN 500-69-099, 500-69-100, also known as that portion of the SE1/4SE1/4NE1/4. 500-69-010C, also known as that portion of the W1/2SE1/4NE1/4, except any portion of said W1/2SE1/4NE1/4 of Section 36 lying within the following described four parcels: Exception 1: commencing at the northeast corner of said W1/2SE1/4NE1/4 of Section 36; thence along the east line thereof S 00°10' E a distance of 846.16 feet to the point of beginning; thence continuing S 00°18' E a distance of 141.17 feet; thence S 87°51'15" W a distance of 570.53 feet; thence S 00°29' E a distance of 310.00 feet to the south line of said W1/2SE1/4NE1/4 of Section 36; thence N 89°29' W along the west line of said W1/2SE1/4NE1/4 of Section 36 a distance of 425.93 feet; said point bears S 00°29' E a distance of 895.93 feet from the northwest corner of said W1/2SE1/4NE1/4 of Section 36; thence N 85°54'33" E a distance of 647.01 feet to the point of beginning. Exception 2: commencing at the northeast corner of said W1/2SE1/4NE1/4 of Section 36; thence along the east line thereof S 00°18' E a distance of 846.16 feet to the point of beginning; said point being on the northerly line of the Flood Control District of Maricopa County parcel as shown in Document 84-26119, Maricopa County Records; thence S 85°54'33" W a distance of 647.01 feet to the west line of said W1/2SE1/4NE1/4 of Section 36; thence N 00°29' W along said west line a distance of 30 feet; thence N 84°23'15" E a distance of 228.19 feet; thence N 87°17'06" E a distance of 418.85 feet to the east line of the W1/2SE1/4NE1/4 of Section 36; thence S 00°18' E along said east line a distance of 26.00 feet to the point of beginning. Exception 3: the South 37.6 feet of said W1/2SE1/4NE1/4 of Section 36. Except all oil, gas and other hydrocarbon substances, helium or other substance of gaseous nature, coal, metals, minerals, fossils, fertilizer of every name and description and except all materials which may be

essential to the production of fissionable material as reserved in Arizona Revised Statutes. Exception 4: that part of the W1/2SE1/4NE1/4 of Section 36, T1N, R1W lying north of the following described line: commencing at the northeast corner of said W1/2SE1/4NE1/4 of Section 36; thence along the east line thereof S 00°18'00" E a distance of 820.16 feet, to the point of beginning; said point being on the northerly line of the Flood District of Maricopa County parcel as shown in Document 85-357813, Maricopa County Records; thence S 87°17'06" W a distance of 418.85 feet; thence S 84°23'15" W a distance of 228.19 feet to the west line of said W1/2SE1/4NE1/4 of Section 36 and the point of terminus. The above described parcel contains 162,550 sq. ft. or 3.7316 acres 500-69-001L and 500-69-001M, also known as the N1/2SE1/4, except the south 892.62 feet thereof. 500-69-001N, 500-69-001P, 500-69-001Q, 500-69-001R, 500-69-001T, 500-69-001X, 500-69-001Y, also known as that portion of the south 892.62 feet of the N1/2SE1/4. The SE1/4SE1/4NE1/4 of Section 36, T1N, R1W, except the south 37.6 feet of said SE1/4SE1/4NE1/4, and except the east 55 feet of said SE1/4SE1/4NE1/4, and except that part of said SE1/4SE1/4NE1/4 lying north of the most southerly line of the parcel described in Record 84-026119, Maricopa County Records, said southerly line being described as follows: beginning at the NE1/4S1/2NE1/4SE1/4NE1/4 of said Section 36; thence S 00°07' E along the east line of Section 36, a distance of 50.70 feet; thence S 89°53' W a distance of 55.00 feet to a point on the west line of the east 55.00 feet of said Section 36; thence S 00°07' E along said line, a distance of 510.00 feet; thence S 81°4'43" W a distance of 597.37 feet to a terminus point on the west line of said SE1/4SE1/4NE1/4 of Section 36, and except that part of said SE1/4SE1/4NE1/4 described as follows: commencing at the E1/4 corner of said Section 36; thence N 89°37'23" W along the south line of said SE1/4SE1/4NE1/4 of Section 36, a distance of 241.25 feet; thence N 18°53'04" E a distance of 39.65 feet to the point of beginning; thence continuing N 18°53'04" E a distance of 408.90 feet; thence S 81°04'43" W a distance of 222.55 feet; thence S 18°53'04" W a distance of 370.98 feet; thence S 89°37'23" E a distance of 207.58 feet to the point of beginning. That portion of land lying within the SE1/4SE1/4NE1/4 of Section 36, T1N, R1W, and the S1/2SW1/4NW1/4 of Section 31, T1N, R1E, as described in Document Number 99-1109246. Except the west 22 feet of the property described in Recorder Number 97-0425420, also known as APN 101-44-003G; and except the west 22 feet of the property described in Recorder Number 97-566498, also known as APN 101-44-013; all in G&SRB&M, Maricopa County, Arizona.

6. Becker Lake Wildlife Area: The Becker Lake Wildlife Area shall be that area including Becker Lake lying within the fenced and posted portions of:

T9N, R29E, Section 19, SE1/4SE1/4 also known as APN. 105-07-001; Section 20, SW1/4SW1/4; beginning at a point 1012 feet north of the southwest corner of the SE1/4SW1/4 of Section 20, T9N, R29E; thence north 1285 feet; thence east a distance of 462 feet; thence south a distance of 2122 feet, more or less to the center of U.S. Highway 60; thence in a northwesterly direction along the center of U.S. Highway 60 a distance of 944 feet, more or less; thence west a distance of 30 feet, more or less to the point of beginning, also known as APN 105-08-002); Section 29, W1/2NW1/4, NW1/4SW1/4, also known as APN 105-15-003; beginning at the S1/4 corner of said Section 29, said point being the True Point of Beginning;

thence N 00°43'20" E along the western boundary of the SE1/4 of said Section 29, a distance of 1329.15 feet to the center-south 1/16 corner of said Section 29; thence S 89°53'01" W along the southern boundary of the NE1/4SW1/4 of said Section 29, a distance of 99.69 feet; thence N 00°43'20" E a distance of 417.54 feet; thence S 89°31'37" E a distance of 99.69 feet; thence N 00°43'20" E along the western boundary of the SE1/4 of said Section 29 a distance of 374.40 feet; thence N 88°49'48" E a distance of 474.94 feet; thence N 27°35' 15" E a distance of 99.21 feet; thence N 04°13'26" W a distance of 160.59 feet; thence N 37°38'44" E a distance of 12.27 feet; thence S 26°22'25" E a distance of 371.13 feet; thence N 31°21'35" E a distance of 58.00 feet; thence S 26°22'27" E a distance of 1203.23 feet; thence S 63°58'58" W a distance of 200.00 feet; thence S 36°24'36" E a distance of 375.11 feet; thence S 00°24'06" W a distance of 490.79 feet; thence S 01°22'24" E a distance of 110.21 feet; thence S 22°27'23" E a distance of 44.27 feet; thence N 89°48'03" W a distance of 1331.98 feet to the True Point of Beginning, also known as APN 105-15-014E; beginning at the corner of Sections 28, 29, 32 and 33, T9N, R29E of G&SRB&M, Apache County, Arizona; thence N 54°21'09" W a distance of 1623.90 feet; thence N 26°00'59" W a distance of 100.00 feet; thence N 26°22'14" W a distance of 1203.23 feet to the True Point of Beginning; thence N 26°22'27" W a distance of 351.19 feet; thence S 55°14'10" W a distance of 38.42 feet; thence S 37°38'44" W a distance of 12.38 feet; thence S 26°22'14" E a distance of 371.13 feet; thence N 31°21'35" E a distance of 58.00 feet to the True Point of Beginning, also known as APN 105-15-014C. S1/2SW1/4, except the following described parcel: commencing at a 2-inch aluminum cap monument stamped LS 8906 located at the Section corner common to Sections 29, 30, 31 and 32 of said Township and Range; thence bear S 89°46'16" E along the Section line common to Sections 29 and 32, a distance of 1038.05 feet to the True Point of Beginning; thence N 35°17'33" E along the northwest boundary of the Springerville Municipal Airport a distance of 328.32 feet; thence S 39°31'26" E a distance of 349.55 feet to a point on the Section line common to Sections 29 and 32; thence N 89°46'44" W a distance of 131.96 feet to the W1/16 corner of Sections 29 and 32; thence N 89°46'16" W a distance of 280.18 feet to the True Point of Beginning. Section 30, NE1/4SE1/4, E1/2NE1/4 also known as APN 105-16-001; W1/2NE1/4, W1/2NE1/4 also known as APN 105-16-002; Section 32, beginning at the N1/4 corner of said Section 32, said point being the True Point of Beginning; thence S 89°48'03" E along the north line of said Section 32 a distance of 1331.98 feet; thence S 21°49'15" E a distance of 198.07 feet; thence S 20°56'35" W a distance of 191.75 feet; thence S 19°53'23" W a distance of 24.65 feet; thence S 39°17'55" W a distance of 86.61 feet; thence S 01°41'36" E a distance of 13.60 feet; thence S 50°13'33" W a distance of 1.29 feet; thence S 02°24'23" E a distance of 906.39 feet; thence S 00°44'11" W a distance of 466.82 feet; thence S 35°26'56" W a distance of 218.51 feet; thence S 89°57'05" W a distance of 1141.87 feet; thence N 07°57'52" E a distance of 328.83 feet; thence N 77°39'30" W a distance of 68.79 feet; thence N 00°30'56" W a distance of 334.16 feet to a 1/16th section corner; thence N 00°30'56" W a distance of 1349.10 feet to the True Point of Beginning. Except therefrom any portion lying in the S1/2SW1/4NE1/4 of said Section 32 also known as APN 105-18-008A; all that portion of the NE1/4NW1/4 of Section 32, T9N, R29E of G&SRB&M, Apache County, Arizona, lying east of the Becker Lake Roadway; except for the following described parcel: from the NW1/16 corner

of said Section 32; thence S 89°45'28" E along the 1/16 line a distance of 736.55 feet to the True Point of Beginning, said point being in the west rights-of-way limits of Becker Lake Rd.; thence N 06°09'00" W along the west line of said right-of-way a distance of 266.70 feet to a 1/2-inch rebar with a tag marked LS 13014; thence N 06°21'43" W a distance of 263.42 feet to a 1/2-inch rebar with a tag marked LS 13014; thence N 06°21'43" W a distance of 198.60 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence N 78°43'10" E a distance of 158.40 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 47°05'42" E a distance of 65.65 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 29°24'20" E a distance of 202.48 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 48°03'17" W a distance of 146.19 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence South 19°36'10" West a distance of 115.75 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence South 00°38'05" East a distance of 74.66 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 14°52' 53" E a distance of 125.09 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 15°08'20" E a distance of 136.60 feet to a 5/8-inch rebar with a plastic cap marked LS 13014; thence S 89°58'07" W a distance of 144.13 feet to the True Point of Beginning, also known as APN 105-18-012G.

7. Bog Hole Wildlife Area: The Bog Hole Wildlife Area lying in Sections 29, 32 and 33, T22S, R17E shall be the fenced and posted area described as follows: beginning at the southeast corner of Section 32, T22S, R17E, G&SRB&M, Santa Cruz County, Arizona; thence N 21°42'20" W a distance of 1394.86 feet to the True Point of Beginning; thence N 9°15'26" W a distance of 1014.82 feet; thence N 14°30'58" W a distance of 1088.82 feet; thence N 36°12'57" W a distance of 20.93 feet; thence N 50°16'38" W a distance of 1341.30 feet; thence N 57°51'08" W a distance of 1320.68 feet; thence N 39°03'53" E a distance of 1044.90 feet; thence N 39°07'43" E a distance of 1232.32 feet; thence S 36°38'48" E a distance of 1322.93 feet; thence S 43°03'17" E a distance of 1312.11 feet; thence S 38°19'38" E a distance of 1315.69 feet; thence S 13°11'59" W a distance of 2083.31 feet; thence S 69°42'45" W a distance of 920.49 feet to the True Point of Beginning.

8. Chevelon Canyon Ranches Wildlife Area: The Chevelon Canyon Ranches Wildlife Area shall be those areas described as follows:

Duran Ranch: T12N, R14E; Sections 6 and 7, more particularly bounded and described as follows: beginning at Corner 1, from which the Standard Corner to Section 31 in T13N, R14E and Section 36 T13N, R13E, bears N 11°41' W 21.53 chains distant; thence S 26°5' E 6.80 chains to Corner 2; thence S 66° W 12.74 chains to Corner 3; thence S 19°16' W 13.72 chains to Corner 4; thence S 29°1' W 50.02 chains to Corner 5; thence N 64°15' W five chains to Corner 6; thence N 28°54' E 67.97 chains to Corner 7; thence N 55°36' E 11.02 to Corner 1; the place of beginning.; all in G&SRB&M, Coconino County, Arizona. Dye Ranch: T12N, R14E Sections 9 and 16, more particularly described as follows: beginning at Corner 1 from which the Standard corner to Sections 32 and 33 in T13N, R14E, bears N 2° 24' E 127.19 chains distant; thence S 50°20' E 4.96 chains to corner 2; thence S 29°48' W 21.97 chains to Corner 3; thence S 14°45' W 21.00 chains to Corner 4; thence N 76°23' W 3.49 chains to Corner 5; thence N 10°13' W 14.02 chains to

Corner 6; thence N 19°41' E 8.92 chains to Corner 7; thence N 38°2' E 24.79 chains to Corner 1, the place of beginning; all in G&SRB&M, Coconino County, Arizona. Tillman Ranch: T12N, R14E land included in H.E. Survey 200 embracing a portion of approximately Sections 9 and 10 in T12N, R14E of G&SRB&M; all in G&SRB&M, Coconino County, Arizona. Vincent Ranch: T12N, R13E; Sections 3 and 4, more particularly described as follows: beginning at Corner 1, from which the south corner to Section 33, T13N, R13E, bears N 40°53' W 16.94 chains distance; thence S 53° 08' E 2.98 chains to Corner 2; thence S 11°26' W 6.19 chains to Corner 3; thence S 49°43' W 22.41 chains to Corner 4; thence S 22°45' W 30.03 chains to Corner 5; thence N 67°35' W 6.00 chains to Corner 6; thence N 23° E 30.03 chains to Corner 7; thence N 42°18' E 21.19 chains to Corner 8; thence N 57°52' E 8.40 chains to Corner 1, the place of beginning; all in G&SRB&M, Coconino County, Arizona. Wolf Ranch: T12N, R14E, Sections 18 and 19, more particularly bounded and described as follows: beginning at Corner 1, from which the U.S. Location Monument 184 H. E. S. bears S 88°53' E 4.41 chains distant; thence S 34°4' E 11.19 chains to Corner 2; thence S 40°31' W 31.7 chains to Corner 3; thence S 63°3' W 7.97 chains to Corner 4; thence S 23°15' W 10.69 chains to Corner 5; thence N 59° W 2.60 chains to Corner 6; thence N 18°45' E 10.80 chains to Corner 7; thence N 51°26' E 8.95 chains to Corner 8; thence N 30°19' E 34.37 chains to Corner 1; the place of beginning; all in G&SRB&M, Coconino County, Arizona.

9. Chevelon Creek Wildlife Area: The Chevelon Creek Wildlife Area shall be those areas described as follows:

Parcel 1: The S1/2S1/2NW1/4SW1/4 of Section 23, T18N, R17E of G&SRB&M; Parcel 2: Lots 1, 2, 3 and 4 of Section 26, T18N, R17E of G&SRB&M; Parcel 1: That portion of the NE1/4 of Section 26 lying northerly of Chevelon Creek Estates East Side 1 Amended, according to the plat of record in Book 5 of Plats, page 35, records of Navajo County, Arizona, all in T18N, R17E of G&SRB&M, Navajo County, Arizona. Parcel 2: That part of Tract A, Chevelon Creek Estates East Side 1 Amended, according to the plat of record in Book 5 of Plats, page 35, records of Navajo County, Arizona lying northerly of the following described line: beginning at the southwest corner of Lot 3 of said subdivision; thence southwesterly in a straight line to the southwest corner of Lot 6 of said subdivision.

10. Cibola Valley Conservation and Wildlife Area: The Cibola Valley Conservation and Wildlife Area shall be those areas described as follows:

Parcel 1: this parcel is located in the NW1/4 of Section 36, T1N, R24W of G&SRB&M, La Paz County, Arizona, lying east of the right of way line of the "Cibola Channelization Project of the United States Bureau of Reclamation Colorado River Front Work and Levee System," as indicated on Bureau of Reclamation Drawing 423-300-438, dated March 31, 1964, and more particularly described as follows: beginning at the northeast corner of the NW1/4 of said Section 36; thence south and along the east line of the NW1/4 of said Section 36, a distance of 2646.00 feet to a point being the southeast corner of the NW1/4 of said Section 36; thence westerly and along the south line of the NW1/4 a distance of 1711.87 feet to a point of intersection with the east line of the aforementioned right of way; thence northerly and along said east line of the aforementioned right of way, a distance of 2657.20 feet along a curve concave easterly,

having a radius of 9260.00 feet to a point of intersection with the north line of the NW1/4 of said Section 36; thence easterly and along the north line of the NW1/4 of said Section 36, a distance of 1919.74 feet to the point of beginning. Parcel 2: this parcel is located in the U.S. Government Survey of Lot 1 and the E1/2SW1/4 of Section 36, T1N, R24W of G&SRB&M, La Paz County, Arizona, lying east of the right of way line of the "Cibola Channelization Project of the United States Bureau of Reclamation Colorado River Front Work and Levee System," as indicated on Bureau of Reclamation Drawing 423-300-438, dated March 31, 1964, and more particularly described as follows: beginning at the S1/4 corner of said Section 36; thence westerly and along the south line of said Section 36, a distance of 610.44 feet to a point of intersection with the east line of the aforementioned right of way; thence northerly along said east line of the of the aforementioned right of way and along a curve concave southwesterly, having a radius of 17350.00 feet, a distance of 125.12 feet; thence continuing along said right of way line and along a reverse curve having a radius of 9260.00 feet, a distance of 2697.10 feet to a point of intersection with the east-west midsection line of said Section 36; thence easterly along said east-west midsection line, a distance of 1711.87 feet to a point being the center of said Section 36; thence south and along the north-south midsection line, a distance of 2640.00 feet to the point of beginning. Parcel 3: this parcel is located in the E1/2NE1/4 of Section 36, T1N, R24W of G&SRB&M, La Paz County, Arizona. Parcel 4: this parcel is located in the E1/2NW1/4SW1/4 of Section 21, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the south right of way line of U.S.A. Levee; except therefrom that portion lying within Cibola Sportsman's Park, according to the plat thereof recorded in Book 4 of Plats, Page 58, records of Yuma (now La Paz) County, Arizona; and further excepting the N1/2E1/2NW1/4SW1/4. Parcel 5: this parcel is located in the S1/2SW1/4 of Section 21, T1N, R23W of G&SRB&M, La Paz County, Arizona. Except the west 33.00 feet thereof; and further excepting that portion more particularly described as follows: the N1/2NW1/4SW1/4SW1/4 of said Section, excepting the north 33.00 feet and the east 33.00 feet thereof. Parcel 6: this parcel is located in the SW1/4SE1/4 of Section 21, T1N, R23W of G&SRB&M, La Paz County, Arizona. Parcel 7: this parcel is located in Sections 24 and 25, T1N, R24W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River and east of Meander line per BLM Plat 2647C. Parcel 8: this parcel is located in the W1/2 of Section 19, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River. Except that portion in condemnation suit Civil 5188PHX filed in District Court of Arizona entitled USA -vs- 527.93 acres of land; and excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 9: this parcel is located in the N1/2NE1/4SE1/4; and the W1/2SW1/4NE1/4SE1/4; and that portion of the SE1/4NE1/4 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the south right of way line of the U.S.B.R. Levee; except the east 33.00 feet thereof; and further excepting that portion more particularly described as follows: commencing at the northeast corner of the SE1/4 of said Section 20; thence S 0°24'00" E along the east line, a distance of 380.27 feet; thence S 89°36'00" W a distance of 50.00 feet to the True Point of Beginning; thence continuing S 89°36'00" W a distance of

193.00 feet; thence N 0°24'00" W a distance of 261.25 feet; thence S 70°11'00" E a distance of 205.67 feet to the west line of the east 50.00 feet of said SE1/4 of Section 20; thence S 0°24'00" E a distance of 190.18 feet to the True Point of Beginning; excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 10: this parcel is located in the S1/2SE1/4 Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona; except the east 33.00 feet thereof. Parcel 11: This parcel is located in the SW1/4NE1/4; and the NW1/4SE1/4 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River and west of the Meander line per BLM Plat 2546B; except any portion thereof lying within U.S.A. Lots 5 and 6 of said Section 20, as set forth on BLM Plat 2546B; and excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 12: this parcel is located in the SE1/4NE1/4SE1/4; and the E1/2SW1/4NE1/4SE1/4 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona. Parcel 13: this parcel is located in the E1/2 of Section 19, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River; except the W1/2W1/2SE1/4SW1/4SE1/4; except the E1/2E1/2SW1/4SW1/4SE1/4; except the SW1/4SW1/4NE1/4; except the W1/2SE1/4SW1/4NE1/4; and excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 14: this parcel is located in the SW1/4SW1/4NE1/4; and the W1/2SE1/4SW1/4NE1/4 of Section 19, T1N, R23W of G&SRB&M, La Paz County, Arizona, lying south of the Colorado River and protection levees and front work, excepting therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also excepting any artificial accretions to said line of ordinary high water. Parcel 15: this parcel is located in the W1/2 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona; except the west 133.00 feet thereof; except any portion lying within the U.S. Levee or Channel right of way or any portion claimed by the U.S. for Levee purposes or related works; and except the SE1/4SE1/4SW1/4 of said Section 20. Parcel 16: this parcel is located in the SE1/4SE1/4SW1/4 of Section 20, T1N, R23W of G&SRB&M, La Paz County, Arizona.

11. Clarence May and C.M.H. May Memorial Wildlife Area: Clarence May and C.M.H. May Memorial Wildlife Area shall be the SE1/4 of Section 8 and N1/2NE1/4 of Section 17, T17S, R31E, and the W1/2SE1/4, S1/2NW1/4, and SW1/4 of Section 9, T17S, R31E, G&SRB&M, Cochise County, Arizona, consisting of approximately 560 acres.
12. Cluff Ranch Wildlife Area: The Cluff Ranch Wildlife Area is that area within the fenced and posted portions of Sections 13, 14, 23, 24, and 26, T7S, R24E, G&SRB&M, Graham County, Arizona; consisting of approximately 788 acres.
13. Colorado River Nature Center Wildlife Area: The Colorado River Nature Center Wildlife Area is Section 10 of T19N, R22W, bordered by the Fort Mojave Indian Reservation to the west, the Colorado River to the

north, and residential areas of Bullhead City to the south and east, G&SRB&M, Mohave County, Arizona.

14. Fool Hollow Lake Wildlife Area: The Fool Hollow Lake Wildlife Area shall be that area lying in those portions of the S1/2 of Section 7 and of the N1/2N1/2 of Section 18, T10N, R22E, G&SRB&M, described as follows: beginning at a point on the west line of the said Section 7, a distance of 990 feet south of the W1/4 corner thereof; thence S 86°12' E a distance of 2533.9 feet; thence S 41°02' E a distance of 634.7 feet; thence east a distance of 800 feet; thence south a distance of 837.5 feet, more or less to the south line of the said Section 7; thence S 89°53' W along the south line of Section 7 a distance of 660 feet; thence S 0°07' E a distance of 164.3 feet; thence N 89°32' W a distance of 804.2 feet; thence N 20°46' W a distance of 670 feet; thence S 88°12' W a distance of 400 feet; thence N 68°04' W a distance of 692 feet; thence S 2°50' W a distance of 581 feet; thence N 89°32' W a distance of 400 feet; thence N 12°40' W a distance of 370.1 feet, more or less, the north line of the SW1/4SW1/4SW1/4 of said Section 7; thence west a distance of 483.2 feet, more or less, along said line to the west line of Section 7; thence north to the point of beginning.
15. House Rock Wildlife Area: House Rock Wildlife Area is that area described as follows: beginning at the common 1/4 corner of Sections 17 and 20, T36N, R4E; thence east along the south Section lines of Sections 17, 16, 15, 14, 13 T36N, R4E, and Section 18, T36N, R5E, to the intersection with the top of the southerly escarpment of Bedrock Canyon; thence southeasterly along the top of said escarpment to the top of the northerly escarpment of Fence Canyon; thence along the top of said north escarpment to its intersection with the top of the southerly escarpment of Fence Canyon; thence northeasterly along the top of said southerly escarpment to its intersection with the top of the escarpment of the Colorado River; thence southerly along top of said Colorado River escarpment to its intersection with Boundary Ridge in Section 29, T34N, R5E; thence westerly along Boundary Ridge to its intersection with the top of the escarpment at the head of Saddle Canyon; thence northerly along the top of the westerly escarpment to its intersection with a line beginning approximately at the intersection of the Cockscomb and the east fork of South Canyon extending southeast to a point approximately midway between Buck Farm Canyon and Saddle Canyon; thence northwest to the bottom of the east fork of South Canyon in the SW1/4SW1/4 of Section 16, T34N, R4E; thence northerly along the west side of the Cockscomb to the bottom of North Canyon in the SE1/4 of Section 12, T35N, R3E; thence northeasterly along the bottom of North Canyon to a point where the slope of the land becomes nearly flat; thence northerly along the westerly edge of House Rock Valley to the point of beginning; all in G&SRB&M, Coconino County, Arizona.
16. Jacques Marsh Wildlife Area: The Jacques Marsh Wildlife Area is that area within the fenced and posted portions of the SE1/4, SW1/4SW1/4NE1/4, SE1/4NW1/4, SW1/4NW1/4, Section 11; and NE1/4NW1/4, NW1/4NE1/4, NE1/4NE1/4, Section 14; T9N, R22E, G&SRB&M, Navajo County, Arizona.
17. Lamar Haines Wildlife Area: The Lamar Haines Wildlife Area is that area described as: T22N, R6E, Section 12 NW1/4, G&SRB&M, Coconino County, Arizona.
18. Lower San Pedro River Wildlife Area: The Lower San Pedro River Wildlife Area shall be those areas described as follows:

For the Triangle Bar Ranch Property: Parcel 1: that portion of the SE1/4 of Section 22, T7S, R16E, G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at the southeast corner of Section 22, to a point being a 2.5" Aluminum Cap stamped PLS 35235; thence N 00°38'57" W along the east line of the SE1/4 of Section 22 a distance of 2626.86 feet to a point being the E1/4 corner of Section 22 a 2.5" Aluminum Cap stamped PLS 35235; thence S 89°00'32" W along the north line of the SE1/4 of Section 22 a distance of 1060.80 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 12°30'55" E a distance of 673.56 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 36°31'44" E a distance of 491.55 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 89°00'32" W a distance of 689 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 00°31'09" W a distance of 400.00 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 89°00'32" W a distance of 1320.00 feet to a point on the west line of the SE1/4 of Section 22 to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 00°31'09" E a distance of 1454.09 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 88°51'39" E a distance of 1387.86 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 53°14'11" E a distance of 322.56 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 01°05'49" W a distance of 321.71 feet to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 88°51'39" E along said South line of Section 22 a distance of 1011.31 feet to the point of beginning; containing 110.65 acres, more or less. Parcel 2: that portion of Sections 23 T7S, R16E of G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at the point on the south line of Section 23, which point is 720 feet east of the southwest corner of Section 23, said point being a 1/2" Iron Pin tagged PLS 35235; thence N 23°45'32" W a distance of 1833.68 feet (N 22°28'00" W a distance of 1834 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235 on the west line of Section 23; thence S 00°38'57" E a distance of 1691.03 feet (south, record) to the southwest corner of Section 23 to a point being a 2.5" Aluminum Cap stamped PLS 35235; thence along the south line of Section 23 N 89°02'45" E a distance of 720.00 feet (east, a distance of 720.00 feet, recorded) to the point of beginning; containing 13.98 acres, more or less. Parcel 3: lots 2 and 3, and the NE1/4NW1/4, SE1/4NW1/4, and NE1/4SW1/4 of Sections 18 T7S, R16E of G&SRB&M, Pinal County, Arizona, more particularly described as follows: commencing at the northwest corner of Section 18, said point being a GLO B.C. stamped Sec 18 CC; thence S 89°47'17" E along the north line of Section 18, a distance of 1271.33 feet to a point being a 1/2" Iron Pin tagged PLS 35235, and being the point of beginning, said point is the northwest corner of the NE1/4NW1/4; thence S 89°47'17" E a distance of 1320.00 feet to a point being the N1/4 corner of Section 18, to a point being a found stone marked 1/4; thence S 01°35'23" E a distance of 4020.67 feet to a point being a found 1/2" Iron Pin with added tag of PLS 35235 to a point being the southeast corner or the NE1/4SW1/4 of Section 18; thence N 89°37'16" W a distance of 2610.28 feet to a point on the west line of Section 18 to a point being a 1/2" Iron Pin tagged PLS 35235, to a point being the southwest corner of Lot 3; thence N 01°17'05" W along the west line of Section 18, a distance of 1360.825 feet to a point being the W1/4 corner of Section 18, to a point being a found stone marked 1/4; thence N 01°20'34" W along the west line of Section 18 a distance of 1325.845 feet to a point being a 1/2" Iron Pin tagged PLS

35235, to a point being the northwest corner of Lot 2; thence S 89°32'47" E a distance of 1279.09 feet to a point being a found 1/2" Iron Pin with added tag of PLS 35235 approximately 0.8 feet down from natural grade, to a point being the northeast corner of Lot 2; thence N 01°40'11" W along the west line of the NE1/4NW1/4 of Section 18, a distance of 1331.47 feet to a point on the north line of Section 18 and the point of beginning; containing 200.78 acres, more or less. Parcel 4: lots 3, 4, 5, 6, and 7 of Section 9, T7S, R16E, of G&SRB&M, Pinal County, Arizona more particularly described as follows: beginning at the S1/4 corner of said Section 9, to a point being a 1.5" Open Iron Pipe with added tag PLS 35235; thence N 00°00'03" E along the north-south midsection line a distance of 2641.16 feet (N 00°38'48" E a distance of 2641.20 feet, record) to the center section of Section 9 to a point being a 1/2" Iron Pin tagged PLS 35235; thence continuing N 00°00'03" E along the north-south midsection line, a distance of 1349.83 feet (N 00°38'48" E a distance of 1349.83 feet, record) to the northeast corner of Lot 5 to a point being a found 1/2" Iron Pin with added tag PLS 35235; thence S 89°09'38" W along the north line of Lot 5 a distance of 1346.80 feet (S 89°44'19" W a distance of 1347.21 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, and the northwest corner of Lot 5 and the southeast corner of Lot 3; thence N 00°58'35" E along the east line of Lot 3 a distance of 1357.74 feet (N 00°37'27" E a distance of 1357.74 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235 and the northeast corner of Lot 3; thence N 89°24'33" W along the north line of Lot 3 a distance of 1323.90 feet (N 89°56'37" W a distance of 1323.945 feet, record) to the northwest corner of Section 9 to a point being a found Drill Steel with added tag PLS 35235; thence S 01°56'29" W along the west line of Section 9 a distance of 712.90 feet to a point on the west boundary line of Old Camp Grant and to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 23°03'26" E along said west boundary line of Old Camp Grant, a distance of 5011.05 feet to a point on the south line of Section 9 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 89°13'21" E along the south line of Section 9 a distance of 709.50 feet (N 89°51'39" E a distance of 709.50 feet, record) to the point of beginning; containing 181.71 acres, more or less. Together with those parts of Sections 15 and 22, T7S, R16E, of G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at a point being a 1/2" Iron Pin tagged PLS 35235, N 89°00'32" E along the south line of the NE1/4 of Section 22, a distance of 2251.00 feet (east a distance of 2251 feet, record) of the center section corner of Section 22; thence N 47°16'51" W a distance of 1275.05 feet (N 46°47'00" W a distance of 1275.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 79°57'00" W a distance of 1344.00 feet (N 7°27'00" W a distance of 1344.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 65°05'02" W a distance of 399.00 feet (N 59°46'00" W a distance of 399.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 17°49'24" W a distance of 1382.47 feet (N 17°34'00" W a distance of 1385.00 feet, record) to a point on the Section line between Sections 15 and 22 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 21°43'45" W a distance of 1408.97 feet (N 20°49'00" W a distance of 1412.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235 and the Center corner of the SW1/4 of Section 15; thence S 01°06'32" W along the west line of the SE1/4SW1/4 of Section 15, a distance of 1317.07 feet (south, record) to a point on the south line of Section 15 and the southwest corner of the

SE1/4SW1/4 of Section 15 to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 00°27'15" E along the west line of the E1/2NW1/4 of Section 22, a distance of 2637.50 feet (south, record) to a point on the south line of the NW1/4 of Section 22 and the southwest corner of the E1/2NW1/4 of Section 22 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 89°00'56" E along said south line of the NW1/4 of Section 22 a distance of 1320.895 feet (east, record) to the center section corner of Section 22 to a point being a found 2.5" Aluminum Cap stamped C1/4 PLS 35235; thence N 89°00'32" E along the south line of the NE1/4 of Section 22 a distance of 2251.00 feet (east, record) to the point of beginning; containing 110.28 acres, more or less. Parcel 5: those parts of Sections 26 and 35 T7S, R16E of G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at a point N 89°31'56" E a distance of 571.74 feet (record 572 a distance of feet east) of the center section of Section 35 said point being a 1/2" Iron Pin tagged PE 9626; thence N 16°07'19" W a distance of 1369.92 feet (N 15°44'00" W a distance of 1371 feet, record) to a point being a Power Pole tagged PLS 35235; thence N 46°55'33" W a distance of 279.77 feet (N 45°00'00" W a distance of 283.00 feet, record) to the center of a 6" hollow iron fence post filled with concrete approximately 6 feet tall, tagged PLS 35235; thence N 79°45'23" W a distance of 500.00 feet (N 80°00'00" W a distance of 500.00 feet, record) to the center of a 6" hollow iron fence post filled with concrete approximately 6 feet tall, tagged PLS 35235; thence N 21°10'05" W a distance of 1104.18 feet (N 20°38'00" W a distance of 1104.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, said point being a distance of 3.55 feet south of the north line of Section 35; thence N 07°46'25" E a distance of 1334.00 feet (N 08°08'00" E a distance of 1334.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 89°37'04" W a distance of 630.00 feet (west, a distance of 630.00 feet, record) to a point being a found 1/2" Iron Pin with added tag PLS 35235; thence N 01°11'34" W a distance of 1314.34 feet (north a distance of 1320.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, said point being on the north line of the SW1/4; thence along the north line of the SW1/4 N 89°18'34" E a distance of 282.00 feet (east a distance of 282.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, said point being S 89°18'34" W a distance of 992.74 from the center section corner of Section 26; thence N 13°48'15" W a distance of 1351.04 feet (N 13°40'00" W a distance of 1358.00 feet, record) to a point on the north line of the SE1/4NW1/4 of Section 26 to a point being a 1/2" Iron Pin tagged PLS 35235, said point being N 89°10'39" E a distance of 26.52 feet from the northwest corner of the SE1/4NW1/4 of Section 26; thence N 26°31'53" W a distance of 1458.00 feet (N 23°43'00" W a distance of 1442.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, that is on the north line of Section 26 said point being N 89°02'45" E along the north line of Section 26, a distance of 720.00 feet from the northwest corner of Section 26; thence N 23°45'32" W a distance of 1833.68 feet (N 22°28'00" W a distance of 1834.00 feet, record) to a point being a 1/2" Iron Pin tagged PLS 35235, said point being on the west line of Section 23; thence S 00°38'57" E along the west line of Section 23, a distance of 1690.37 feet (south, record) to the southwest corner of Section 23 and northwest corner of Section 26 to a point being a 2.5" Aluminum Cap stamped PLS 35235; thence continuing S 01°16'16" E along the west line of Section 26 a distance of 2625.56 feet (south a distance of 2640.00 feet, record) to the

W1/4 corner of Section 26 to a point being a 2.5" Aluminum Cap stamped PLS 35235; thence S 01°16'16" E along the west line of Section 26, a distance of 2625.56 feet (south a distance of 2640.00 feet, record) to the southwest corner of Section 26 and northwest corner of Section 35 to a point being a 2.25" Capped Iron Pipe stamped with added tag PLS 35235; thence S 00°45'30" E along the west line of Section 35, a distance of 1317.94 feet (south a distance of 1320.00 feet, record) to a point being a 2.5" Capped Iron Pipe stamped with added tag PLS 35235, said point being the southwest corner of the N1/2NW1/4 of Section 35; thence N 89°41'45" E along the south line of the N1/2NW1/4 of Section 35, a distance of 2630.87 feet (east a distance of 2644.00 feet, record) to a point being an Oblong Iron Pin with added tag PLS 35235 said point being the southeast corner of the N1/2NW1/4 of Section 35; thence S 01°11'23" E a distance of 1319.08 (south a distance of 1320.00 feet, record) to a point being an Oblong Iron Pin, with added tag PLS 35235, said point being the center section corner of Section 35; thence N 89°31'56" E along the south line of the NE1/4 of Section 35 a distance of 571.74 feet (east a distance of 572.00 feet, record) to the point of beginning; excepting therefrom any portion of said lands lying and within Section 23, T7S, R16E, G&SRB&M; CONTAINING containing 249.46 acres, more or less. Parcel 6: that portion of Section 1, T8S, R16E of G&SRB&M, Pinal County, Arizona, more particularly described as follows: beginning at a point N 88°25'39" E a distance of 507.07 feet (east a distance of 510 feet record) of the southwest corner of the SE1/4SW1/4 of Section 1 said point being a 1/2" Iron Pin tagged RLS 10046; thence N 18°38'44" E a distance of 1399.18 feet (record N 19°41' E a distance of 1402 feet) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 03°51'10" W a distance of 1314.74 feet (record N 02°44' W a distance of 1321 feet) to a point being a 1/2" Iron Pin tagged RLS 10046; thence S 88°45'59" W a distance of 918.71 feet (record west, a distance of 919 feet) to a point being a 1/2" Iron Pin tagged RLS 10046; thence N 01°02'04" W a distance of 977.00 feet (record north a distance of 977 feet) to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 72°26'42" W a distance of 1384.43 feet (record N 71°22' W a distance of 1393 feet) to a point on the west line of Section 1 to a point being a 1/2" Iron Pin PLS 35235; thence S 01°07'43" E along the west line of Section 1, a distance of 1422.00 feet (record south a distance of 1412 feet) to the W1/4 corner of Section 1, said point being a 2.5" Aluminum Cap stamped PLS 35235; thence continuing S 01°07'43" E along the west line of Section 1, a distance of 1320.00 feet (record south a distance of 1320 feet) to the southwest corner of the NW1/4SW1/4 of Section 1 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 88°37'29" E a distance of 1311.56 feet (record east to the southwest corner of the NE1/4SW1/4) to the southwest corner of the NE1/4SW1/4 of Section 1 to a point being a 1/2" Iron Pin tagged PLS 35235; thence S 01°05'24" E a distance of 1316.31 feet (record, south a distance of 1320 feet) to the southwest corner of the SE1/4SW1/4 of Section 1 to a point being a 1/2" Iron Pin tagged PLS 35235; thence N 88°25'39" E a distance of 507.07 feet (record, east a distance of 510 feet) to the point of beginning; containing 126.84 acres, more or less. For the ASARCO Property: Parcel 1: Section 15: the W1/2SE1/4 and E1/2SW1/4 of Section 15, T7S, R16E of G&SRB&M, Pinal county, Arizona; except that portion of land situated in Government Lot 9 lying west of the center line of the San Pedro River, said portion being APN 300-35-002. Section 22: That portion of the NE1/4NW1/4 and the NE1/4 of Section 22

T7S, R16E of G&SRB&M, Pinal County, Arizona, lying east of the San Pedro River. Section 23: that portion of the SW1/4 of Section 23, T7S, R16E of G&SRB&M, Pinal County, Arizona, lying east of the San Pedro River. Section 26: that portion of the N1/2NW1/4 of Section 26, T7S, R16E of G&SRB&M, Pinal County, Arizona, lying east of the San Pedro River. Parcel 2: Section 15: Government Lots 1, 2, 3, 4, 5, 6, and 7 of Section 15, T7S, R16E of G&SRB&M, Pinal County, Arizona. Parcel 3: Section 4: Government Lots 5, 8, 9, 11, 12, and 13 of Section 4 except that portion of land situated in Government Lot 13 lying east of State Highway 77 right-of-way, said portion of land being APN 300-31-005B. Section 5: Government Lots 2, 3, 4 and 5, except that portion of land situated in Government Lot 2, more particularly described as follows: beginning at the northeast corner of said Lot 2; thence along the east boundary of said Lot 2 due south 599.94 feet; thence leaving said east boundary due west 283.27 feet to the County Rd. right-of-way (El Camino Rd.); thence along said County Rd. right-of-way N 04°18'56" E a distance of 95.16 feet; thence continuing along said County Rd. right-of-way N 16°30'21" E a distance of 384.05 feet; thence continuing along said County Rd. right-of-way N 14°33'05" E a distance of 141.35 feet to the north boundary of said County Rd. right-of-way due east a distance of 131.48 feet along the north boundary of Government Lot 1 to the point of beginning.

19. Luna Lake Wildlife Area: The Luna Lake Wildlife Area shall be the fenced, buoyed, and posted area lying north of U.S. Highway 180 T5N, R31E, Section 17 N1/2, G&SRB&M, Apache County, Arizona.
20. Mittry Lake Wildlife Area: The Mittry Lake Wildlife Area shall be those areas described as follows:  
T6S, R21W, Section 31: All of Lots 1, 2, 3, 4, E1/2W1/2, and that portion of E1/2 lying westerly of Gila Gravity Main Canal Right-of-Way; T7S, R21W; Section 5: that portion of SW1/4SW1/4 lying westerly of Gila Gravity Main Canal Right-of-Way; Section 6: all of Lots 2, 3, 4, 5, 6, 7 and that portion of Lot 1, S1/2NE1/4, SE1/4 lying westerly of Gila Gravity Main Canal R/W; Section 7: all of Lots 1, 2, 3, 4, E1/2W1/2, W1/2E1/2, and that portion of E1/2E1/2 lying westerly of Gila Gravity Main Canal R/W; Section 8: that portion of W1/2W1/2 lying westerly of Gila Gravity Main Canal R/W; Section 18: all of Lots 1, 2, 3, 4, E1/2NW1/4, and that portion of NE1/4, E1/2SW1/4, NW1/4SE1/4 lying westerly of Gila Gravity Main Canal R/W; T6S, R22W; Section 36: all of Lot 1. T7S, R22W; Section 1: all of Lot 1; Section 12: all of Lots 1, 2, SE1/4SE1/4; Section 13: all of Lots 1, 2, 3, 4, 5, 6, 7, 8, NE1/4, N1/2SE1/4, and that portion of S1/2SE1/4 lying northerly of Gila Gravity Main Canal R/W; all in G&SRB&M, Yuma County, Arizona.
21. Planet Ranch Conservation and Wildlife Area: The Planet Ranch Wildlife Area shall be those areas described as follows: Mohave County (Parcels 1 through 5) Parcel No. 1: the S1/2S1/2 of Section 28, T11N, R16W of the G&SRB&M, Mohave County, Arizona; except 1/16 of all oil, gases, and other hydrocarbon substances, coal, stone, metals, minerals, fossils and fertilizer of every name and description and except all materials which may be essential to production of fissionable material as reserved in Arizona Revised Statutes. Parcel No. 2: all of sections 32 and 34 T11N, R16W of the G&SRB&M, lying in Mohave County, Arizona; except 1/16 of all oil, gases, and other hydrocarbon substances, coal, stone, metals, minerals, fossils and fertilizer of every name and description and except all materials which may be

essential to production of fissionable material as reserved in Arizona Revised Statutes. Parcel No. 3: the S1/2S1/2 of Section 27, T11N, R16W of the G&SRB&M, Mohave County, Arizona; except oil, gas, coal, and minerals as reserved in deed recorded in Book 64 of Deeds, Page 599, records of Mohave County, Arizona. Parcel No. 4: all of Section 33 and 35, T11N, R16W of the G&SRB&M, lying in Mohave County, Arizona; except oil, gas, coal, and minerals as reserved in deed recorded in Book 64 of Deeds, Page 599, records of Mohave County, Arizona. Parcel No. 5: the S1/2S1/2N1/2 and the S1/2 of Section 36, T11N, R16W of the G&SRB&M, lying in Mohave County, Arizona; except 1/16 of all oil, gases, and other hydrocarbon substances, coal, stone, metals, minerals, fossils and fertilizer of every name and description and except all materials which may be essential to production of fissionable material as reserved in Arizona Revised Statutes. La Paz County (Parcels 6 through 9) Parcel No. 6: that portion of the S1/2 of Lot 2, all of Lots 3, and 4, the S1/2SE1/4NW1/4 and the S1/2S1/2NE1/4 of Section 31, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona; except all oil, gas, coal, and minerals as set forth in instrument recorded in Book 57, of Dockets, Page 310. Parcel No. 7: all of Section 32, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona; except any part of Section 32 lying within the Copper Hill Mining Claim as shown on the Plat of Mineral Survey Number 2675; except that portion of the SW1/4 of Section 32, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona, described as follows: commencing at the S1/4 corner of Section 32; thence west along the south line of Section 32, a distance of 1270.58 feet to the point of beginning; thence north 634.31 feet; thence S 76°41'15" W a distance of 94.09 feet to the southeasterly line of the Planet Ranch Road; thence along said line S 28°55' W a distance of 101.23 feet; thence southwesterly 250.25 feet through an angle of 54°22', along a tangent curve concave to the northwest, having a radius of 263.73 feet to a point of tangency, from which a radial line bears N 07°05' W; thence along said line S 82°55' W a distance of 96.52 feet; thence westerly 184.42 feet through an angle of 17°40'14" along a tangent curve concave to the north, having a radius of 597.96 feet to a point of tangency from which a radial line bears N 10°35'14" E; thence N 79°24'46" W a distance of 260.38 feet; thence leaving the southwesterly line of said Planet Ranch Road, south a distance of 429.61 feet to the south line of said Section 32; thence south along said south line east a distance of 874.42 feet more or less back to the point of beginning; and except that portion of the SW1/4 of Section 32, T11N, R16W of the G&SRB&M, La Paz County, Arizona, described as follows: beginning at the S1/4 corner of Section 32; thence west along the south line of Section 32, a distance of 1270.58 feet; thence north a distance of 634.31 feet; thence S 76°41'15" W a distance of 214.08 feet; thence N 13°18'45" W a distance of 25 feet; thence N 76°41'15" E a distance of 220 feet; thence east a distance of 1270.58 feet; thence south a distance of 660 feet back to the point of beginning. Parcel No. 8: those portions of Sections 33, 34, and 35, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona; except an undivided 1/16 of all oil, gases, and other hydrocarbon substances, coal or stone, metals, minerals, fossils and fertilizer of every name and description, together with all uranium, thorium, or any other material which is or may be determined by the laws of the production of fissionable materials, whether or not of commercial value, as reserved by the State of Arizona in Section 37-231, Arizona Revised Statutes, and in patent of record (Section 34); also

except all oil, gas, coal, and minerals as set forth in instrument recorded in Book 57 of Dockets, Page 310 (Section 33 and 35). Parcel No. 9: the S1/2S1/2N1/2 and the S1/2 of Section 36, T11N, R16W of the G&SRB&M, lying in La Paz County, Arizona; except an undivided 1/16 of all oil, gases, and other hydrocarbon substances, coal or stone, metals, minerals, fossils and fertilizer of every name and description, together with all uranium, thorium, or any other material which is or may be determined by the laws of the production of fissionable materials, whether or not of commercial value, as reserved by the State of Arizona in Section 37-231, Arizona Revised Statutes, and in patent of record.

22. Powers Butte (Mumme Farm) Wildlife Area: The Powers Butte Wildlife Area shall be that area described as follows:

T1S, R5W, Section 25, N1/2SW1/4, SW1/4SW1/4; Section 26, S1/2; Section 27, E1/2SE1/4; Section 34. T2S, R5W Section 3, E1/2W1/2, W1/2SE1/4, NE1/4SE1/4, NE1/4; Section 10, NW1/4, NW1/4NE1/4; Section 15, SE1/4SW1/4; Section 22, E1/2NW1/4, NW1/4NW1/4; all in G&SRB&M, Maricopa County, Arizona.

23. Quigley-Achee Wildlife Area: The Quigley-Achee Wildlife Area shall be those areas described as follows:

T8S, R17W; Section 13, W1/2SE1/4, SW1/4NE1/4, and a portion of land in the W1/2 of Section 13, more particularly described as follows: beginning at the S1/4 corner; thence S 89°17'09" W along the south line of said Section 13 a distance of 2627.50 feet to the southwest corner of said Section 13; thence N 41°49'46" E a distance of 3026.74 feet; thence N 0°13'30" W a distance of 1730.00 feet to a point on the north 1/16th line of said Section 13; thence N 89°17'36" E along said north 1/16th line a distance of 600.00 feet to the center of said Section 13; thence S 0°13'30" E. along the north-south midsection line a distance of 3959.99 feet to the point of beginning. Section 23, SE1/4NE1/4, and a portion of land in the NE1/4NE1/4 of Section 23, more particularly described as follows: beginning at the northeast corner; thence S 0°10'19" E along the east line of said Section 23, a distance of 1326.74 feet to a point on the south line of the NE1/4NE1/4 of said Section 23; thence S 89°29'58" W along said south line, a distance of 1309.64 feet; thence N 44°17'39" E a distance of 1869.58 feet to the point of beginning. Section 24, NW1/4, N1/2SW1/4, W1/2NE1/4; all in G&SRB&M, Yuma County, Arizona.

24. Raymond Wildlife Area: The Raymond Wildlife Area is that area described as follows: All of Sections 24, 25, 26, 34, 35, 36, and the portions of Sections 27, 28, and 33 lying east of the following described line: beginning at the W1/4 corner of Section 33; thence northeasterly through the 1/4 corner common to Sections 28 and 33, 1/4 corner common to Sections 27 and 28 to the N1/4 corner of Section 27 all in T19N, R11E. All of Sections 15, 16, 17, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34 all in T19N, R12E.; all in G&SRB&M, Coconino County, Arizona.

25. Robbins Butte Wildlife Area: The Robbins Butte Wildlife Area shall be those areas described as follows:

T1S, R3W, Section 17, S1/2NE1/4, SE1/4, NW1/4SW1/4; Section 18, Lots 3, 4, and E1/2SW1/4, S1/2NE1/4, W1/2SE1/4, NE1/4SE1/4. T1S, R4W, Section 13, all except that portion of W1/2SW1/4SW1/4 lying west of State Route 85; Section 14, all except the W1/2NW1/4 and that portion of the SW1/4 lying north of the Arlington Canal; Section 19, S1/2SE1/4; Section 20, S1/2S1/2, NE1/4SE1/4; Section 21, S1/2,

S1/2NE1/4, SE1/4NW1/4; Section 22, all except for NW1/4NW1/4; Section 23; Section 24, that portion of SW1/4, W1/2SW1/4NW1/4 lying west of State Route 85; Section 25, that portion of the NW1/4NW1/4 lying west of State Route 85; Section 26, NW1/4, W1/2NE1/4, NE1/4NE1/4; Section 27, N1/2, SW1/4; Section 28; Section 29, N1/2N1/2, SE1/4NE1/4; Section 30, Lots 5, 6, 7, 8, NE1/4, SE1/4SE1/4; all in G&SRB&M, Maricopa County, Arizona.

26. Roosevelt Lake Wildlife Area: The Roosevelt Lake Wildlife Area is that area described as follows: beginning at the junction of A-Cross Rd. and Arizona Highway 188; south on Arizona Highway 188 to the main entrance of Roosevelt Lake Marina; northeast on this road towards the main marina launch; northeast across Roosevelt Lake to the south tip of Bass Point; northerly to Long Gulch Rd.; northeast on this road to the A-Cross Rd.; northwest on the A-Cross Rd. to the point of beginning; all in G&SRB&M, Gila County, Arizona.
27. Santa Rita Wildlife Area: The Santa Rita Experimental Range is that area described as follows: Concurrent with the Santa Rita Experimental Range boundary and includes the posted portion of the following sections: Sections 33 through 36, T17S, R14E, Section 25, Section 35 and Section 36, T18S, R13E, Sections 1 through 4, Sections 9 through 16, and Sections 21 through 36, T18S, R14E, Sections 3 through 9, Sections 16 through 21, Sections 26 through 34, T18S, R15E, Sections 1 through 6, Sections 9 through 16, Section 23, T19S, R14E, Sections 3 through 10, Sections 16 through 18, T19S, R15E; all in G&SRB&M, Pima County, Arizona, and all being coincidental with the Santa Rita Experimental Range Area.
28. Sipe White Mountain Wildlife Area: The Sipe White Mountain Wildlife Area shall be those areas described as follows:  
T7N, R29E, Section 1, SE1/4, SE1/4NE1/4, S1/2NE1/4NE1/4, SE1/4SW1/4NE1/4, NE1/4SE1/4SW1/4, and the SE1/4NE1/4SW1/4. T7N, R30E, Section 5, W1/2W1/2SE1/4SW1/4, and the SW1/4SW1/4; Section 6, Lots 1, 2, 3, 7, and 8, SW1/4NW1/4NW1/4, S1/2NW1/4NE1/4SE1/4, N1/2SE1/4SE1/4, E1/2SE1/4SE1/4SE1/4, SW1/4SE1/4 and the SE1/4SW1/4; Section 7, Parcel 10: Lots 1 and 2, E1/2NW1/4, E1/2E1/2NE1/4NE1/4, W1/2SW1/4NE1/4, NW1/4SE1/4, W1/2NE1/4SE1/4, NE1/4SW1/4, E1/2NW1/4SW1/4, and the NW1/4NE1/4; Section 8, NW1/4NW1/4, and the W1/2W1/2NE1/4NW1/4. T8N, R30E; Section 31, SE1/4NE1/4, SE1/4, and the SE1/4SW1/4; all in G&SRB&M, Apache County, Arizona.
29. Springerville Marsh Wildlife Area: The Springerville Marsh Wildlife Area shall be those areas described as follows: S1/2 SE1/4 Section 27 and N1/2 NE1/4 Section 34, T9N, R29E, G&SRB&M, Apache County, Arizona.
30. Sunflower Flat Wildlife Area: The Sunflower Flat Wildlife Area shall be those areas described as follows: T20N, R3E; Section 11, NE1/4SE1/4, N1/2NW1/4SE1/4, SE1/4NW1/4SE1/4, NE1/4SE1/4SE1/4, W1/2SE1/4NE1/4, S1/2SE1/4SE1/4NE1/4, E1/2SW1/4NE1/4; Section 12, NW1/4SW1/4SW1/4, NW1/4NE1/4SW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4, W1/2SE1/4NW1/4SW1/4, SW1/4NE1/4NW1/4 SW1/4; all in the G&SRB&M, Coconino County, Arizona.

31. Three Bar Wildlife Area: The Three Bar Wildlife Area shall be that area described as follows: beginning at Roosevelt Dam, northwesterly on 188 to milepost 252 (Bumble Bee Wash); westerly along the boundary fence for approximately 7 1/2 miles to the boundary of Gila and Maricopa counties; southerly along this boundary through Four Peaks to a fence line south of Buckhorn Mountain; southerly along the barbed wire drift fence at Ash Creek to Apache Lake; northeasterly along Apache Lake to Roosevelt Dam.
32. Tucson Mountain Wildlife Area: The Tucson Mountain Wildlife Area shall be that area described as follows: beginning at the northwest corner of Section 33; T13S, R11E on the Saguaro National Monument boundary; due south approximately one mile to the El Paso Natural Gas Pipeline; southeast along this pipeline to Sandario Rd.; south on Sandario Rd. approximately two miles to the southwest corner of Section 15; T14S, R11E, east along the section line to the El Paso Natural Gas Pipeline; southeast along this pipeline to its junction with State Route 86, also known as the Ajo Highway; easterly along this highway to the Tucson city limits; north along the city limits to Silverbell Rd.; northwest along this road to Twin Peaks Rd.; west along this road to Sandario Rd.; south along this road to the Saguaro National Monument boundary; west and south along the monument boundary to the point of beginning, all in G&SRB&M, Pima County, Arizona.
33. Upper Verde River Wildlife Area: The Upper Verde River Wildlife Area consists of eight parcels totaling 1102.54 acres located eight miles north of Chino Valley in Yavapai County, Arizona, along the upper Verde River and lower Granite Creek described as follows:
- Sullivan Lake: located immediately downstream of Sullivan Lake, the headwaters of the Verde River: the NE1/4NE1/4 lying east of the California, Arizona, and Santa Fe Railway Company right-of-way in Section 15, T17N, R2W; and also the NW1/4NE1/4 of Section 15 consisting of approximately 80 acres. Granite Creek Parcel: includes one mile of Granite Creek to its confluence with the Verde River: The SE1/4SE1/4 of Section 11; the NW1/4SW1/4 and SW1/4NW1/4 of Section 13; the E1/2NE1/4 of Section 14; all in T17N, R1W consisting of approximately 239 acres. E1/2SW1/4SW1/4, SE1/4SW1/4, NE1/4SW1/4 and NW1/4SE1/4 of Section 12, NW1/4NW1/4 of Section 13, T17N, R2W consisting of approximately 182.26 acres. Campbell Place Parcel: NE1/4NW1/4, NW1/4NE1/4, NE1/4NE1/4, SE1/4NW1/4, SW1/4NE1/4, SE1/4NE1/4, NE1/4SW1/4, NW1/4SE1/4, NE1/4SE1/4, NW1/4SW1/4, NE1/4SW1/4, and NW1/4SE1/4 in Section 7, T17N, R1W and SE1/4SE1/4 Section 12, T17N, R2W consisting of 315 acres. Tract 39 Parcel: the E1/2 of Tract 39 within the Prescott National Forest boundary, SE1/2SW1/4 and SW1/4SE1/4 of Section 5, T18N, R1W; and the W1/2 of Tract 39 outside the Forest boundary, SW1/4SW1/4, and SW1/4SW1/4 of Section 5 and NW1/4NW1/4 of Section 8, T18N, R1W consisting of approximately 163 acres. Wells Parcels: Parcel 1 and Parcel 2: all that portion of Government Lots 9 and 10, Section 7, along with Lot 3 and the SW1/4NW1/4, Section 8, located in T17N, R1W, of G&SRB&M, Yavapai County, Arizona, also known as APN 306-39-004L and 306-39-004M. Parcel 3 and Parcel 4: all that portion of the NE1/4SW1/4, NW1/4SE1/4, SW1/4SW1/4, and E1/2SW1/4SW1/4 of Section 12 and the NW1/4NW1/4 of Section 13, T17N, R2W, of G&SRB&M, Yavapai County, Arizona.
34. Wenima Wildlife Area: The Wenima Wildlife Area shall be those areas described as follows:

T9N, R29E; Section 5, SE1/4 SW1/4, and SW1/4 SE1/4 except E1/2 E1/2 SW1/4 SE1/4, Section 8, NE1/4 NW1/4, and NW1/4 NE1/4; Sections 8, 17 and 18, within the following boundary: From the 1/4 corner of Sections 17 and 18, the True Point of Beginning; thence N 00°12'56" E a distance of 1302.64 feet along the Section line between Sections 17 and 18 to the N1/16 corner; thence N 89°24'24" W a distance of 1331.22 feet to the NE1/16 corner of Section 18; thence N 00°18'02" E a distance of 1310.57 feet to the E1/16 corner of Sections 7 and 18; thence S 89°03'51" E a distance of 1329.25 feet to the northeast Section corner of said Section 18; thence N 01°49'10" E a distance of 1520.28 feet to a point on the Section line between Sections 7 and 8; thence N 38°21'18" E a distance of 370.87 feet; thence N 22°04'51" E a distance of 590.96 feet; thence N 57°24'55" E a distance of 468.86 feet to a point on the east-west midsection line of said Section 8; thence N 89°38'03" E a distance of 525.43 feet along said midsection line to the center W1/16 corner; thence S 02°01'25" W a distance of 55.04 feet; thence S 87°27'17" E a distance of 231.65 feet; thence S 70°21'28" E a distance of 81.59 feet; thence N 89°28'36" E a distance of 111.27 feet; thence N 37°32'54" E a distance of 310.00 feet; thence N 43°58'37" W a distance of 550.00 feet; thence N 27°25'53" W a distance of 416.98 feet to the NS1/16 line of said Section 8; thence N 02°01'25" E a distance of 380.04 feet along said 1/16 line to the NW1/16 corner of said Section 8; thence N 89°45'28" E a distance of 1315.07 feet along the east-west middle 1/16 line; thence S 45°14'41" E a distance of 67.69 feet; thence S 49°28'18" E a distance of 1099.72 feet; thence S 08°04'43" W a distance of 810.00 feet; thence S 58°54'47" W a distance of 341.78 feet; thence 50°14'53" W a distance of 680.93 feet to a point in the center of that cul-de-sac at the end of Jeremy's Point Rd.; thence N 80°02'20" W a distance of 724.76 feet, said point lying N 42°15'10" W a distance of 220.12 feet from the northwest corner of Lot 72; thence N 34°19'23" E a distance of 80.64 feet; thence N 15°54'25" E a distance of 51.54 feet; thence N 29°09'53" E a distance of 45.37 feet; thence N 40°09'33" E a distance of 69.21 feet; thence N 25°48'58" E a distance of 43.28 feet; thence N 13°24'51" E a distance of 63.12 feet; thence N 16°03'10" W a distance of 30.98 feet; thence N 57°55'25" W a distance of 35.50 feet; thence N 80°47'38" W a distance of 48.08 feet; thence S 87°28'53" W a distance of 82.84 feet; thence S 72°07'06" W a distance of 131.85 feet; thence S 43°32'45" W a distance of 118.71 feet; thence S 02°37'48" E a distance of 59.34 feet; thence S 23°03'29" E a distance of 57.28 feet; thence S 28°30'39" E a distance of 54.75 feet; thence S 36°39'47" E a distance of 105.08 feet; thence S 24°55'07" West a distance of 394.78 feet; thence S 61°32'16" W a distance of 642.77 feet to the northwest corner of Lot 23; thence N 04°35'23" W a distance of 90.62 feet; thence S 85°24'37" W a distance of 26.00 feet; thence N 64°21'36" W a distance of 120.76 feet; thence S 61°07'57" W a distance of 44.52 feet; thence S 39°55'58" W a distance of 80.59 feet; thence S 11°33'07" W a distance of 47.21 feet; thence S 19°53'19" E a distance of 27.06 feet; thence S 54°26'36" E a distance of 62.82 feet; thence S 24°56'25" W a distance of 23.92 feet; thence S 48°10'38" W a distance of 542.79 feet; thence S 17°13'48" W a distance of 427.83 feet to the northwest corner of Lot 130; thence S 29°10'58" W a distance of 104.45 feet to the southwest corner of Lot 130; thence southwesterly along a curve having a radius of 931.52 feet, and arc length of 417.52 feet to the southwest corner of Lot 134; thence S 15°04'25" W a distance of 91.10 feet; thence S 04°29'15" W a distance of 109.17 feet; thence S 01°41'24" W a distance of 60.45 feet; thence

S 29°16'05" W a distance of 187.12 feet; thence S 14°44'00" W a distance of 252.94 feet; thence S 15°42'24" E a distance of 290.09 feet; thence S 89°13'25" E a distance of 162.59 feet; thence S 37°19'54" E a distance of 123.03 feet to the southeast corner of Lot 169; thence S 20°36'30" E a distance of 706.78 feet to the northwest corner of Lot 189; thence S 04°07'31" W a distance of 147.32 feet; thence S 29°11'19" E a distance of 445.64 feet; thence S 00°31'40" E a distance of 169.24 feet to the east-west midsection line of Section 17 and the southwest corner of Lot 194; thence S 89°28'20" W a distance of 891.84 feet along said east-west midsection line to the True Point of Beginning; all in G&SRB&M, Apache County, Arizona.

35. White Mountain Grasslands Wildlife Area: The White Mountain Grasslands Wildlife Area shall be those areas described as follows:

Parcel 1 (CL1): the S1/2 of Section 24; the N1/2NW1/4 of Section 25; the NE1/4 and N1/2SE1/4 of Section 26; all in T9N, R27E of G&SRB&M, Apache County, Arizona; except all coal and other minerals as reserved to the U.S. in the Patent of said land. Parcel 2 (CL2): the SE1/4 and the SE1/4SW1/4 of Section 31, T9N, R28E of G&SRB&M, Apache County, Arizona. Parcel 3 (CL3): the NW1/4SW1/4 of Section 28; and the SW1/4S1/2SE1/4 and NE1/4SE1/4 of T9N, R28E of G&SRB&M, Apache County, Arizona. Parcel 4 (CL4): the SW1/4SW1/4 of Section 5; the SE1/4SE1/4 of Section 6; the NE1/4NE1/4 of Section 7; the NW1/4NW1/4, E1/2SW1/4NW1/4, W1/2NE1/4, SE1/4NW1/4, and that portion of the S1/2 which lies North of Highway 260, except the W1/2SW1/4 of Section 8; all in T8N, R28E of G&SRB&M, Apache County, Arizona. Parcel 1 (O1): the S1/2N1/2 of Section 10, T8N, R28E, of G&SRB&M, Apache County, Arizona; except that Parcel of land lying within the S1/2NE1/4 of Section 10, T8N, R28E, of G&SRB&M, Apache County, Arizona, more particularly described as follows: From the N1/16 corner of Sections 10 and 11, monumented with a 5/8-inch rebar with a cap marked LS 13014, said point being the True Point of Beginning; thence N 89°44'54" W a distance of 1874.70 feet along the east-west 1/16 line to a point monumented with a 1/2-inch rebar with a tag marked LS 13014; thence S 02°26'17" W a distance of 932.00 feet to a point monumented with a 1/2-inch rebar with a tag marked LS 13014; thence S 89°44'54" E a distance of 1873.69 feet to a point monumented with a 1/2-inch rebar with a tag marked LS 13014, said point being on the east line of Section 10; thence N 02°30'00" E a distance of 932.00 feet along said Section line to the True Point of Beginning. Parcel 2 (O2): the N1/2S1/2 of Section 10, T8N, R28E, of G&SRB&M, Apache County, Arizona. Except for that portion lying South of State Highway 260. Parcel 3 (O3): the SE1/4 of Section 25, T9N, R27E, of G&SRB&M, Apache County, Arizona. Parcel 4 (O4): lots 3 and 4; the E1/2SW1/4; W1/2SE1/4; and NE1/4SE1/4 of Section 30, T9N, R28E, of G&SRB&M, Apache County, Arizona. Parcel 5 (O5): lots 1, 2 and 3; the S1/2NE1/4; NW1/4NE1/4; E1/2NW1/4; and NE1/4SW1/4 of Section 31, T9N, R28E, of G&SRB&M, Apache County, Arizona. Parcel 6 (O6): beginning at the northwest corner of the SE1/4 of Section 27, T9N, R28E, of G&SRB&M, Apache County, Arizona; thence east a distance of 1320.00 feet; thence south a distance of 925.00 feet: thence west a distance of 320.00 feet to the center of a stock watering tub; thence N 83° W a distance of 1000.00 feet; thence north a distance of 740.00 feet to the point of beginning. State Land Special Use Permit: SE1/4SW1/4 of Section 5; E1/2NE1/4 of Section 08; NE1/4NW1/4 of Section 8; M&B in N1/2NW1/4

north of Hwy 260 of Section 17, all in T8N, R28E of the G&SRB&M, Apache County, Arizona. S1/2NW1/4 and SW1/4 of Section 26; all of Section 36, all in T9N, R27E of the G&SRB&M, Apache County, Arizona. SE1/4 lying easterly of Carnero Creek in Section 18; Lots 3 and 4, E1/2SW1/4, SE1/4, NE1/4, and SE1/4NW1/4, lying southeasterly of Carnero Creek in Section 19; NW1/4SE1/4 of Section 29, Lots 1 and 2 and NE1/4 and E1/2NW1/4 and SE1/4SE1/4 of Section 30; and Lot 4, and the NE1/4NE1/4 of Section 31; all in T9N, R28E of the G&SRB&M, Apache County, Arizona. State Grazing Lease: Legal Description of the White Mountain Grassland State Land Grazing Lease. Lots 1 thru 4, and S1/2N1/2, SW1/4, N1/2N1/2SE1/4, S SW1/4NW1/4SE1/4, and W1/2SW1/4SE1/4 of Section 3; Lots 1 thru 4, and the S1/2N1/2 and S1/2 of Section 4; SE1/4SW1/4 of Section 5; E1/2NE1/4, NE1/4NW1/4 of Section 8; SE1/4NE1/4 and N1/2N1/2 of Section 9; S1/2NE1/4NE1/4, SE1/4NW1/4NE1/4, W1/2NW1/4NE1/4, N1/2NW1/4, all in Section 10; NE1/4NW1/4 lying north of the centerline of State Highway 260, in Section 17, T8N, R28E of the G&SRB&M, Apache County; NE1/4, S1/2NW1/4, and the SW1/4 of Section 25, and all of Section 36; in T9N, R27E of the G&SRB&M, Apache County; a portion of the SE1/4 of Section 18 lying southeasterly of Carnero Creek, Lots 3 and 4, E1/2SW1/4, SE1/4, NE1/4, and SE1/4NW1/4 lying southeast of Carnero Creek in Section 19; all of Section 20 and Section 21; SW1/4NE1/4, S1/2NW1/4, and M&B in N1/2SW1/4, of Section 27; N1/2E1/2SW1/4, SW1/4SW1/4 and SE1/4 of Section 28; Lots 1 and 2, and NE1/4, E1/2NW1/4, and SE1/4SE1/4 of Section 30; Lot 4 and NE1/4NE1/4 of Section 31; all of Section 32 and Section 33, in T9N, R28E, in the G&SRB&M, Apache County. SE1/4NE1/4SE1/4 of Section 31; T09N, R28E, G&SRB&M, Apache County, Arizona.

36. White Water Draw Wildlife Area: The White Water Draw Wildlife Area shall be those areas described as follows:

T21S, R26E; Section 19, S1/2 SE1/4; Section 29, W1/2 NE1/4, and E1/2 NE1/4; Section 30, N1/2 NE1/4; Section 32; T22S, R26E; Section 4, Lots 3 and 4; T22S, R26E; Section 5, Lots 1 to 4, except an undivided 1/2 interest in all minerals, oil, and/or gas as reserved in Deed recorded in Docket 209, page 117, records of Cochise County, Arizona.

37. Willcox Playa Wildlife Area: The Willcox Playa Wildlife Area shall be that area within the posted Arizona Game and Fish Department fences enclosing the following described area: beginning at the Section corner common to Sections 2, 3, 10 and 11, T15S, R25E, G&SRB&M, Cochise County, Arizona; thence S 0°15'57" W a distance of 2645.53 feet to the east 1/4 corner of Section 10; thence S 89°47'15" W a distance of 2578.59 feet to the center 1/4 corner of Section 10; thence N 1°45'24" E a distance of 2647.85 feet to the center 1/4 corner of Section 3; thence N 1°02'42" W a distance of 2647.58 feet to the center 1/4 corner of said Section 3; thence N 89°41'37" E to the common 1/4 corner of Section 2 and Section 3; thence S 0°00'03" W a distance of 1323.68 feet to the south 1/16 corner of said Sections 2 and 3; thence S 44°46'30" E a distance of 1867.80 feet to a point on the common Section line of Section 2 and Section 11; thence S 44°41'13" E a distance of 1862.94 feet; thence S 44°42'35" E a distance of 1863.13 feet; thence N 0°13'23" E a distance of 1322.06 feet; thence S 89°54'40" E a distance of 1276.24 feet to a point on the west right-of-way fence line of Kansas Settlement Rd.; thence S 0°12'32" W a distance of 2643.71 feet along said

fence line; thence N 89°55'43" W a distance of 2591.30 feet; thence N 0°14'14" E a distance of 661.13 feet; thence N 89°55'27" W a distance of 658.20 feet; thence N 0°14'39" E a distance of 1322.36 feet; thence N 44°41'19" West a distance of 931.44 feet; thence N 44°40'31" W a distance of 1862.85 feet to the point of beginning. Said wildlife area contains 543.10 acres approximately.

- C. Department Controlled Properties are described as follows: Hirsch Conservation Education Area and Biscuit Tank: The Hirsch Conservation Education Area and Biscuit Tank shall be that area lying in Section 3 T5N R2E, beginning at the north-east corner of Section 3, T5N, R2E, G&SRB&M, Maricopa County, Arizona; thence S 35°33'23.43" W a distance of 2938.12 feet; to the point of true beginning; thence S 81°31'35.45" W a distance of 147.25 feet; thence S 45°46'21.90" W a distance of 552.25 feet; thence S 21°28'21.59" W a distance of 56.77 feet; thence S 16°19'49.19" E a distance of 384.44 feet; thence S 5°27'54.02" W a distance of 73.43 feet; thence S 89°50'44.45" E a distance of 431.99 feet; thence N 4°53'57.68" W a distance of 81.99 feet; thence N 46°49'53.27" W a distance of 47.22 feet; thence N 43°3'3.68" E a distance of 83.74 feet; thence S 47°30'40.79" E a distance of 47.71 feet; thence N 76°2'59.67" E a distance of 105.91 feet; thence N 15°45'0.24" W a distance of 95.87 feet; thence N 68°48'27.79" E a distance of 69.79 feet; thence N 8°31'53.39" W a distance of 69.79 feet; thence N 30°5'32.34" E a distance of 39.8 feet; thence N 46°17'32.32" E a distance of 63.77 feet; thence N 22°17'26.17" W a distance of 517.05 feet to the point of true beginning.

#### **Historical Note**

New Section adopted by exempt rulemaking at 6 A.A.R. 1731, effective May 1, 2000 (Supp. 00-2). Amended by exempt rulemaking at 9 A.A.R. 3141, effective August 23, 2003 (Supp. 03-2). Amended by exempt rulemaking at 11 A.A.R. 1927, effective May 20, 2005 (Supp. 05-2). Amended by exempt rulemaking at 16 A.A.R. 397, effective March 5, 2010 (Supp. 10-1). Amended by exempt rulemaking at 17 A.A.R. 800, effective June 20, 2011 (Supp. 11-2). Amended by exempt rulemaking at 18 A.A.R. 1070, effective June 15, 2012 (Supp. 12-2). Amended by exempt rulemaking at 19 A.A.R. 931, effective June 17, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 841, effective June 17, 2014 (Supp. 14-1). Amended by exempt rulemaking at 22 A.A.R. 951, effective June 7, 2016 (Supp. 16-2). Amended by exempt rulemaking at 22 A.A.R. 2209, effective October 4, 2016 (Supp. 16-4).

#### **R12-4-804. Renumbered**

#### **Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 1424, effective June 14, 2003 (Supp. 03-2). Amended by exempt rulemaking at 17 A.A.R. 800, effective June 20, 2011 (Supp. 11-2). Section R12-4-804 renumbered to R12-4-125, by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**ARTICLE 8. WILDLIFE AREAS AND DEPARTMENT PROPERTY  
STATUTORY AUTHORITY**

**17-231. General powers and duties of the commission**

A. The commission shall:

1. *Adopt rules and establish services it deems necessary to carry out the provisions and purposes of this title.*
2. Establish broad policies and long-range programs for the management, preservation and harvest of wildlife.
3. Establish hunting, trapping and fishing rules and prescribe the manner and methods that may be used in taking wildlife, but the commission shall not limit or restrict the magazine capacity of any authorized firearm.
4. Be responsible for the enforcement of laws for the protection of wildlife.
5. Provide for the assembling and distribution of information to the public relating to wildlife and activities of the department.
6. Prescribe rules for the expenditure, by or under the control of the director, of all funds arising from appropriation, licenses, gifts or other sources.
7. Exercise such powers and duties necessary to carry out fully the provisions of this title and in general exercise powers and duties that relate to adopting and carrying out policies of the department and control of its financial affairs.
8. Prescribe procedures for use of department personnel, facilities, equipment, supplies and other resources in assisting search or rescue operations on request of the director of the division of emergency management.
9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

B. The commission may:

1. Conduct investigations, inquiries or hearings in the performance of its powers and duties.
2. *Establish game management units or refuges for the preservation and management of wildlife.*
3. Construct and operate game farms, fish hatcheries, fishing lakes or other facilities for or relating to the preservation or propagation of wildlife.
4. Expend funds to provide training in the safe handling and use of firearms and safe hunting practices.
5. Remove or permit to be removed from public or private waters fish which hinder or prevent propagation of game or food fish and dispose of such fish in such manner as it may designate.
6. Purchase, sell or barter wildlife for the purpose of stocking public or private lands and waters and take at any time in any manner wildlife for research, propagation and restocking purposes or for use at a game farm or fish hatchery and declare wildlife salable when in the public interest or the interest of conservation.
7. Enter into agreements with the federal government, with other states or political subdivisions of the state and with private organizations for the construction and operation of facilities and for management studies, measures or procedures for or relating to the preservation and propagation of wildlife and expend funds for carrying out such agreements.

**ARTICLE 8. WILDLIFE AREAS AND DEPARTMENT PROPERTY  
STATUTORY AUTHORITY**

8. Prescribe rules for the sale, trade, importation, exportation or possession of wildlife.
  9. Expend monies for the purpose of producing publications relating to wildlife and activities of the department for sale to the public and establish the price to be paid for annual subscriptions and single copies of such publications. All monies received from the sale of such publications shall be deposited in the game and fish publications revolving fund.
  10. Contract with any person or entity to design and produce artwork on terms that, in the commission's judgment, will produce an original and valuable work of art relating to wildlife or wildlife habitat.
  11. Sell or distribute the artwork authorized under paragraph 10 of this subsection on such terms and for such price as it deems acceptable.
  12. Consider the adverse and beneficial short-term and long-term economic impacts on resource dependent communities, small businesses and the state of Arizona, of policies and programs for the management, preservation and harvest of wildlife by holding a public hearing to receive and consider written comments and public testimony from interested persons.
  13. Adopt rules relating to range operations at public shooting ranges operated by and under the jurisdiction of the commission, including the hours of operation, the fees for the use of the range, the regulation of groups and events, the operation of related range facilities, the type of firearms and ammunition that may be used at the range, the safe handling of firearms at the range, the required safety equipment for a person using the range, the sale of firearms, ammunition and shooting supplies at the range, and the authority of range officers to enforce these rules, to remove violators from the premises and to refuse entry for repeat violations.
  14. Solicit and accept grants, gifts or donations of money or other property from any source, which may be used for any purpose consistent with this title.
- C. The commission shall confer and coordinate with the director of water resources with respect to the commission's activities, plans and negotiations relating to water development and use, restoration projects under the restoration acts pursuant to chapter 4, article 1 of this title, where water development and use are involved, the abatement of pollution injurious to wildlife and in the formulation of fish and wildlife aspects of the director of water resources' plans to develop and utilize water resources of the state and shall have jurisdiction over fish and wildlife resources and fish and wildlife activities of projects constructed for the state under or pursuant to the jurisdiction of the director of water resources.
- D. The commission may enter into one or more agreements with a multi-county water conservation district and other parties for participation in the lower Colorado river multispecies conservation program under section 48-3713.03, including the collection and payment of any monies authorized by law for the purposes of the lower Colorado river multispecies conservation program.

**ARTICLE 8. WILDLIFE AREAS AND DEPARTMENT PROPERTY  
STATUTORY AUTHORITY**

**41-1005. Exemptions**

A. This chapter does not apply to any:

1. *Rule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.*
2. Order or rule of the Arizona game and fish commission that does the following:
  - (a) Opens, closes or alters seasons or establishes bag or possession limits for wildlife.
  - (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.
  - (c) Establishes a license classification, fee or application fee pursuant to title 17, chapter 3, article 2.
3. Rule relating to section 28-641 or to any rule regulating motor vehicle operation that relates to speed, parking, standing, stopping or passing enacted pursuant to title 28, chapter 3.
4. Rule concerning only the internal management of an agency that does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.
5. Rule that only establishes specific prices to be charged for particular goods or services sold by an agency.
6. Rule concerning only the physical servicing, maintenance or care of agency owned or operated facilities or property.
7. Rule or substantive policy statement concerning inmates or committed youths of a correctional or detention facility in secure custody or patients admitted to a hospital, if made by the state department of corrections, the department of juvenile corrections, the board of executive clemency or the department of health services or a facility or hospital under the jurisdiction of the state department of corrections, the department of juvenile corrections or the department of health services.
8. Form whose contents or substantive requirements are prescribed by rule or statute, and instructions for the execution or use of the form.
9. Capped fee-for-service schedule adopted by the Arizona health care cost containment system administration pursuant to title 36, chapter 29.
10. Fees prescribed by section 6-125.
11. Order of the director of water resources adopting or modifying a management plan pursuant to title 45, chapter 2, article 9.
12. Fees established under section 3-1086.
13. Fee-for-service schedule adopted by the department of child safety pursuant to section 8-512.
14. Fees established under sections 41-2144 and 41-2189.
15. Rule or other matter relating to agency contracts.
16. Fees established under section 32-2067 or 32-2132.
17. Rules made pursuant to section 5-111, subsection A.
18. Rules made by the Arizona state parks board concerning the operation of the Tonto natural bridge state park, the facilities located in the Tonto natural bridge state park and the entrance fees to the Tonto natural bridge state park.

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19. Fees or charges established under section 41-511.05.
  20. Emergency medical services protocols except as provided in section 36-2205, subsection B.
  21. Fee schedules established pursuant to section 36-3409.
  22. Procedures of the state transportation board as prescribed in section 28-7048.
  23. Rules made by the state department of corrections.
  24. Fees prescribed pursuant to section 32-1527.
  25. Rules made by the department of economic security pursuant to section 46-805.
  26. Schedule of fees prescribed by section 23-908.
  27. Procedure that is established pursuant to title 23, chapter 6, article 6.
  28. Rules, administrative policies, procedures and guidelines adopted for any purpose by the Arizona commerce authority pursuant to chapter 10 of this title if the authority provides, as appropriate under the circumstances, for notice of an opportunity for comment on the proposed rules, administrative policies, procedures and guidelines.
  29. Rules made by a marketing commission or marketing committee pursuant to section 3-414.
  30. Administration of public assistance program monies authorized for liabilities that are incurred for disasters declared pursuant to sections 26-303 and 35-192.
  31. User charges, tolls, fares, rents, advertising and sponsorship charges, services charges or similar charges established pursuant to section 28-7705.
  32. Administration and implementation of the hospital assessment pursuant to section 36-2901.08, except that the Arizona health care cost containment system administration must provide notice and an opportunity for public comment at least thirty days before establishing or implementing the administration of the assessment.
  33. Rules made by the Arizona department of agriculture to adopt and implement the provisions of the federal milk ordinance as prescribed by section 3-605.
- B. Notwithstanding subsection A, paragraph 22 of this section, at such time as the federal highway administration authorizes the privatization of rest areas, the state transportation board shall make rules governing the lease or license by the department of transportation to a private entity for the purposes of privatization of a rest area.
- C. Coincident with the making of a final rule pursuant to an exemption from the applicability of this chapter under this section, another statute or session law, the agency shall file a copy of the rule with the secretary of state for publication pursuant to section 41-1012 and provide a copy to the council.
- D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.
- E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind

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shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.

- F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment.