

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 6. GOVERNOR'S REGULATORY REVIEW COUNCIL

PREAMBLE

1. **Sections Affected**

Rulemaking Action

R1-6-101	Renumber
R1-6-101	New Section
R1-6-102	Renumber
R1-6-102	Amend
R1-6-103	Renumber
R1-6-103	Amend
R1-6-104	Renumber
R1-6-104	Amend
R1-6-105	Renumber
R1-6-105	New Section
R1-6-106	Renumber
R1-6-106	New Section
R1-6-107	Renumber
R1-6-107	New Section
R1-6-108	Renumber
R1-6-108	Amend
R1-6-109	Renumber
R1-6-109	Amend
R1-6-110	Renumber
R1-6-110	Amend
R1-6-111	Renumber
R1-6-111	Amend
R1-6-112	Renumber
R1-6-112	Amend
R1-6-113	New Section
R1-6-201	Amend
R1-6-301	Renumber
R1-6-301	New Section
R1-6-302	Renumber
R1-6-302	Amend
R1-6-401	Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-1051(E)

Implementing statutes: A.R.S. §§ 41-1051 through 41-1056.01; 41-1033; and 41-1081.

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

December 8, 1999

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4. List of all previous notices appearing in the register addressing the proposed rule:

Notice of Docket Opening: 4 A.A.R. 2843 (October 2, 1998)

Notice of Docket Opening: 5 A.A.C. 504 (February 12, 1999)

Notice of Proposed Rulemaking: 5 A.A.C. 1529 (May 21, 1999)

5. The name and address or agency personnel with whom persons may communicate regarding the rulemaking:

Name: Jeanne Hann

Address: 1400 West Washington St., Suite 270
Phoenix, AZ. 85007

Telephone: (602) 542-2006

Fax: (602) 542-1486

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Council is updating its rules to make them consistent with recent statutory changes, agency practice, and current rulewriting standards. The Council is converting substantive policy statement, G96-1, dealing with submission of documents, into a rule. When these rules become final, the substantive policy statement will be void.

R1-6-101 is a new Section that provides definitions of words used throughout the Chapter.

R1-6-102, R1-6-103, R1-6-110, R1-6-201, R1-6-302, and R1-6-401 are amended to be consistent with current rule-writing standards.

R1-6-104 is amended to address only the procedure for placing a regular rule on the Council's agenda rather than the procedure for submitting any rulemaking for Council review. This rule incorporates substantive policy statement, G96-1. R1-6-104(A)(1)(d) and (e) are added in response to the recently enacted legislative requirements regarding new fees and fee increases. R1-6-104(C) through (E) are added to be consistent with current agency practice.

R1-6-105 and R1-6-106 are new Sections that include the information about submitting proposed and final summary rulemakings that was previously at R1-6-103(C).

R1-6-107 is a new Section that includes the information about submitting approved rulemakings that was previously at R1-6-103(B) and (D). Consistent with the fact that an agency is responsible for its rule package at all stages in the rulemaking process, a subsection is added that provides flexibility regarding submission of an approved rulemaking.

R1-6-108 is amended to reflect an agreement between the Council's office and the Office of the Secretary of State to reduce the number of rule-package copies that must be submitted for filing. A subsection is added indicating that the Council will inform an agency of the date on which its approved rule is filed.

R1-6-109 is amended to indicate that the Council will inform an agency of its reason for returning a rule-package item. Additionally, a subsection regarding resubmission of a rule package is deleted because it is within an agency's discretion to decide whether to go forward with a rulemaking.

R1-6-111 is amended to make the rule more enforceable and to be consistent with agency practice.

R1-6-112 is amended to provide additional information about the economic, small business, and consumer impact comparison that must be done during a 5-year review. This rule incorporates substantive policy statement, G96-1. Subsections R1-6-112(D) through (F) are added to be consistent with current agency practice.

R1-6-113 is a new Section that addresses the Council's new authority under A.R.S. § 41-1056(C) to reschedule a 5-year-review report under certain circumstances.

R1-6-301 is a new Section that fulfills the Council's responsibility under A.R.S. § 41-1033(A) to prescribe the manner and form in which a person may petition the Council to make a rule or review an existing Council policy or practice.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

None.

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

Not applicable.

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

The rules will require that, to be placed on Council's agenda, only 2 copies of a rule package or 5-year-review report be submitted instead of 11, as required by current rules. This will produce a significant savings for the agencies that submit a total of more than 130 rule packages or reports annually. The change will reduce the time and cost that agencies spend producing copies before a rule package or report is determined to be in final form. This change reflects current practice, which has been in place since 1996 through use of a substantive policy statement. The savings from placing this requirement in rule will accrue primarily to the few agencies that are unaware of the substantive policy statement. The remainder of the changes simply update the rules to make them consistent with recent statutory changes and to improve their clarity and conciseness. These changes will have minimal economic impact.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Numerous grammar, formatting, and word-choice changes are made to make the rules more clear, concise and understandable and consistent with current rulewriting standards. Additionally, the following changes are made:

- A definition of "agency head" is added to provide increased flexibility to agencies;
- A definition of "Open Meeting Law" is added to make the rules more concise and understandable;
- Proposed R1-6-104(A)(1)(b) is deleted because the information duplicates that required to be provided in the Preamble. R1-6-104(A)(1)(d) and (e) are added in response to the recently enacted legislative requirements regarding new fees and fee increases;
- Proposed R1-6-104(E) is changed to provide an agency with flexibility regarding the manner in which it ensures that Council has required rule-package items when it is necessary for the agency rule to be heard at more than 1 Council meeting;
- Proposed R1-6-106(B)(1)(b) is deleted because the information duplicates that required to be provided in the Preamble;
- A subsection is added to R1-6-108 requiring the Council to inform an agency of the date on which its rule is filed;
- A provision is added requiring the Council to specify the manner in which a returned rule-package item is inconsistent with statutory standards; and
- A proposed Section dealing with the concise explanatory statement is deleted.

None of these changes is substantial under the standards at A.R.S. § 41-1025, especially when the rules are considered as a whole (See A.R.S. § 41-1052(C)(7)). Four of the changes provide additional flexibility to or reduce the burden on agencies. Three of the changes increase the burden on the Council. The change requiring an agency to provide in its cover letter information regarding new fees and fee increases imposes a small additional burden on agencies. This extra burden, which is in direct response to legislative requirements, is offset by deletion of proposed subsection R1-6-104(A)(1)(b) from the cover letter requirements.

11. A summary of the principal comments and the agency response to them:

Written comments were received from the Departments of Agriculture, Environmental Quality, and Health Services. An oral proceeding was held on June 28, 1999, at which 4 persons spoke. Most of the oral comments were duplicated in the written comments. The following principal comments were made:

Reference an updated Arizona Rulemaking Manual as the standard for rule writing. (Department of Agriculture letter, p. 1-2)

The Arizona Rulemaking Manual, which provides guidance regarding plain, grammatically correct English, is used by the Council as the standard for rule writing. However, the Council is reluctant to reference the Manual in its rules because, as the commenter correctly indicates, there are many exceptions to the Manual. Council appreciates efforts by agencies to use plain, grammatically correct English in their rules and encourages them to rely on the Manual for guidance.

R1-6-110, which deals with the concise explanatory statement, is burdensome and expensive for agencies and may cause trouble with stakeholders of agencies. (Department of Agriculture letter, p. 2-3; DHS letter, p. 5; DEQ letter, p. 3)

Council reassessed its position on this proposed rule and deleted it from the final rules.

R1-6-104(E), which requires an agency to recopy rule-package items if it is necessary for a rule package to be heard at more than 1 Council meeting, may present a financial hardship for the agency. (DHS letter, p. 2)

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Each agency is required to bear the cost of its rulemakings. There are 2 circumstances in which an agency's rule package is heard at more than 1 Council meeting: the Council returns a rule-package item to the agency and the agency resubmits it or the Council tables a rule package until a later meeting. In both of these circumstances, the Council generally expects the agency to make changes in the rule package or to take some other action. It seldom happens that a rule package is heard at more than 1 Council meeting in exactly the same form. And, it is within an agency's ability to avoid having a rule package heard by Council more than once. This is done by submitting a rule package that complies with the standards in A.R.S. §§ 41-1052(C) and (D) and fully answering any questions posed by members of the Council at a meeting.

Should it be an agency's responsibility to contact the Council to determine whether further rule-package items are required for a later Council meeting? (DHS letter, p. 2)

The rule package belongs to the agency. It is the agency that is seeking the Council's approval. The agency is responsible for ensuring that each member of the Council has a copy of the rule package for review. However, the proposed rule is amended to indicate that an agency is not required to contact the Council to determine whether further rule-package items are required for a later Council meeting but, rather, may simply submit the required number of additional rule packages.

The Council's proposed rules do not address "the requirement that an agency make all changes suggested by staff and the requirement to obtain a recommendation by staff that Council approve the rule." (DEQ letter, p. 3)

The Council has no requirements of this nature.

The rules should include a requirement that the Council identify the specific basis for returning a rule so the agency can know what it must do to obtain approval upon resubmission. (DEQ letter, p. 5)

The Council agrees and made the suggested change.

The Council's requirement that a cover letter be signed by the agency head is burdensome to agencies and may be inconsistent with state law. (DEQ letter, p. 5)

The Council reassessed its position on this matter and amended its rules to include an expanded definition of "agency head."

The Council should revise its rule to allow a number of alternative submission formats including electronic filing and alternative paper formats. (DEQ letter, p. 6)

An agency is responsible for making the rules required of it. This includes paying the cost of the rulemaking. The Council cannot absorb the cost of another agency's rulemaking. The Council has made numerous procedural changes during the past few years to reduce the rulemaking costs for agencies. Indeed, several changes of this nature are contained in this rulemaking. The Council has explored with its members the possibility of using laptop computers and electronic filing and concluded that it is not possible at this time. When an agency complies with the submission requirements in these rules, no copies are discarded without being used. After the copies have been used for their intended purpose, the Council recycles all paper. There are, of course, ways for an agency to reduce the amount of paper involved in a rulemaking. The 3 most important ways are to avoid duplicating the CES and EIS in the preamble, ensure that a rule conforms with current rulewriting standards when submitted, and make changes carefully so that iterations are not necessary.

Why has the Council not made a licensing time-frame rule? (DEQ letter, p. 7)

The Council has determined that the time-frame statutes at A.R.S. § 41-1072 et seq. do not apply to it for the following reasons:

1. The Council does not issue a license. It simply approves or returns a rule, which is defined at A.R.S. § 41-1001(17) (See Laws 1997, Ch. 59, § 4). The APA defines both rule and license (A.R.S. § 41-1001(10)) because they are different.
2. The Council is not involved in the licensing process. It is involved only in the rulemaking process. The APA defines both rulemaking (A.R.S. § 41-1001(18)) and licensing (A.R.S. § 41-1001(11)) because they are different.
3. An agency does not submit an "application for a license" to the Council. It submits a rule package, the key elements of which are listed at A.R.S. § 41-1024(E).

What does "arising from a 5-year-review report" mean when used in reference to a rule? (Martha Seaman, oral proceeding)

This phrase has been changed to “relates to a 5-year-review report.” It means that when the agency did its 5-year-review report, the agency determined that the rule involved in the rulemaking needed to be amended or repealed.

How can an agency precisely predict the month and year when it will submit to the Council a rulemaking determined to be needed during a five-year review? (Martha Seaman, oral proceeding)

Agencies are asked to predict the month and year of submission to the Council to provide uniformity. Currently, there is no consistency among agencies regarding “the proposed course of action” required by A.R.S. § 41-1056(A). Some agencies include the anticipated date of a docket opening, others include the date of publication of a proposed rule, and still others reference submission to Council. It is believed that this uniformity will be useful to the legislature in assessing each agency’s progress toward completion of its proposed courses of action. (1999 Laws, Ch 300, § 24).

Will Council provide a definition in its rules of “clear, concise, and understandable?” (David Armacost, oral proceeding)

It is not necessary to define these words. As used in A.R.S. § 41-1052(C)(4), they have no meaning other than that which appears in any ordinary dictionary.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

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

None.

14. Was this rule previously adopted as an emergency rule?

No.

15. The full text of the rule follows:

TITLE 1. RULES AND THE RULEMAKING PROCESS

CHAPTER 6. GOVERNOR’S REGULATORY REVIEW COUNCIL

ARTICLE 1. RULES OF PROCEDURE

Section

- ~~R1-6-101.~~ R1-6-101. Definitions
- ~~R1-6-101.~~ R1-6-102. Meetings
- ~~R1-6-102.~~ R1-6-103. Schedule and Filing Deadlines
- ~~R1-6-103.~~ R1-6-104. ~~Submission of Placing a Regular Rules~~ Rule on the Council’s Council Agenda
- ~~R1-6-105.~~ R1-6-105. Submitting a Proposed Summary Rule
- ~~R1-6-106.~~ R1-6-106. Placing a Final Summary Rule on the Council Agenda
- ~~R1-6-107.~~ R1-6-107. Submitting Approved Rules
- ~~R1-6-104.~~ R1-6-108. Filing Rules Approved by the Council
- ~~R1-6-105.~~ R1-6-109. Returned Rules
- ~~R1-6-106.~~ R1-6-110. Appearance by ~~the~~ Agency
- ~~R1-6-107.~~ R1-6-111. Oral and Written Comments
- ~~R1-6-108.~~ R1-6-112. ~~5-Year Review Reports~~ year-review Report
- ~~R1-6-113.~~ R1-6-113. Rescheduling a 5-year-review Report

ARTICLE 2. DELEGATION AGREEMENTS

Section

- ~~R1-6-201.~~ R1-6-201. ~~Appeals Appeal of a Delegation Agreements~~ Agreement

ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS

Section

- ~~R1-6-301.~~ R1-6-301. Petition for Council Rulemaking or Review
- ~~R1-6-301.~~ R1-6-302. ~~Appeals Appeal of an Existing Agency Practices~~ Practice or Substantive Policy Statements Statement

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ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

Section

R1-6-401. Appeals Appeal of an Economic, Small Business, and Consumer Impact Statements Statement

ARTICLE 1. RULES OF PROCEDURE

R1-6-101. Definitions

A. The definitions in A.R.S. § 41-1001 apply to this Chapter.

B. In this Chapter:

1. “Agency head” means the chief officer of an agency or another person directly or indirectly purporting to act on behalf or under the authority of the agency head.
2. “Chair” means the chairperson of the Council.
3. “Open Meeting Law” means A.R.S. §§ 38-431 through 38-431.09.
4. “Regular rule” means a rule made according to A.R.S. §§ 41-1021 through 41-1025, 41-1028 through 41-1032, 41-1035, 41-1036, 41-1052, and 41-1055.

~~R1-6-101~~ **R1-6-102. Meetings**

- A.** The Chair, in consultation with the Council, shall set regular meeting dates of the Council for each calendar year by the preceding October 31. ~~Notice and shall post notice of a~~ each regular meeting ~~shall be posted~~ according to the Open Meeting Law; A.R.S. §§ 38-431, et seq.
- B.** The Council may schedule a special meeting to consider ~~rules resubmitted to the Council; appeals of delegation agreements; appeals of economic, small business, and consumer impact statements; appeals of substantive policy statements; or for other matters~~ any matter it may consider at a regular meeting. ~~Notice~~ The Council shall post notice of a special meeting shall be posted according to the Open Meeting Law; A.R.S. §§ 38-431, et seq., at least 48 hours before ~~a~~ the special meeting.
- C.** The Council may recess a regular ~~or special~~ meeting to a later date if, before recessing, the Chair gives notice of the date and time of the resumption of the meeting and posts a notice of resumption of the meeting according to the Open Meeting Law.

~~R1-6-102~~ **R1-6-103. Schedule and Filing Deadlines**

The Council shall establish for each calendar year, by the preceding October 31, a schedule containing filing deadlines, ~~publi-~~ ~~cation dates,~~ and meeting dates for Council review of:

1. Rules submitted to the Council including new, amended, ~~or~~ repealed, or renumbered rules;
2. Resubmissions of rules pursuant to ~~Rules resubmitted under A.A.C. R1-6-105(1)~~ R1-6-109(1); and
3. 5-year-review reports.

~~R1-6-103~~ **R1-6-104. Submission of Placing a Regular Rules Rule on the Council Agenda**

- A.** For each adopted ~~To place a regular rule submission, rule on the Council agenda,~~ an agency shall deliver to the Council office ~~the following documents formatted as 2 rule packages prepared in the manner required by this Chapter and the rules of the Secretary of State: 1. 11~~ The agency shall ensure that each rule packages that package contain contains the following documents items assembled in the following order:
- ~~a~~ 1. Cover letter signed by the agency head specifying:
 - ~~i~~ a. The close of the record date and the date the rules were adopted by the agency;
 - ~~ii~~ The dates the following were published in the Register:
 - (1) Notice of Docket Opening, as required by A.R.S. § 41-1021(C);
 - (2) Notice of Proposed Rulemaking, as required by A.R.S. § 41-1022;
 - (3) Any supplemental notices, as required by A.R.S. § 41-1022(D);
 - (4) Notice of Oral Proceeding, as required by A.R.S. § 41-1023(D); and
 - (5) Any other notice public participation (See A.R.S. § 41-1023).
 - ~~iii~~ b. A statement of whether ~~Whether~~ definitions of terms contained in statutes or other rules and used in the adopted rule have been are attached;
 - ~~iv~~ c. If ~~Whether~~ the rulemaking relates to a 5-year-review report and, if applicable, a statement that the rulemaking relates to a 5-year-review report and the date the report was ~~accepted~~ approved by the Council; and
 - ~~d~~ d. Whether the rulemaking contains a new fee and, if applicable, citation of the statute expressly authorizing the new fee;
 - ~~e~~ e. Whether the rulemaking contains a fee increase, and
 - ~~f~~ f. A list of all documents ~~items~~ enclosed;
 - ~~b~~ 2. Notice of Final Rulemaking, required by A.A.C. ~~R1-1-601~~ R1-1-602, including the preamble, table of contents for the rule, and text of the rule;
 - ~~e~~ e. Table of contents for the adopted rule;
 - ~~d~~ d. Text of the adopted rule;

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- e-3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;
 - f-4. Concise explanatory statement that contains the information required by A.R.S. § 41-1036;
 - g-5. Copy of the existing rule if the existing rule is not shown as part of the revised text of a rule the agency is amending;
 - h-6. Copy of the general and specific statutes authorizing the rule; and
 - i-7. Copy of definitions of terms, contained in statutes or other rules, used in the adopted rule, if any.
- B.** ~~For each adopted regular rule approved by the Council, an agency shall deliver to the Council office within 14 calendar days after Council action, unless otherwise authorized by the Council the following documents formatted as required by the rules of the Secretary of State:~~
- 1. A letter identifying each change made at the direction of the Council;
 - 2. One original and 5 copies of the following documents assembled in the following order:
 - a. Agency certificate, required by A.A.C. R1-1-105(B);
 - b. Text of the adopted rule containing the changes required by the Council, if any; and
 - c. Items listed in subsections (A)(1)(b), (A)(1)(c), (A)(1)(e), and (A)(1)(f).
 - 3. One original and 1 copy of the receipt required by A.A.C. R1-1-106.
- C.** ~~For each summary rule, an agency shall deliver to the Council office the following documents formatted as required by the rules of the Secretary of State:~~
- 1. ~~For a proposed summary rule, 1 copy of the following documents assembled in the following order:~~
 - a. ~~Notice of Proposed Summary Rulemaking, including the preamble, filed with the Office of the Secretary of State, required by A.R.S. § 41-1027(B);~~
 - b. ~~Table of contents for the proposed summary rule;~~
 - c. ~~Text of the proposed summary rule; and~~
 - d. ~~Statute that repeals or supersedes the authority under which the original rule was enacted or the statute that is repeated verbatim in the original rule or proposed summary rule.~~
 - 2. ~~For an adopted summary rule:~~
 - a. ~~Eleven rule packages that contain the following documents assembled in the following order:~~
 - i. ~~Notice of Summary Rulemaking, required by A.A.C. R1-1-801, including the preamble;~~
 - ii. ~~Table of contents for the adopted summary rule;~~
 - iii. ~~Text of the adopted summary rule;~~
 - iv. ~~Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055; and~~
 - v. ~~Concise explanatory statement that contains the information required by A.R.S. § 41-1036; and~~
 - b. ~~One copy of all written comments submitted by the public concerning the rule.~~
- D.** ~~For each adopted summary rule approved by the Council, an agency shall deliver to the Council office within 14 calendar days after Council action, unless otherwise authorized by the Council the following documents formatted as required by the rules of the Secretary of State:~~
- 1. ~~A letter identifying each change made at the direction of the Council;~~
 - 2. ~~One original and 5 copies of the following documents assembled in the following order:~~
 - a. ~~Agency certificate, required by A.A.C. R1-1-105(B);~~
 - b. ~~Text of the adopted summary rule containing the changes required by the Council, if any; and~~
 - c. ~~Items listed in Subsections (C)(2)(a)(i), (C)(2)(a)(ii), (C)(2)(a)(iv), and (C)(2)(a)(v).~~
 - 3. ~~One original and 1 copy of the receipt required by A.A.C. R1-1-106.~~
- E.** ~~The documents shall be formatted to conform to the requirements of the Office of the Secretary of State as contained in A.A.C. Title 1, Chapter 1.~~
- 2 B.** In addition to the items specified in subsection (A), an agency shall submit 1 copy of each of the following:
- a-1. All written comments submitted by the public received by the agency concerning the proposed rule; and
 - b-2. Materials incorporated by reference, if any.
- C.** After a rule is placed on the Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. § 41-1052(C) and (D) and this Chapter and may suggest changes to the agency. After making any changes, the agency shall submit to the Council office enough copies of the rule-package items listed in subsections (A)(1) through (7), assembled in the order specified in subsection (A), to make 1 complete original rule package and 10 complete copies.
- D.** After a rule is placed on the Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a notice to the Chair that includes the date of the later meeting.
- E.** If it is necessary for a rule to be heard at more than 1 Council meeting, the agency shall:
- 1. Contact the Council office to learn which rule-package items, if any, the agency needs to resubmit for the later meeting; or
 - 2. Submit 1 original and 10 copies of the rule package described in subsection (A) for the later meeting.

R1-6-105. Submitting a Proposed Summary Rule

To submit a proposed summary rule, an agency shall deliver to the Council office 1 copy of the following items, assembled in

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the following order and prepared in the manner required by this Chapter and the rules of the Secretary of State:

1. Notice of Proposed Summary Rulemaking, including the preamble, table of contents for the proposed summary rule, and text of the proposed summary rule filed with the Office of the Secretary of State as required by A.R.S. § 41-1027(B); and
2. Statute that repeals or supersedes the authority under which the original rule was enacted or the statute that is repeated verbatim in the original rule or proposed summary rule.

R1-6-106. Placing a Final Summary Rule on the Council Agenda

- A.** To place a final summary rule on the Council agenda, an agency shall deliver to the Council office 1 original and 10 copies of a rule package, prepared in the manner required by this Chapter and the rules of the Secretary of State.
- B.** An agency shall ensure that the rule package contains the following items assembled in the following order:
 1. Cover letter signed by the agency head specifying:
 - a. The close of the record date;
 - b. Whether the rulemaking relates to a 5-year-review report and, if applicable, the date the report was approved by the Council; and
 - c. A list of all items enclosed.
 2. Notice of Final Summary Rulemaking, required by A.A.C. R1-1-801, including the preamble, table of contents for the final summary rule, and text of the final summary rule;
 3. Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055 or a statement that the rulemaking is exempt from this requirement under A.R.S. § 41-1055(D)(2);
 4. Concise explanatory statement that contains the information required by A.R.S. § 41-1036; and
 5. Copy of the general and specific statutes authorizing the rule.
- C.** In addition to the rule packages specified in subsection (B), an agency shall submit 1 copy of all written comments received by the agency concerning the proposed summary rule.

R1-6-107. Submitting Approved Rules

- A.** For each final regular or summary rule approved by the Council, an agency shall deliver to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), the following items, prepared in the manner required by this Chapter and the rules of the Secretary of State:
 1. A letter identifying each change made at the direction of the Council. If no changes were directed, no letter is required;
 2. One original and 3 copies of the following items assembled in the following order:
 - a. Agency certificate, required by A.A.C. R1-1-105(B); and either
 - b. Items listed in R1-6-104(A)(2) through (4) for a regular rule; or
 - c. Items listed in R1-6-106(B)(2) through (4) for a summary rule;
 3. One original and 1 copy of the receipt required by A.A.C. R1-1-106.
- B.** If an agency is unable to deliver an approved regular or summary rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office and arrange to submit the approved rule at a later date.

R1-6-104. R1-6-108. Filing Rules Approved by the Council

- A.** ~~When~~ If the Council approves an agency's rule as submitted and the agency submits the items required by R1-6-107, the Council shall file the original and 4-2 copies of the agency certificate; rule; preamble; concise explanatory statement; economic, small business, and consumer impact statement; agency's items; 2 copies of the agency receipt; and 1 copy of materials incorporated by reference with the Office of the Secretary of State. The Council shall include a written notice signed by the Chair specifying the Sections approved and the date of Council approval.
- B.** ~~The If the Council may vote to approve~~ approves an adopted rule, a preamble, table of contents for the rule, rule, or economic, small business, and consumer impact statement, or concise explanatory statement after providing the agency with the exact words of each change to be made, subject to the agency making changes as directed by the Council, and the agency submits the items required by R1-6-107:
 1. ~~The Chair shall verify that each change required by the Council was made and file the original and 4 copies of the agency certificate; rule; preamble; concise explanatory statement; and economic, small business, and consumer impact statement; 2 copies of the agency receipt; and 1 copy of materials incorporated by reference with the Office of the Secretary of State. The Council shall include a written notice signed by the Chair specifying the Sections approved and the date of Council approval.~~ the items with the Office of the Secretary of State as prescribed in subsection (A).
 2. ~~If an agency fails to submit the revised rule, preamble, or economic, small business, and consumer impact statement within the scheduled time or submits a revised preamble, table of contents for the rule, rule, preamble, economic, small business, and consumer impact statement, or concise explanatory statement that does not contain the exact words approved by the Council, the Chair shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.~~

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- C. Except as specified in subsection (B), an agency shall not make any change to a preamble, table of contents for the rule, rule, preamble, economic, small business, and consumer impact statement, concise explanatory statement, economic, small business, and consumer impact statement, or materials incorporated by reference after they have been approved by the Council approval.
- D. If the Council is not able to file an agency's approved rule with the Office of the Secretary of State on the day that the agency submits it, the Council office shall inform the agency of the filing date.

~~R1-6-105:~~ R1-6-109. Returned Rules

The Council may vote to return a ~~rule, preamble, table of contents for the rule, rule, or economic, small business, and consumer impact statement, or concise explanatory statement, pursuant to~~ under A.R.S. § 41-1052(B), after identifying issues for further consideration by the agency the manner in which the returned rule-package item does not meet the standards at A.R.S. § 41-1052(C) and (D).

1. The Council may schedule a date for resubmission in consultation with the agency representative.
2. An agency resubmitting a ~~rule, preamble, table of contents for the rule, rule, or economic, small business, and consumer impact statement, or concise explanatory statement~~ to the Council shall ~~respond in writing to each issue raised by the Council at a Council meeting. The agency shall:~~
 - a. ~~identify~~ Identify all changes made to the rule, preamble, or economic, small business, and consumer impact statement, in response to the Council's explanation for its return of the rule-package item;
 - b. explain why a change suggested by the Council was not made, Explain in writing how the changes ensure that the rule package meets the standards at A.R.S. § 41-1052(C) and (D); and
 - c. ~~show~~ Show that the ~~adopted-resubmitted~~ rule is not substantially different from the proposed ~~rules as set forth rule-under the standards in A.R.S. § 41-1025.~~
3. ~~The Council may request that~~ In accordance with R1-6-110, an agency representative shall return to a appear at the Council meeting at which the resubmitted to explain any change in the preamble, table of contents for the rule, rule, economic, small business, and consumer impact statement, or concise explanatory statement, or preamble is to be considered-
4. ~~If an agency does not submit a rule, preamble, or economic, small business, and consumer impact statement by the scheduled resubmission date, the Chair shall notify the Council and head of the agency and schedule the rule, preamble, or economic, small business, and consumer impact statement for reconsideration by the Council.~~

~~R1-6-106:~~ R1-6-110. Appearance by the Agency

- A. A representative of an agency ~~submitting an adopted rule~~ shall appear at the Council meeting at which the agency rule or 5-year-review report is to be considered to respond to questions and comments by the Council.
- B. If an agency representative fails to appear ~~after submitting an adopted~~ at the Council meeting at which the agency rule or 5-year-review report is considered, the Council shall allow public comment and ~~may:~~
 1. Approve the rule or report;
 2. Reschedule consideration of the ~~adopted rule or report at another Council meeting;~~ or
 3. Return the rule or report to the agency.

~~R1-6-107:~~ R1-6-111. Oral and Written Comments

- A. Under A.R.S. § 41-1052(F), A a person may submit written comments to the Council about an agency rulemaking, pursuant to A.R.S. § 41-1052(E), by sending 1 original and 9 copies of the written comments to the Council office and 1 copy to the affected agency head. Written comments shall be received in the Council office and the office of the agency head at least 6 calendar days before the regular Council meeting at which the rule is scheduled on the agenda.
- B. A person ~~making may make~~ oral comments about an agency rulemaking at a Council meeting, shall submit 1 original and 9 copies of visual aids, if used, to the Council office and 1 copy to the affected agency head. A person making oral comments shall submit visual aids to the Council office and the office of the agency head at least 6 calendar days before the regular Council meeting at which the rule is scheduled on the agenda.
- C. All A person who makes written and or oral comments to the Council shall:
 1. Ensure that the comments relate to a rule scheduled on the Council meeting agenda;
 2. ~~cite~~ Cite the particular provision of A.R.S. § 41-1052(C) or (D) that is the basis for the Council's authority to consider each issue addressed, ~~and;~~
 3. ~~state~~ State specifically how the each issue relates to ~~that statutory criterion for Council action. the particular provision cited;~~
 4. Tell what other efforts the person made to communicate with the rulemaking agency about each issue;
 5. Submit 1 original and 9 copies of any visual aids or written materials supplementing oral comments;
 6. Submit 1 original and 9 copies of any written comments to the Council office and 1 copy to the rulemaking agency; and
 7. If written comments are submitted to the Council and the rulemaking agency fewer than 6 days before the Council meeting, tell why the person was unable to submit the written comments earlier.
- D. The Chair may limit the time allotted to each speaker and preclude repetitious comments.

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D. The Chair may permit a person to submit written comments within the scope of A.R.S. § 41-1052 (C) or visual aids if the person establishes good cause for not complying with the document and time requirements in subsections (A) or (B).

R1-6-108. R1-6-112. 5-Year Review Reports year-review Report

- A.** To place a 5-year-review report on the Council agenda, An an agency shall deliver to the Council office 1 original and 10 2 copies of a the 5-year-review report required by A.R.S. § 41-1056. Except as indicated in subsection (B), the agency 5-year-review report shall separately discuss and present the following information in the 5-year-review report in the following order for each rule:
1. General and specific statutes authorizing the rule;
 2. Objective of the rule;
 3. Effectiveness of the rule in achieving ~~that the~~ objective;
 4. Consistency of the rule with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency;
 5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
 6. Agency views regarding current wisdom of the rule;
 7. Clarity, conciseness, and understandability of the rule;
 8. Summary of the written criticisms of the rule received by the agency within the 5 years immediately preceding the 5-year-review report, including letters, memoranda, 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;
 9. Estimated economic, small business, and consumer impact of the rule as compared to the economic, small business, and consumer impact statement prepared on the last ~~adoption-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; and
 10. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates ~~opening a rulemaking docket and~~ submitting the rules to the Council if the agency determines it is necessary to amend, repeal, or ~~adopt~~ make a rule.
- B.** ~~When~~ If the information regarding any of the items listed in subsection (A) is identical for any group of rules, the agency shall discuss that information in its 5-year-review report only once for the group of rules.
- C.** An agency shall attach the following to each copy of The a 5-year-review report shall have attached the following:
1. Cover letter, signed by the agency head, that identifies a person to contact for information regarding the report,
 - ~~2.~~ Copy of the rules being reviewed, and
 - ~~3.~~ Copy of the general and specific authorizing statutes.
- D.** If an economic, small business, and consumer impact statement was prepared on the last making of the rules being reviewed, an agency shall attach 1 copy of the economic, small business, and consumer impact statement to the 5-year-review report.
- E.** After a 5-year-review report is placed on the Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may suggest changes to the agency. After making any changes, the agency shall submit to the Council office 1 original and 10 copies of the items listed in subsections (A) and (C).
- F.** After a 5-year-review report is placed on the Council agenda, an agency may have the report moved to the agenda of a later meeting by having the agency head send a notice to the Chair that includes the date of the later meeting.

R1-6-113. Rescheduling a 5-year-review Report

To request that a 5-year-review report be rescheduled under A.R.S. § 41-1056(C), an agency head shall submit a letter to the Chair that includes the following information:

1. The Title, Chapter, and Article of the rules for which rescheduling is sought;
2. Whether the rules were initially made or substantially revised within the last 2 years; and
 - a. If substantially revised:
 - i. A description of the revisions.
 - ii. Why the revisions are believed to be substantial, and
 - iii. The date on which the rules were published in the Register by the Office of the Secretary of State; or
 - b. If initially made, the date on which the rules were published in the Register by the Office of the Secretary of State.

ARTICLE 2. DELEGATION AGREEMENTS

R1-6-201. Appeals Appeal of a Delegation Agreements Agreement

- A.** ~~When appealing an agency's decision to enter into a delegation agreement pursuant to Under A.R.S. § 41-1081(F), a person who appealing~~ appeals an agency decision to enter into a delegation agreement the agency's decision shall deliver to

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the Council office ~~one 1~~ original and ~~eight 8~~ copies of a written request signed by the person submitting the appeal and the following:

1. All written objections to the delegation agreement submitted to the delegating agency by the person filing the appeal ~~to the delegating agency~~;
 2. The name and address of each agency and each political subdivision entering into the delegation agreement;
 3. The name, address, and facsimile and telephone numbers of the person filing the appeal;
 4. The name of the ~~entity or~~ person being represented by the person filing the appeal;
 5. The subject matter of the delegation agreement; and
 6. The reasons why the person is objecting to the delegation agreement and filing the appeal.
- B.** An agency whose delegation agreement is being appealed shall deliver to the Council office ~~one 1~~ original and ~~eight 8~~ copies of the following:
1. A memorandum that ~~sets forth lists~~ the date the delegating agency gave written notice of the decision to enter into the delegation agreement and the dates of all public proceedings regarding the delegation agreement;
 2. The name, address, and facsimile and telephone numbers of each agency and each political subdivision contact person;
 3. The delegation agreement; and
 4. A written summary prepared by the agency, responding to ~~any all~~ oral or written comments received by the agency regarding the delegation agreement.
- C.** The Council shall notify the delegating agency of an appeal of a delegation agreement by 5:00 p.m. of the business day following Council notification of the appeal. The agency shall deliver to the Council office the information and documentation ~~set forth listed~~ in subsection (B) no later than 5:00 p.m. on the ~~third 3rd~~ business day following notification of the appeal by the Council.
- D.** Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the delegating agency stating whether ~~three 3~~ Council members have requested that the appeal be considered at a Council meeting. If an appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E.** ~~When~~ After the Council approves or disapproves a delegation agreement that has been appealed, the Chair shall send a written letter to the delegating agency and person filing the appeal that specifies the reasons for the approval or disapproval and the date of Council action.

ARTICLE 3. AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENTS

R1-6-301. Petition for Council Rulemaking or Review

- A.** A person may petition the Council under A.R.S. § 41-1033(A) for a:
1. Rulemaking action relating to a Council rule, including making a new rule or amending or repealing an existing rule;
or
 2. Review of an existing Council practice or substantive policy statement alleged to constitute a rule.
- B.** To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Council office a written petition including the following information:
1. Name, address, telephone number, and facsimile number, if any, 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 an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful.
 4. If requesting a review of an existing practice or 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.
 5. Dated signature of the person submitting the petition.
- C.** A person may submit supporting information with a petition, including:
1. Statistical data; and
 2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.
- D.** The Council shall send the person submitting a petition a written response within 60 calendar days of the date the Council receives the petition.

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~~R1-6-301.~~ R1-6-302. ~~Appeals Appeal of an Existing Agency Practices Practice or Substantive Policy Statements~~ Statement

- A. A person appealing an agency's final decision regarding a petition for review of an existing agency practice or substantive policy statement filed ~~pursuant to~~ under A.R.S. § 41-1033(B) shall deliver to the Council office 1 original and 9 copies of the following:
1. A written request signed by the person submitting the appeal that ~~sets forth~~ includes the following:
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, address, ~~and facsimile and~~ and telephone numbers number, and facsimile number, if any, of the person filing the appeal;
 - c. Name of the ~~entity or~~ person being represented by the person filing the appeal;
 - d. Subject matter of the existing agency practice or substantive policy statement being appealed; and
 - e. Reasons why ~~the person appealing believes that~~ the existing agency practice or substantive policy statement constitutes a rule; ~~and~~ ;
 2. The petition requesting a review of the agency's existing practice or substantive policy statement; ~~and~~ ;
 3. The agency's written decision to each petition submitted to the agency requesting a review of the agency's existing practice or substantive policy statement being appealed.
- B. The Council shall notify the affected agency head of an appeal of an existing agency practice or a substantive policy statement by 5 p.m. of the business day following Council receipt of the appeal. The agency shall deliver to the Council office the information and documents ~~set forth~~ listed in subsection (C) no later than 5 p.m. on the ~~third~~ 3rd business day following notification by the Council of the appeal.
- C. An agency whose final decision is being appealed shall deliver to the Council office 1 original and 9 copies of the following:
1. A memorandum that ~~sets forth~~ includes the following:
 - a. Date the agency gave written notice of its decision ~~pursuant to~~ under A.R.S. § 41-1033(A);
 - b. Name, address, ~~and facsimile and~~ and telephone numbers number, and facsimile number, if any, of each agency contact person; and
 - c. Reasons why the agency believes that the existing agency practice or substantive policy statement does not constitute a rule; ~~and~~ ;
 2. The existing agency practice or substantive policy statement being appealed;
 3. Each petition filed with the agency requesting a review of the agency's existing practice or substantive policy statement being appealed; and
 4. The agency's written decision to each petition submitted to the agency requesting a review of the agency's existing practice or substantive policy statement being appealed.
- D. Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether 3 Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E. Within 7 calendar days after the Council decides whether the agency practice or substantive policy statement constitutes a rule, the Chair shall send a letter to the affected agency and the person filing the appeal that specifies the decision and the reasons for and date of the Council decision.

ARTICLE 4. APPEALS OF ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENTS

~~R1-6-401.~~ R1-6-401. ~~Appeals Appeal of an Economic, Small Business, and Consumer Impact Statements~~ Statement

- A. A person appealing an agency's final decision on whether to initiate a rulemaking ~~pursuant to~~ under A.R.S. § 41-1056.01(D) shall deliver to the Council office 1 original and 9 copies of the following:
1. The written request signed by the person submitting the appeal, citing the rule or rules being appealed and ~~setting forth~~ including the following:
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, address, ~~and facsimile and~~ and telephone numbers number, and facsimile number, if any, of the person filing the appeal;
 - c. Name of the ~~entity or~~ person being represented by the person filing the appeal;
 - d. ~~Manner in which~~ How the person filing the appeal is or may be affected by the agency's final decision made ~~pursuant to~~ under A.R.S. § 41-1056.01(C); and
 - e. ~~Reasons why~~ Why the person appealing believes either that; ~~and~~ ;
 - i. Under A.R.S. § 41-1056.01(A)(1), the actual economic, small business, or consumer impact significantly exceeded the estimated impact ~~pursuant to A.R.S. § 41-1056.01(A)(1);~~ ~~and~~ ; or that;
 - ii. Under A.R.S. § 41-1056.01(A)(2), the actual economic, small business, or consumer impact was not estimated on adoption of the rule; ~~and that~~ ; the impact imposes a significant burden on persons subject to the rule ~~pursuant to A.R.S. § 41-1056.01(A)(2);~~ ~~and~~ ;

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2. The economic, small business, and consumer impact statement being addressed in the appeal; and
 3. The data used by the person appealing to support the reasons ~~set forth~~ listed under subsection (A)(1)(e).
- B.** The Council shall notify the affected agency head of an appeal of a rule and its impact by 5 p.m. of the business day following Council receipt of the appeal. The agency shall deliver to the Council office the information and documents ~~set forth~~ listed in subsection (C) no later than 5 p.m. on the ~~third~~ 3rd business day following notification by the Council of the appeal.
- C.** An agency whose final decision is being appealed shall deliver to the Council office 1 original and 9 copies of the following:
1. A memorandum that ~~sets forth~~ includes the following:
 - a. Date of the publication of the agency's final decision ~~pursuant to~~ under A.R.S. § 41-1056.01(C);
 - b. Name, address, ~~and facsimile and telephone numbers~~ number, and facsimile number, if any, of each agency contact person;
 - c. If appropriate, reasons why the agency believes ~~either that; the~~
 - i. ~~The~~ actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact; ~~or that the~~
 - ii. ~~The~~ actual economic, small business, and consumer impact was estimated on adoption approval of the rule ~~and that the impact does not impose a significant burden on persons subject to the rule,~~ or both; and
 - d. Final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the ~~adopted~~ rule's economic, small business, and consumer impact statement were insufficient or inaccurate; and
 2. The rule being appealed; and
 3. The agency's written summary of comments received about the rule and its impact, the agency's response to those comments, and the agency's final decision on whether to ~~adopt~~ make a new rule, or amend, or repeal the existing rule.
- D.** Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether 3 Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- E.** Within 7 calendar days after the Council decides whether either or both of the provisions ~~set forth~~ in A.R.S. § 41-1056.01(A) are met, the Chair shall send a letter to the affected agency and the person filing the appeal that specifies the decision, the reasons for and date of the Council decision, and the action, if any, required by the agency.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

**CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION**

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R2-5-902 | New Section |
| R2-5-904 | New Section |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 41-763(6)
Implementing statute: A.R.S. § 41-763.03, A.R.S. § 41-763.04, A.R.S. § 41-783(14)
- 3. The effective date of the rules:**
December 7, 1999
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 5 A.A.R. 2878, August 20, 1999
Notice of Proposed Rulemaking: 5 A.A.R. 2772, August 20, 1999
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Gordon Carrigan, Human Resources Generalist
Address: 1831 W. Jefferson, Room 104
Phoenix, AZ 85007

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Telephone: (602) 542-4784

Fax: (602) 542-2796

6. An explanation of the rule, including the agency's reason for initiating the rule:

R2-5-902 contains procedures for conducting a reduction in force, including the bases for reduction, class status, type of employment, calculation of retention points, offer of position, and employee review requests. R2-5-904 contains procedures for establishing the eligibility and processing of volunteers for a reduction in force including severance pay and continued health, dental, and life insurance benefits. These 2 rules replace temporary exempt rules that were promulgated pursuant to Laws 1997, Ch. 288, § 10 that expired June 30, 1999. The new R2-5-902 also replaces a prior R2-5-902 that was temporarily repealed by the exempt rules and subsequently repealed permanently. The prior R2-5-902 did not contain the considerations that the Legislature expressed in Laws 1997, Ch. 288, § 10 incorporated in these new rules.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None.

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

Not applicable.

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

These rules do not directly impact small businesses or consumers. The economic impact would be on any agency facing the need to reduce the workforce for any of the reasons stated in R2-5-902(A)(1). The type and extent of an economic impact can be determined only when a specific reduction in force is planned and cannot be pre-determined. In general, there could be a reduction in an agency's revenues and employment expenditures and a reduction in pay for those employees who are reduced.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

A small focus group of agency representatives suggested several changes for clarification that were implemented by switching the order of 2 paragraphs, adding a short phrase to a sentence, and combining 2 sentences. The agency has addressed changes made by GRRC staff related to format, style, and syntax. There were no substantive changes.

11. A summary of the principal comments and the agency response to them:

The only comments received from the public were from 1 person at the public hearing, David Mendoza, Legislative Director, American Federation of State, County and Municipal Employees, Council 97. Although Mr. Mendoza understands that R2-5-902 incorporates the will of the Legislature as expressed in Laws 1997, Ch. 288, § 10, he is opposed to the new policy of giving substantially equal consideration to performance and service in the calculation of retention points. His position is that the policy can penalize employees with over 5 years of service and satisfactory performance. He requests that GRRC not approve R2-5-902 until he is able to obtain consideration of statutory revisions, which would need to be made through the legislative process. Because R2-5-902 contains the preferences of the Legislature, it is our position that the rule is proper and should be implemented. Mr. Mendoza's written comments are attached to this filing as Exhibit A.

Mr. Mendoza also thought that there might be a conflict between R2-5-902(B)(1) and R2-5-902(D)(1)(a) concerning temporary service, but he understood after an explanation that temporary employees would be considered 1st for a reduction and that permanent status employees remaining would receive consideration for previous temporary service.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

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

None.

14. Was this rule previously adopted as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

**CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION**

ARTICLE 9. SEPARATIONS

Section

R2-5-902. Reduction in Force

R2-5-904. Voluntary Separation Program

ARTICLE 9. SEPARATIONS

R2-5-902. Reduction in force

A. General.

1. An agency head shall submit to the Director a proposal to conduct a reduction in force when required by:
 - a. A lack of funds or work;
 - b. The abolition of 1 or more positions;
 - c. A material change in job duties or agency organization;
 - d. The introduction of a cost-reduction initiative;
 - e. A receiving agency has no need for the position or positions transferred; or
 - f. A lack of a vacant position to revert an employee on promotional probation.
2. The Director may limit a reduction in force to a single agency. An agency may limit a reduction in force to an organizational unit or agency operations within a geographic area.
3. An agency head shall submit an agency proposal for a reduction in force at least 30 working days before the effective date of the proposed reduction in force. The proposal shall indicate the reason for the reduction, the affected organizational unit, the geographical area, if applicable, and the effective date of the reduction. If circumstances beyond the agency's control do not permit at least 30 working days' notice, the agency shall provide notice as soon as it is aware of the necessity for a reduction in force.
4. An agency head shall submit a proposal for a voluntary separation program at the same time the agency head submits a reduction in force proposal to the Director.
5. If an agency abolishes a program or an institution permanently terminates operation by phasing out operations over a minimum period of 3 months, the head of the agency considering reduction in force activity shall develop and communicate to affected employees the agency's voluntary separation program plan permitting staggered phase-out and transfer, reduction, or separation of personnel as appropriate.
6. An agency proposal shall be consistent with A.R.S. §§ 41-763.03 and 41-763.04, this Section, and R2-5-904.
7. A permanent status employee separated as a result of a reduction in force is entitled, upon written application, to be considered for reemployment in the class held at the time of separation. The employee shall be given 1st consideration for a position in the class based upon prior seniority and performance for 1 year from the date of separation.
8. A permanent status employee reduced in grade as a result of a reduction in force is entitled to be considered for re-promotion to the class held immediately prior to the reduction in force or any intervening class as provided in Article 2.

B. Administration of reduction in force.

The Director shall review and approve or modify a reduction in force and voluntary separation program within 20 working days of receipt. Except as provided in subsection (A)(5), the Director shall administer a reduction in force in the following manner:

1. An agency shall separate an employee who is not a permanent status employee in the class affected by the reduction in force in the following order before any reduction in force action is taken affecting a permanent status employee:
 - a. Provisional employee;
 - b. Clerical pool employee;
 - c. Temporary employee;
 - d. Seasonal employee;
 - e. Original probationary limited employee;
 - f. Original probationary employee; and
 - g. Limited appointment employee.
2. An agency shall use retention points to identify a permanent status employee within a class series affected by a reduction in force for transfer, reduction, or separation based on the employee's relative standing on the retention point list.
3. An agency shall base retention points upon performance and length of state service calculated in accordance with the instructions in subsections (C), (D), and (E). Service in a position covered under A.R.S. Title 41, Chapter 4 shall be considered state service.

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4. An employee on promotional probation or detail to special duty shall compete for retention only in the employee's permanent status class series.
 5. An employee in an underfill position shall compete for retention only in the employee's permanent status class series.
 6. A permanent part-time employee shall compete for retention only against another permanent part-time employee in the same class series.
- C.** Calculation of retention points for performance. An agency shall average the scores of a maximum of the 3 most recent performance evaluations in the 24 months concluded before the date of request for the reduction in force as the basis for determining retention points. An agency head shall resolve any grievance on the most recent performance evaluation before computing retention points. An agency using an approved alternate employee performance evaluation system shall convert the performance evaluation scores of an affected employee to the 8-point scale established by the Director before calculating retention points. If an employee has not had a performance evaluation in the past 24 months, the employee shall receive 30 retention points. An employee shall receive retention points for performance as follows:
1. A score of "8" receives 60 retention points.
 2. A score of "7" but less than "8" receives 48 retention points.
 3. A score of "6" but less than "7" receives 36 retention points.
 4. A score of "5" but less than "6" receives 24 retention points.
 5. A score of "4" but less than "5" receives 12 retention points.
 6. A score of "3" but less than "4" receives 1 retention point.
 7. A score of less than "3" receives 0 retention points, and the employee shall be placed at the bottom of a retention list.
- D.** Calculation of retention points for length of service. Each permanent status employee shall earn 1 retention point for each credited month of state service in the current class series during the 60 months before the reduction in force implementation date as follows:
1. To receive credit for a month, the employee must have been in a pay status for at least 1/2 of the employee's working days in that month.
 2. A period of service as a state service employee before a separation shall count only if the separation was less than 2 years and was not the result of disciplinary action.
 3. The following periods during the 60 months before the reduction in force shall count:
 - a. State service as a provisional, seasonal, temporary, limited, or clerical pool employee that is credited toward satisfying a subsequent original probationary requirement;
 - b. Military leave with or without pay;
 - c. Service on mobility assignment;
 - d. Continuous uninterrupted service in a position that is transferred to state service by legislative action or otherwise from a budget unit of the state; and
 - e. Family and Medical Leave Act leave with or without pay.
- E.** Resolution of ties. An agency shall break ties in total retention points in the following manner and order:
1. The employee with the highest average performance evaluation during the past 24 months shall be given preference.
 2. If a tie continues to exist, the employee with the highest total retention points for state service shall be given preference.
 3. If a tie continues to exist, an agency shall retain the employee with the earlier state service hire date of record.
 4. If a tie continues to exist, an agency shall break the tie by lot.
- F.** Offer of position.
1. An agency shall give written notice at least 5 working days in advance to each employee identified for transfer, reduction, or separation. If circumstances beyond the agency's control do not permit at least 5 working days' notice, the agency shall provide notice as soon as it is aware of the necessity to transfer, reduce, or separate the employee.
 2. The notice shall include:
 - a. The reason for and effective date of the action;
 - b. The job offer, if any, including the salary, location of the position, and supervisor's name;
 - c. The availability of reduction in force procedures and records for review;
 - d. The employee's right to request a review of the action; and
 - e. The employee's reemployment rights, if applicable.
 3. An agency shall make a position offer to an employee with the highest number of points on the retention point list in descending order as follows:
 - a. Retention in the current position.
 - b. If a position exists and an employee possesses the required knowledge, skill, and ability for the class, an agency shall make the single best offer, in terms of pay grade, within the agency of:
 - i. A position at the same or lower pay grade in the same class series as the employee's present permanent status position;
 - ii. A position at the same or lower pay grade in the class series in which the employee has held permanent status during the past 5 years; or

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- iii. If both positions described in subsections (3)(a) and (3)(b) are available, the position covered by (3)(a).
- 4. An employee shall possess the knowledge, skill, and ability required when the position was last filled, unless the Director grants an exception.
- 5. Any job offer shall contain a limit of not less than 3 working days in which the employee may accept the offer. Failure of an employee to reply in writing within the stated time limit, or failure to accept a job offer, shall constitute a resignation. An employee may accept a job offer and retain the right to request a review of the reduction in force.
- 6. If no position exists, an agency shall separate an employee without prejudice.

G. Employee request for review.

- 1. Within 3 working days of receipt of a reduction in force notice, unless a longer time is authorized by an agency head, an employee may submit a written request to the agency head for a review of the procedure resulting in the employee's transfer, reduction, or separation due to a reduction in force. The request for review shall be based upon an error, contain specific information concerning the error involved, and include a proposed resolution of the problem. The agency head shall review the request and respond to the employee within 5 working days after receipt of the request.
- 2. An agency head may postpone any portion of a reduction in force until completion of an employee requested review.

R2-5-904. Voluntary Separation Program

A. General.

- 1. An agency head shall submit to the Director a proposal for a voluntary separation program for a permanent status employee when submitting a proposal for a reduction in force. The program shall include:
 - a. The job classification and position number of each position designated for reduction in force;
 - b. The name, Social Security number, current rate of pay, job classification, and position number of:
 - i. A permanent status employee in a position scheduled for elimination due to a reduction in force; or
 - ii. A permanent status employee in the same class and same designated area of the agency as a position scheduled for elimination due to a reduction in force;
 - c. The number of funded, vacant positions within the agency by job classification;
 - d. The efforts the agency has made to place employees designated for reduction in force in other positions in the same pay grade within the agency or other state agencies;
 - e. The expected outcome of the voluntary separation program;
 - f. An available funding statement;
 - g. The expected duration of the voluntary separation program;
 - h. The benefits the agency plans to provide to each voluntarily separated employee; and
 - i. The procedures the agency plans to use to effect the voluntary separation program. These procedures shall include as a minimum:
 - i. An agency head's notification to an employee of eligibility to participate in the voluntary separation program within 5 working days of the agency's receipt of the Director's approval and a copy of the voluntary separation program information about employee eligibility, program duration, severance pay calculation, length of shared insurance premiums extension, method of payment, and program procedures;
 - ii. A method of selecting among volunteers for separation when more than 1 employee is eligible that includes a review process in which the agency head's decision is final;
 - iii. A specified time for an employee to consider and accept the voluntary separation severance pay and shared insurance premium payments; and
 - iv. A requirement that an eligible employee who volunteers for separation sign a written agreement that the employee agrees to the voluntary separation and that outlines the separation date, amount of payment, length of shared insurance premium payments, exceptions to severance and insurance, method of payment, and information pertinent to any return to work in state service or employment with a contractor who provides services to the state.
- 2. An agency shall offer a voluntary separation program to all eligible employees and shall provide, subject to funding availability, severance pay in the amount of 1 week of pay at current base salary for each year of service, prorated for service in increments of less than 1 year, and eligibility to continue enrollment in health, dental, and life insurance programs for up to 6 months after separation if the employee pays the employee contribution.
- 3. A permanent status employee in a position or class in an organizational unit or agency operations within a geographic area that is scheduled for elimination due to a reduction in force, or an employee who holds permanent status in the same class in the same designated area of the agency may volunteer for separation and shall receive compensation as provided by the approved voluntary separation program.
- 4. An agency head shall submit the agency proposal for the voluntary separation program at least 30 working days before the intended effective date of the proposed reduction in force. If circumstances beyond the agency's control do not permit at least 30 working days' notice, the agency shall provide notice as soon as it is aware of the necessity for a reduction in force.
- 5. An agency proposal shall be consistent with A.R.S. § 41-763.03 and this Section.

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B. Administration.

Within 20 working days of receipt, the Director shall review and approve or modify an agency's proposed voluntary separation program.

C. Exceptions.

An agency head may offer shorter terms of shared insurance premium payments if funding is not available. An agency head may offer lesser amounts of severance pay if sufficient funds are not available. The program shall not offer shared insurance premium payments to an employee who retires or accepts other employment that offers an employer-sponsored insurance program.

D. Repayment.

An employee shall repay the state any money paid to the employee as a result of participation in the voluntary separation program if the employee returns to state service or applies for retirement or early retirement within 6 months of the employee's voluntary separation date.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

**CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION**

PREAMBLE

1. Sections Affected

Rulemaking Action

R3-2-401	Renumber
R3-2-401	New Section
R3-2-402	Renumber
R3-2-402	Amend
R3-2-403	Repeal
R3-2-403	Renumber
R3-2-403	Amend
R3-2-404	Repeal
R3-2-404	New Section
R3-2-405	Amend
R3-2-407	Amend
R3-2-408	Amend
R3-2-409	Amend
R3-2-410	New Section
R3-2-411	New Section
R3-2-502	Repeal
R3-2-503	Amend
R3-2-504	Amend
R3-2-601	Amend
R3-2-605	Amend
R3-2-606	Amend
R3-2-607	Amend
R3-2-611	Amend
R3-2-613	Amend
R3-2-614	Amend
R3-2-616	Repeal
R3-2-616	Repeal
R3-2-619	New Section
R3-2-621	New Section
R3-2-622	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 3-1203, 3-1204, and 3-1205.

Implementing statutes: A.R.S. §§ 3-1203, 3-1204, 3-1205, 3-1451, 3-1454, 3-1455, 3-1456, 3-1745, and 11-1002.

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3. The effective date of the rules:

January 1, 2000. The delayed effective date will allow for a smooth transition into the 2000 show year. 4-H participants at the Arizona National Stock Show (the last show of the 1999 show year) will be able to enter swine under the current rules and have an entire year to plan for the new requirements.

4. A list of all previous notices appearing in the Register addressing the rule:

Notices of Rulemaking Docket Opening: 4 A.A.R. 2252, August 21, 1998; 5 A.A.R. 2997, September 3, 1999.

Notice of Proposed Rulemaking: 5 A.A.R. 3128, September 17, 1999.

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Shirley Conard, Rules Specialist

Address: Arizona Department of Agriculture
1688 West Adams, Room 235
Phoenix, Arizona 85007

Telephone: (602) 542-0962

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6. An explanation of the rule, including the agency's reasons for initiating the rule:

This rulemaking updates Article 4, Animal Disease Prevention and Control, by removing specific reference to hog cholera and including it in the foreign animal disease category, revising the disease control requirements for feedlots, auction markets, rabies exposure, and exhibition swine; updating the incorporations by reference in Article 5, State-Federal Cooperative Disease Control Program, and adding criteria for the control and eradication in cervidae not listed as restricted live wildlife by the Arizona Game and Fish Department; and updating the official health certificate and swine importation requirements in Article 6, Health Requirements Governing Admission of Animals.

R3-2-401. Definitions. The definitions for "biologicals" and "free area" have been added to set the parameters of medical preparations that must be approved for distribution by the State Veterinarian and to explain the feedlot area where cattle are not restricted.

R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories. This Section has been updated to incorporate all List A and B diseases established in the Office International des Epizooties. The rulemaking requires that the State Veterinarian be notified by veterinarians and laboratories performing diagnostic services on animals when diagnosing chronic wasting disease or any Office International des Epizooties' List A and B diseases. The rule separates those diseases that are immediately (within 4 hours) reportable (chronic wasting disease, all List A diseases, and certain List B diseases) from those that need to be reported only on a monthly basis. The immediately reportable diseases must be reported whether they are suspected or diagnosed, while the diseases that must be reported on a monthly basis must be diagnosed using criteria specified in the rule. The rule specifies that the reporting is made by telephone within 4 hours of diagnosing or suspecting chronic wasting disease or a List A disease and the List B diseases named in the rule, and by facsimile by the end of the month for the remainder of the List B diseases.

The rule also incorporates the diagnosis criteria required for List B.

R3-2-403. Individual Identification of Swine at Market. This Section clarifies the information required to be kept by commercial auctions when selling swine and requires that this information be submitted monthly to the State Veterinarian.

R3-2-404. Importation, Manufacture, Sale and Distribution of Biologicals and Semen. This rulemaking requires any person importing, manufacturing, selling or distributing biologicals to obtain permission from the State Veterinarian for biologicals and specifies the origin of boar semen.

R3-2-405. Depopulation of Animals Infected with a Foreign Disease. This Section is updated to allow the State Veterinarian to order the depopulation of any animal infected with, or exposed to, a foreign animal disease.

R3-2-407. Equine Infectious Anemia. This rulemaking changes the time requirement for branding positives to 14 days from the date the State Veterinarian is notified of a positive test; adds a time requirement of 10 days after positive equine are branded for the equine to be euthanized, sent to slaughter, or housed in a screened stall; and requires that foals from positive mares be quarantined and tested at 6 months of age. Foals testing positive at 6 months of age would be handled as any equine testing positive.

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R3-2-408. Disposition of Livestock Exposed to Rabies. This Section is updated to incorporate by reference the handling methods established in the *Compendium of Animal Rabies Control* published by the National Association of State Public Health Veterinarians.

R3-2-409. Rabies Vaccines for Animals. This Section updates the incorporation by reference that lists the vaccines used in animals in Arizona.

R3-2-410. Restricted Swine Feedlots. This Section establishes the operating conditions for a restricted swine feedlot.

R3-2-411. Exhibition Swine. This Section requires that exhibition swine be inspected by a Department livestock officer or inspector before the exhibition unless the exhibition swine are moved directly to the exhibition from an out-of-state origin. Those exhibition swine not moving direct to show imported from out-of-state are inspected within 30 days after entry.

The Department will issue an inspection certificate required for entry into any exhibition. Because swine frequently lose the USDA metal eartag during shipment, the metal eartag identification requirements have been eliminated and replaced with the universal swine eartag system and a premises-of-origin identification number. The premises identification number may be applied either as a tattoo or as a tamper-proof eartag.

Swine may be imported only from a Stage IV or V state or from a qualified negative herd in California. Native swine must be inspected by a Department livestock officer or inspector before exhibition and proof of origination and identification must be provided to the Department livestock officer or inspector.

Exhibit officials are required to confirm the presence of the Department-issued certificate of inspection or, if moving directly to exhibition from an out-of-state origin, a health certificate on which is listed a prior import permit and documentation of testing for pseudorabies (if applicable).

R3-2-503. Brucellosis Control and Eradication Procedures. This Section updates the referenced document for brucellosis eradication and control procedures and adds a similar referenced document for brucellosis eradication and control procedures used in Cervidae. The Section specifies that these procedures apply only to Cervidae not listed as restricted live wildlife by the Arizona Game and Fish Department.

R3-2-504. Pseudorabies Procedures for Eradication. The incorporation by reference document has been updated in this Section.

R3-2-601. Definitions. The terms “animal,” “Cervidae,” and “macaque” have been added.

R3-2-605. Quarantine for Animals Entering Illegally. A time requirement for compliance with an order from the State Veterinarian requiring animals to be returned to the state of origin has been added and offers additional options available to the State Veterinarian of consigning animals to a quarantined or designated feedlot or to slaughter. The Section has been updated to allow the Department to gather animals regardless of where they are located and to sell enough animals to pay the expenses of the Department.

R3-2-606. Official Health Certificate. This Section has been updated to list all information required on a health certificate. In addition, the Section requires a statement of the scrapie status of sheep. This rule eliminates the use of a USDA metal eartag to identify swine and substitutes eartag identification that conforms to the universal swine eartag system and premises identification number for exhibition swine. Documentation of the pseudorabies status of the state of origin is required and for documentation of the pseudorabies-qualified negative herd number, if applicable. The rule requires a statement on health certificates for swine indicating that the swine are to be quarantined on arrival and tested for pseudorabies no sooner than 15 days nor later than 30 days after arrival. The quarantine and retest requirement statement applies to all swine that are not moving directly to exhibition, except for swine from pseudorabies Stage V states and for swine consigned to a restricted swine feedlot.

R3-2-607. Permit Number. This Section has been updated for clarity, understanding, and to meet the requirements of the Governor’s Regulatory Review Council and the style requirements of the Office of the Secretary of State. The rulemaking eliminates the use of mail to obtain an import permit, because all permits are currently issued by telephone.

R3-2-611. Transporter Duties. This Section has been updated for clarity, understanding, and to meet the requirements of the Governor’s Regulatory Review Council and the style requirements of the Office of the Secretary of State.

R3-2-613. Swine. This rulemaking allows swine, whether for exhibition or commercial use, to originate from a pseudorabies Stage IV or V state, and from a pseudorabies-qualified negative herd from California. No pseudorabies test is required before movement unless from a California-qualified negative herd where a test is required if going directly

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to exhibition. Swine consigned to restricted swine feedlots must originate from nothing less than a pseudorabies-monitored feeder pig herd in a Stage II or Stage III state. Swine from pseudorabies-qualified negative herds in California and swine from Stage IV states are subject to the quarantine and test requirements. The pseudorabies test for these swine is 15 - 30 days after entry. Swine from herds in California that are not pseudorabies-qualified negative and any swine from a Stage I, II, or III state, may not enter Arizona under any circumstances or for any purpose. The following table summarizes the swine requirements:

Pseudorabies (PRV) State Status	May Enter Arizona for Show or Commercial Purposes	PRV Test Required Before Movement	PRV Test Required 15 - 30 Days after Entry
STAGE I	NO	DOES NOT APPLY	N/A
STAGE II	NO	DOES NOT APPLY	N/A
STAGE III	NO	DOES NOT APPLY	N/A
PRV QUALIFIED NEGATIVE HERD FROM CALIFORNIA	YES	NO, unless moving directly to exhibition	YES
STAGE IV	YES	NO	YES
STAGE V (FREE)	YES	NO	NO

This rulemaking also requires that exhibition swine moving directly to the exhibition from a pseudorabies Stage IV state or from a qualified negative herd in California, and remaining in the state after the exhibition, be held in quarantine after the exhibition and tested negative for pseudorabies no sooner than 15 days nor later than 30 days after entry.

R3-2-614. Goats and Sheep. This Section adds a requirement that all rams 6 months of age or older be tested negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis-free flock.

R3-2-616. Cats and Dogs. This Section adds a requirement for a health certificate on both dogs and cats and a rabies vaccination on cats. Rabies vaccination is already required on dogs entering the state.

R3-2-619. Game, Furbearing and Wild Animals. The information in this Section deals specifically with the Arizona Game and Fish Department and has no bearing on the Department's rules.

R3-2-621. Non-restricted Live Wildlife Cervidae. This Section deals with the importation of Cervidae not listed as restricted live wildlife by the Arizona Game and Fish Department. It requires a health certificate, individual metal eartag identification, 1 or 2 negative tests for tuberculosis depending on the status of the herd of origin, a negative test for brucellosis, and a retest for brucellosis depending on the status of the herd of origin.

R3-2-622. Monkeys. This Section deals with the importation of macaque monkeys. It requires a health certificate, individual identification by tattoo or microchip, a negative test for Simian Herpes B virus, and a negative test for tuberculosis.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material.

None.

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

Not applicable.

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

A. *The Arizona Department of Agriculture.*

The Department will devote an estimated 20 hours per month to receiving and tabulating the diseases reported as referenced in R3-2-402. A list will be compiled monthly and forwarded to the USDA. This task will be assigned to 1 of the Assistant State Veterinarians.

The Department will spend an estimated 10 to 20 hours designing and ordering the "Department-issued certificate of inspection of exhibition swine" referenced in R3-2-410. An additional 20 to 40 hours will be spent by veterinarians in the Office of the State Veterinarian to train Livestock Inspectors/Officers to identify swine and inspect paperwork submitted by the owners.

The Department will spend additional Livestock Inspector/Officer time conducting the inspections of exhibition swine required in R3-2-411. It is estimated that there are approximately 1,800 swine exhibited annually at fairs in the

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state. Thus, there will be an additional 1,800 inspection certificates per year issued by Livestock Inspectors/Officers. If swine originate from Stage V states and a post-importation pseudorabies test is not required for exhibition inspection, the swine imported as a group may be inspected as a group. Although the majority of exhibition swine are imported in groups, only 1/3 is estimated to originate from Stage V states. Because exhibition inspection of Stage V swine can be done in groups, this will reduce the number of actual inspection calls. Each individual inspection is estimated to take approximately 5 to 10 minutes once the swine is restrained by the owner.

By collecting information on animal diseases required to be reported in R3-2-402, the Department will be able to report the presence and, more importantly, the absence of diseases of concern to the international community. This will enhance the state livestock industry's ability to market its products internationally. For instance, Russia will not import meat products from states where there have been cases of Vesicular Stomatitis, one of the diseases on the mandatory disease reporting list. Arizona is currently free from this disease and by collecting, tracking, and making this information available on a monthly basis, the Department will make it easier for companies to market their meat products in the international marketplace.

R3-2-613 will enhance the Department's ability to ensure that the state remains free of pseudorabies by reducing the risk level of imported swine. R3-2-613 restricts the origin of imported swine to states classified as Stage IV, Stage V, or Qualified-Negative (QN) herds in California. These are low-risk sources for swine. California is specifically named for QN herds because the remainder of our neighboring states are Stage V. QN herds in Stage I, II, and III states in the eastern U.S. are a higher risk for pseudorabies because they must transit that state where there may be many herds under quarantine for pseudorabies. Pseudorabies is highly contagious and has been reported to spread to another herd by the wind. Even though swine originating from a QN herd in a Stage I, II, or III state should be free of the disease, they may be exposed in transit through the state of origin as well as any other Stage I, II, or III states through which they must pass to enter Arizona.

R3-2-411 will also enhance the Department's ability to ensure the state remains free of pseudorabies by requiring inspection of all exhibition swine by a Livestock Inspector/Officer before being allowed to exhibit. Because transporters of swine, especially those transporting small numbers in private trucks and trailers, frequently do not stop at our interstate ports-of-entry, and because there are no other required inspections by Livestock Inspectors/Officers for swine as there are for horses and cattle, the only critical control point for ensuring exhibition swine have entered the state with proper health paperwork and pseudorabies testing is the swine exhibit. Although it might be suggested that the Department could focus the exhibition inspection by Livestock Inspectors/Officers at the exhibits, exhibition swine are brought into the state well in advance of the exhibit. This increases the opportunity for illegally imported infected swine to spread the disease within the state before being moved to the exhibit. The Department is focusing pseudorabies preventative measures on exhibition swine because the last outbreak of pseudorabies, although occurring in a commercial operation, was likely due to an infected swine from exhibit moved to a packing plant co-located on the premises of the commercial operation.

R3-2-614 will enhance the Department's ability to prevent the introduction of sheep brucellosis by requiring a negative test for *Brucella ovis*, the variety of brucellosis that infects sheep, before entry. Previously, the Department only required that rams be examined for external evidence of infection. Because evidence of infection can be missed, a negative test will ensure that brucellosis-infected breeding rams, the sex that spreads the disease in sheep, are not imported.

R3-2-503 and R3-2-621 will enhance the Department's ability to prevent the introduction of brucellosis and tuberculosis to the state's cattle population. By adopting the USDA procedures publication for brucellosis control and eradication in Cervidae in R3-2-503, and by adding entry requirements for the importation of Cervidae in R3-2-621, the risk of importing brucellosis and tuberculosis will be reduced markedly and will enhance the Department's ability to deal with the problem should it be introduced.

R3-2-606 will enhance the Department's ability to prevent the introduction of scrapie-infected sheep, a transmissible spongiform encephalopathy related to bovine spongiform encephalopathy, a disease that is foreign to the United States. By requiring a statement regarding the flock of origin's scrapie status and the animals' scrapie-exposure status, the risk of introduction of scrapie-infected sheep will be reduced.

B. Political Subdivision.

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. Businesses Directly Affected By the Rulemaking.

R3-2-402 requires that veterinary practitioners and laboratories that perform diagnostic services for veterinary practitioners report certain animal diseases. Veterinarians and laboratories already maintain records on animal dis-

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ease; however, it will be necessary for them to report this information to the State Veterinarian. This information must be reported either within 4 hours of suspecting or diagnosing, for those diseases that are foreign to the United States such as Food and Mouth Disease, those for which there is a current national eradication program such as brucellosis, or those that are a serious public health risk such as rabies, or by the end of the month for the remainder of the diseases listed in this rule that satisfy specific disease criteria listed in the rule.

R3-2-403 requires auction markets to submit monthly information on swine that are sold through the market. This rule already required markets to keep records as to the identity, origin, and destination of the swine sold at auction. However, the updated rule requires that this information be transmitted to the State Veterinarian monthly.

R3-2-407 now sets a time limit on when the owner of an equine infected with Equine Infectious Anemia must comply with 1 of the 3 options already outlined in the rule. Namely, within 10 days of being branded by the State Veterinarian as infected with EIA, the owner must have the animal humanely destroyed, consigned to slaughter, or placed in a(n) (insect proof) screened stall 200 yards away from other equine. Those owners of infected equine choosing to use the latter option will be required to build a facility meeting the requirements listed in the rule in a very short period of time. Quick disposition of the infected equine is important because of the significant risk of transmission of the disease to other equine while disposition of the animal is being arranged.

R3-2-410 sets physical, procedural, and reporting requirements for feedlots feeding swine that have a higher risk of pseudorabies infection. Currently, under written agreement between the Department, the producer, and the USDA Area Veterinarian-in-Charge, restricted feedlots such as these are meeting the requirement that are now listed in R3-2-410.

R3-2-411 requires exhibitors, such as 4-H and FFA participants, to obtain an exhibition certificate from a Department Livestock Inspector/Officer. The rule requires that these entities make contact with the local Livestock Inspector/Officer to make arrangements for the inspection. In addition, this rule sets specific individual identification of exhibition swine requirements that will necessitate some out-of-state swine sources to ear notch their swine and to obtain and use a premises identification. Ear notching is a simple procedure, accepted nationally, that requires the purchase of an implement costing less than \$20. The premises identification is available through the state livestock health official and may be applied as a tattoo or as a tamper-proof eartag. Tattoo application instruments cost approximately \$30. Tamper-proof eartags cost less than \$1.00 each and the reusable applicator approximately \$35. Requirement of exhibition swine to be individually identified enables staff veterinarians, practicing veterinarians, and Livestock Inspectors/Officers to confirm that swine match the identifications listed on test charts, health certificates, and bills of sale. This rule also requires exhibit officials to deny entry to the show of any swine that are not accompanied by the inspection certificate issued by a Livestock Inspector/Officer. Exhibit officials will have to check the paperwork on all incoming swine to ensure compliance.

R3-2-605 expands the options available to contain and eliminate potentially diseased animals that enter the state illegally. Previously, the only option available was for the State Veterinarian to request that the animals be returned to the state of origin. This rule now allows the State Veterinarian to require that the owner of illegal imports return the animals to the state of origin, have them slaughtered, send them to a designated feedlot, or send them to a feedlot in another state. In addition, this rule previously allowed the Department to gather and dispose of illegal imports, at the owner's expense, if they were turned out on Arizona ranges and the owner refused to comply with the State Veterinarian's order to return them to the state of origin. Because illegal imports may be turned out on other than Arizona ranges, the rule now allows the Department to gather and dispose of illegal imports, at the owner's expense, regardless of where they are located.

R3-2-606 requires individual identification of swine in the same manner as stated above in R3-2-411.

R3-2-613 restricts the source of imported swine. Previously, swine could originate from any state, regardless of their pseudorabies risk status, providing certain health requirements were met. Because this still represents a risk for the reintroduction of pseudorabies, a disease that has been eradicated from Arizona, restriction of the source of swine will nearly eliminate the risk of disease reintroduction. This restriction will impact those commercial swine operations and swine exhibitors that source their swine from Stage I, II, and III states. It will require that for these people, sources in Stage IV and V states, states with low or no risk of disease, be located. Because all or nearly all states are expected to be at Stage IV or V by the end of the year 2000, any difficulty that commercial operators and exhibitors experience locating approved sources of swine should be short-lived.

R3-2-613 also requires retesting of certain classes of imported swine for pseudorabies. Previously, all swine were required to be retested regardless of origin. This rule now recognizes the fact that swine from Stage V states are an extremely low risk for pseudorabies and consequently eliminates the requirement for retesting these animals. A retest for pseudorabies will continue to be required on swine from Stage IV states and QN herds in California.

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R3-2-614 now requires owners of breeding rams to have them tested for *Brucella ovis* prior to shipping to Arizona. This test generally costs less than \$10 per animal plus veterinarian fees.

D. *Private and public employment.*

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. *Consumers and the Public.*

Because some animal diseases are transmissible to humans, consumers, and the public are directly affected by this rule package through the prevention and control of these transmissible animal diseases, such as brucellosis and tuberculosis.

This rule package may also indirectly impact consumers and the public. This rule package focuses on the animal disease preventive, containment, and eradication procedures used by the Department. Diseased livestock cost the livestock owner through death loss, decreased meat, milk, and egg production, and decreased performance. Additional costs to the livestock owner also result from additional testing required by states if animal disease control efforts are insufficient to prevent Arizona from becoming “infected” with animal diseases. These costs are passed on to the public through increased cost of animal products.

F. *State Revenues.*

This rulemaking will have no impact on state revenues.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor grammatical changes were made at the request of the G.R.R.C. staff.

11. A summary of the principal comments and the agency response to them.

None.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

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

R3-2-402.	Office International des Epizooties List A and List B diseases.
R3-2-402.	The National Animal Health Reporting System Manual, January 1, 1999.
R3-2-408.	The National Association of State Public Health Veterinarians’ Compendium of Animal Rabies Control, 1999, Part III, Section 5.
R3-2-409.	The National Association of State Public Health Veterinarians’ Compendium of Animal Rabies Control, 1999, Part II.
R3-2-503(A)	The USDA publication, Brucellosis Eradication - Uniform Methods and Rules, effective February 1, 1998.
R3-2-503(C)	The USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective September 30, 1998, and the May 14, 1999 revision.
R3-2-504.	The USDA publication, Pseudorabies Eradication, State-Federal-Industry Program Standards, effective January 1, 1999.

14. Was this rule previously adopted as an emergency rule?

No.

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

R3-2-401. Definitions

~~R3-2-401.~~ R3-2-402. Mandatory disease reporting by veterinarians Disease Reporting by Veterinarians and Veterinary Laboratories

~~R3-2-403. Prohibition of live hog cholera virus~~

~~R3-2-402.~~ R3-2-403. Individual identification of swine at market Identification of Swine at Market

~~R3-2-404. Prohibition of live virus hog cholera vaccine~~ Importation, Manufacture, Sale, and Distribution of Biologicals and Semen

~~R3-2-405. Requirements for depopulation of hog cholera infected premises~~ Depopulation of Animals Infected with a Foreign Disease

~~R3-2-407. Equine Infectious Anemia~~

~~R3-2-408. Disposition of livestock showing symptoms or exposed to rabies~~ Livestock Exposed to Rabies

~~R3-2-409. Specifying types of rabies vaccines for animals~~ Rabies Vaccines for Animals

~~R3-2-410. Restricted Swine Feedlots~~

~~R3-2-411. Exhibition Swine~~

ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

Section

~~R3-2-502. Payment to Owners for Cattle Depopulated from Herds Infected with Tuberculosis~~ Repealed

~~R3-2-503. Brucellosis Control and Eradication Procedures~~

~~R3-2-504. Pseudorabies Control and Eradication Procedures~~ for Eradication

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS

Section

~~R3-2-601. Definitions~~

~~R3-2-605. Quarantine for animals entering illegally~~ for Animals Entering Illegally

~~R3-2-606. Official health certificate~~ Health Certificate

~~R3-2-607. Permits~~ Number

~~R3-2-611. Duties of transporters~~ Transporter Duties

~~R3-2-613. Requirements for importation of swine~~ Swine

~~R3-2-614. Requirements for importation of goats and sheep~~ Goats and Sheep

~~R3-2-616. Requirements for dogs and cats~~ Cats and Dogs

~~R3-2-619. Game, furbearing and wild animals~~ Repealed

~~R3-2-621. Non-restricted Live Wildlife Cervidae~~

~~R3-2-622. Monkeys~~

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, APHIS, USDA, 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.

“Free area” means a feedlot pen that is separate from all restricted feeding pens and all facilities and equipment used in the free area are separate from all facilities and equipment used in a restricted feeding pen.

R3-2-401. R3-2-402. Mandatory disease reporting by veterinarians **Disease Reporting by Veterinarians and Veterinary Laboratories**

All veterinarians, licensed, accredited, institutional, state or federal, shall, when a diagnosis of the following named infectious or contagious animal diseases is made within the state of Arizona, report this to the Livestock Board and, with Livestock Board approval, any additional diseases that need be added to the list from time to time by the State Veterinarian when considered essential to the livestock industry: All veterinarians and laboratories performing diagnostic services on animals shall:

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1. Notify the State Veterinarian at (602) 542-4293, within 4 hours of diagnosing or suspecting any Office International des Epizooties 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 tuberculosis
Bovine spongiform encephalopathy
Contagious caprine pleuropneumonia
Caprine and ovine brucellosis
Contagious equine metritis
Dourine
Enterovirus encephalomyelitis
Equine infectious anaemia
Equine piroplasmiasis
Equine viral encephalomyelitis
Equine viral arteritis
Epizootic lymphangitis
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 International des 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.
 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.
1. ~~Hog Cholera.~~
 2. ~~Swine Brucellosis.~~
 3. ~~Bovine Brucellosis.~~
 4. ~~Bovine Tuberculosis.~~

R3-2-403. Prohibition of live hog cholera virus Repealed

The importation, manufacture, sale or use of live hog cholera virus into or within the state of Arizona is hereby prohibited.

~~R3-2-402.~~ ~~R3-2-403.~~ Individual identification of swine at market Identification of Swine at Market

~~All feeder and breeder~~ The owner, or the owner's agent, of an auction licensed by the USDA shall individually identify all swine in Arizona moving through ~~markets~~ the auction or other concentration ~~points~~ point in intrastate and interstate commerce ~~shall be individually identified and a record kept as to origin and destination.~~ and shall submit the following information by the 1st of each month to the State Veterinarian:

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1. The name of the owner of the swine.
2. The name of the buyer of the swine.
3. The farm of origin.
4. The individual identification of each swine, and
5. The destination of the swine.

R3-2-404. ~~Prohibition of live virus hog cholera vaccine~~ Importation, Manufacture, Sale, and Distribution of Biologicals and Semen

- ~~A. The sale, purchase or use of living hog cholera virus vaccines within the state of Arizona is prohibited. The State Veterinarian is empowered to authorize the official use of Modified Live Virus Vaccines if deemed necessary.~~
- ~~B. Official vaccination using killed or inactivated hog cholera vaccine or use of hog cholera serum or antibody concentrate shall be permitted until such time as the State Veterinarian restricts its use to conform to the provisions of the National Hog Cholera Eradication Program.~~
- ~~C. Any person violating the provisions of the Swine Biologic regulation with a resultant outbreak of hog cholera shall cause the swine to be subject to only one-half the usual appraised indemnity and the owner shall be subjected to the penalties provided by law.~~
- 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.

R3-2-405. ~~Requirements for depopulation of hog cholera infected premises~~ Depopulation of Animals Infected with a Foreign Disease

~~When Hog Cholera a foreign animal disease is officially diagnosed, in a swine herd, it shall be required that immediate depopulation and disposal the State Veterinarian shall order the owner to immediately depopulate and dispose of all infected and exposed swine animals on the premises be accomplished in cooperation with the USDA APHIS if necessary to prevent the spread of the disease among animals.~~

R3-2-407. Equine Infectious Anemia

- A. The Arizona official test for equine infectious anemia, known as Swamp Fever or 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 a USDA APHIS veterinarian.
- B. Disposal of equine testing positive.
1. ~~When an Arizona equine tests positive to EIA, the State Veterinarian shall be notified by the testing laboratory shall immediately notify the State Veterinarian~~ by telephone.
 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 a USDA APHIS veterinarian within 2 weeks of the notification.
 3. Within 14 days of testing positive, the equine shall be branded by 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 the ~~its~~ neck with "86A" not less than 2 inches in height.
 4. ~~The EIA positive equine may be humanely destroyed, consigned to slaughter at a slaughtering establishment, or confined to a screened stall marked "EIA Quarantine" at least 200 yards from other equine. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals form, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or a USDA APHIS veterinarian.~~
Within 10 days after being branded, the EIA-positive equine shall be:
 - a. Humanely destroyed; or
 - 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 a USDA APHIS veterinarian.
 5. Offspring of mares testing EIA positive shall be quarantined and tested at 6 months of age. Offspring testing positive shall be handled as prescribed in subsection (B)(4).
 - 5.6. At the time a quarantine under this Section is effective, and the 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 the owner lives in another state, the equine owner may be moved move the equine to that state with the permission of the Chief livestock health official of the state and USDA APHIS.

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- C. The State Veterinarian ~~may~~ shall require testing of any equine located in the same facility as the exposed to EIA-positive equine within the last 6 months of exposure. Expenses for this testing shall be paid by the owner. The owner shall pay the expenses for this testing.
- D. The owner of any equine found to be positive for EIA shall not be indemnified by the state for any loss caused by the destruction and loss of value of the equine.

R3-2-408. Disposition of ~~livestock showing symptoms or exposed to rabies~~ Livestock Exposed to Rabies

- ~~A. Livestock bitten by a known rabid animal may be:~~
 - ~~1. Immediately destroyed, or~~
 - ~~2. Confined in strict quarantined enclosures or corrals meeting the approval of state regulatory officials for a period of 180 days or such further period of time as may be deemed necessary by said official.~~
- ~~B. Livestock bitten by a suspected rabid animal shall:~~
 - ~~1. Be quarantined in a manner as determined proper by state regulatory officials until such time as said official shall deem it safe to release said quarantine.~~
- ~~C. Livestock showing symptoms suggestive of rabies shall:~~
 - ~~1. Be quarantined as specified in (B)(1) above and shall not be destroyed unless the livestock be so uncontrollable due to circumstance or nature that to protect human life and/or other livestock, it be necessary in the opinion of a state regulatory official that the animal be destroyed and tissues harvested for laboratory procedures.~~

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 Animals 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.

R3-2-409. ~~Specifying types of rabies vaccines for animals~~ Rabies Vaccines for Animals

All animals in Arizona vaccinated against rabies in Arizona shall be vaccinated in accordance with as prescribed in Part II of the "the National Association of State Public Health Veterinarians' Compendium of Animal Rabies Vaccines Control", 1999, Part II, 1988, prepared by the National Association of State Public Health Veterinarians. This material is incorporated herein 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

- 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 ¼ 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

- A. In addition to meeting the requirements in Article 6, all imported swine not moved directly to an exhibition in Arizona shall be inspected by a Department livestock officer or inspector within 30 days after entry.
- B. Exhibit officials shall deny entry to any swine not accompanied by the following documents:
 - 1. Imported swine moved directly to an exhibition. An official health certificate as specified in R3-2-606 and an import permit as specified in R3-2-607;
 - 2. Imported swine not moved directly to the exhibition. A Department-issued certificate of inspection of exhibition swine containing the following:
 - a. The name, address, telephone number, and signature of the owner;
 - b. The name of the inspector and the date, time, and location of the inspection;
 - c. The individual identification of the swine, using an eartag, that conforms to the universal swine-eartag system, and the premises identification number using a tattoo or producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System.
 - 3. Native Arizona swine. A Department-issued certificate of inspection of exhibition swine containing the following:
 - a. The name, address, telephone number, and signature of the owner;
 - b. The name of the inspector and the date, time, and location of the inspection;
 - c. The individual identification of the swine, using an eartag that conforms to the universal swine-eartag system, and the premises identification number using a tattoo or producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System.

- C.** Department-issued certificate of inspection of exhibition swine. The owner shall provide the Department with:
1. Imported swine.
 - a. The certificate of veterinary inspection listing import permit and individual identification of the swine, using an earmotch that conforms to the universal swine-earnotch system, and the premises identification using a tattoo or a producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System; and
 - b. If from a Stage IV state or a qualified negative herd in California, documentation of a negative pseudorabies test conducted 15 to 30 days after entry.
 2. Native swine.
 - a. A bill of sale listing:
 - i. The name of the seller and buyer;
 - ii. The individual identification of the swine, using an earmotch that conforms to the universal swine-earnotch system, and the premises identification using a tattoo or a producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System; and
 - iii. The date of the sale; or
 - b. Verification that the swine has been raised in Arizona and the individual identification of the swine, using an earmotch that conforms to the universal swine-earnotch system, and the premises identification using a tattoo or a producer-furnished tamper-proof eartag that conforms to the USDA National Premises Identification System.

ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM

R3-2-502. ~~Payment To Owners For Cattle Depopulated From Herds Infected With Tuberculosis~~ Repealed

- A.** ~~The state shall pay owners a tuberculosis depopulation indemnity of \$100.00 for each purebred animal and \$50.00 for each grade stock animal.~~
- B.** ~~The tuberculosis indemnity claims against the state are payable subject to Director approval and availability of funds.~~

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 May 6, 1992, and revised February 16, 1993 and June 16, 1994 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.

R3-2-504. ~~Pseudorabies Control and Procedures for Eradication Procedures~~

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, ~~1996~~ 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.

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS

R3-2-601. Definitions

- A.** “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.
- B.** “Breeding swine” means any swine having the potential to breed, and includes gilts, sows, and boars.
- C.** “Cervidae” means a family of cervids that includes deer, moose, elk, reindeer, and caribou.
- ~~1.~~**D.** “Dairy cattle” means cattle of dairy breeds or dairy types used for the production of milk or milk products for human consumption.
- ~~2.~~**E.** “Designated feedlot” means a confined drylot area under state quarantine that ~~has been~~ is approved and licensed by the State Veterinarian and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.
- ~~3.~~**F.** “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

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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.

G. “Macaque” means any monkey of the genus *Macaca* in the family *Ceropithecidae*.

4-H. “Permit number” means ~~an official~~ 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.

5-L. “Specifically approved stockyard” means a stockyard specifically approved by VS and the State Veterinarian for receiving from other states cattle and bison ~~from other states other than that are not~~ brucellosis-reactor, brucellosis-suspect, ~~and or~~ brucellosis-exposed cattle or bison.

R3-2-605. ~~Quarantine for animals entering illegally~~ For Animals Entering Illegally

A. Animals entering the state of Arizona without a valid health certificate or permit number, or both if required, or in violation of any ~~rules of the Livestock Board Section under this Chapter~~, shall be held in quarantine at the risk and expense of the owner until released by an authorized representative of the State Veterinarian. ~~Quarantine Animals under quarantine for noncompliance with this Article~~ may be released only after the State Veterinarian ~~has been~~ is satisfied; by ~~appropriate testing, dipping, or observation period~~ observation over time, that the animals ~~under quarantine as a result of noncompliance with rules of the Board~~ are not a threat to the livestock industry.

B. Imported animals failing to meet all entry requirements may be requested to be returned to the state of origin at the discretion of the State Veterinarian. 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 2 weeks of the request. Any extension to this time-frame shall be approved in writing by the State Veterinarian.

C. ~~If the violation is related to livestock turned on Arizona ranges, the Board upon recommendation of the State Veterinarian~~ 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 livestock to animal be immediately gathered at the owner’s risk and expense to avoid exposure of Arizona livestock animals. Such testing, retesting or dipping of the animals as required may be ordered. Return to state of origin, consignment directly to slaughter or consignment to a quarantined feedlot is optional to the owner if testing and retesting at the owner’s expense is not mutually agreeable. If the owner fails to comply with directives, the Board shall arrange with dispatch the necessary help to do the work. If the ~~The~~ owner refuses to shall immediately pay the expenses no later than 5 days after receipt of the bill, or an auction of sufficient livestock to pay the just expenses shall be held within ten 10 days at a regular livestock auction market. Should further ~~If additional~~ expenses occur due to lack of cooperation by the owner or ~~his~~ the owner’s agent(s), the Director shall order the further sale of livestock shall be ordered by the Board.

R3-2-606. ~~Official health certificate~~ Health Certificate

A. ~~Health certificates are~~ A health certificate is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article ~~, and may not be issued unless the animals described thereon comply with Arizona entry requirements, and the health certificate contains and shall contain:~~

1. The names name and addresses address of the consignor and consignee, shipper and receiver;

2. The place of origin of shipment;

3. The shipment’s its final destination;

4. Cattle.

a. The number of animals covered by the health certificate, and an accurate description and, except for steers, spayed heifers, or “F” branded heifers consigned to a designated feedlot identified by brand, 1 of the following individual identification identifications of each animal:

i. The USDA metal eartag number,

ii. The registration tattoo number, or

iii. The registration brand of a breed association recognized by VS. and

b. The health status of the animals, including date and result of an inspection, dipping, test or vaccination required by Arizona; and

c. The method of transportation. (Individual identification is not required for steers or “S” branded cattle consigned to a quarantined feedlot.)

5. Swine.

a. Evidence that the swine have been inspected 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 earnotch that conforms to the universal swine-earnotch 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

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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 USDA-APHIS as a pseudorabies Stage V state, a statement that the swine shall be quarantined on arrival 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.
- 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 statement certifying that:
 - a. The sheep or goats are not infected with bluetongue, nor exposed to scrapie or originate from a scrapie-infected or source flock;
 - b. Breeding rams have been individually examined and are free of gross lesions of ram epididymitis.
- B. ~~It must indicate the health status of the animals involved, including dates and results of inspections, dipping, tests and vaccinations required by the state of Arizona. Additions, deletions, and unauthorized or uncertified changes inserted or applied to a health certificate renders the certificate null and void. Uncertified photocopies of health certificates are invalid instruments.~~
- C. ~~The veterinarian issuing the a health certificate must shall certify that the animals shown thereon on the health certificate are free from evidence of any infectious, contagious, or communicable disease or known exposure thereto.~~
- D. ~~Accredited veterinarians who are An accredited veterinarian approved by the chief livestock official of the state of origin and accredited veterinarians in the employ of the U.S. Department of Agriculture may shall inspect animals for entry into the state of Arizona.~~

R3-2-607. Permits Permit Number

- A. ~~A permits permit number may be obtained from the Office of the State Veterinarian, 1688 West Adams, Rm. 321, Phoenix, AZ 85007 or by calling (602) 255-4196 542-4293, and will be issued in the name of the person or entity in Arizona receiving the animal(s). Persons Any person applying for a permits permit number shall provide the following information:~~
 - 1. ~~The names name and addresses address of the consignor and consignee, shipper and receiver.~~
 - 2. ~~The number and kind of animals animal,~~
 - 3. ~~The origin of shipment,~~
 - 4. ~~The shipment's final destination,~~
 - 5. ~~The method of transportation, and~~
 - 6. ~~Any such other information as required by the State Veterinarian may require.~~
- B. ~~Permits A permit number are is valid for no longer than 15 calendar days from the date of issuance unless otherwise specified.~~
- C. ~~Permits A permit number will shall be issued provided if the animals shown thereon listed on the permit are in compliance with these rules this Article. However, in order to To cope with changing disease conditions, the State Veterinarian may refuse to issue a permit number or may require meeting additional conditions not specifically set forth established in these rules for its issuance as deemed this Article if necessary to protect livestock animal health in Arizona.~~
- D. ~~To facilitate the movement of animals required to enter Arizona by permit if the prerequisites have been met, a permit number may be issued by telephone. The permit number so issued must shall be affixed or written on the health certificate, brand inspection certificate, and any other official documents in this fashion as follows: "Arizona Permit No. _____" followed by the serialized number.~~
- E. ~~If the State Veterinarian finds that any person has The State Veterinarian shall refuse to grant a permit number to any person who repeatedly commits the following:~~
 - 1. ~~given Giving false information in connection with concerning a permit number for transportation of animals, or~~
 - 2. ~~failed Failing to fulfill the conditions of a permit number, or~~
 - 3. ~~fails Failing to obtain a permit number as required, the State Veterinarian may refuse to grant future permits to such person, or others directly associated with such violations.~~

R3-2-611. Duties of transporters Transporter Duties

- A. ~~All owners and operators of railroads, trucks, airplanes, or other conveyances used in the transportation of transporting animals into or through the state of Arizona must assure that each consignment or shipment is in conformity with the applicable statutes and regulations of the state of destination and that each Arizona consignment is accompanied by an official shall possess a valid health certificate under R3-2-606, and by a permit number issued by the State Veterinarian, if required by R3-2-607, of Arizona or by both when so required. Such health certificate or permit, or both, must These documents shall be attached to the waybill, accompanying the shipment or be in the possession of the attendant vehicle driver.~~

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or person in charge of the animals. When a single health certificate or permit number is issued for animals being moved in more than 1 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. ~~All The owner of a railroad cars, trucks, airplanes car, truck, or airplane, or other conveyances conveyance used in the transportation of to transport animals into or through the state of Arizona must shall be maintained maintain the conveyance~~ in a clean and sanitary condition ~~insofar as is reasonable.~~
- C. The owners and operators of railroads, trucks, airplanes, or other conveyances ~~which who~~ transport animals into ~~this the~~ state in violation of this ~~subsection must properly~~ Section shall clean and disinfect the conveyance in which ~~such the~~ animals were illegally brought into the state before using the conveyance for transporting more animals. The cleaning and disinfection ~~must shall~~ be performed under the supervision of an authorized representative ~~of the Office of the State Veterinarian or of the U.S. Department of Agriculture USDA.~~
- D. ~~All The~~ owners and operators of railroads, trucks, airplanes, or other conveyances ~~must shall conform to applicable follow the USDA requirements, regulations of the Livestock Board the Department and Arizona Commerce Commission rules, and Arizona statutes of the state of Arizona in transporting or moving any in the humane transport of animals into, within, or through the state of Arizona.~~

R3-2-613. Requirements for importation of swine Swine

- A. Swine may enter the state of Arizona provided they are transported under permit and moved in conformity with R3-2-602 through R3-2-611 and are accompanied by an official health certificate of the state of origin issued by an accredited veterinarian attesting that:
1. ~~The swine have been inspected within ten days of date of shipment.~~
 2. ~~The swine are free from evidence of any infectious, contagious or communicable disease, or known exposure thereto.~~
 3. ~~Each swine is identified by cartag, and such identification is recorded on the health certificate.~~
 4. ~~The swine have never been fed garbage.~~
 5. ~~The swine originate from a state free of any USDA quarantine for any swine disease.~~
- 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 as specified in R3-2-606 and permit as specified in R3-2-607.
- B. ~~With regards to brucellosis, all breeding swine four months of age and over must: Brucellosis test requirements. Breeding swine imported into Arizona from other states shall:~~
1. ~~Be Originate from a validated swine brucellosis-free swine herd or from a validated swine brucellosis-free state; or~~
 2. ~~Enter only after a negative result to a brucellosis test, performed not more than Test negative for brucellosis within 30 days prior to before entry.~~
- C. ~~With regards to pseudorabies: Pseudorabies test requirements. Swine imported into Arizona from other states shall:~~
1. ~~All breeding swine three months of age and over must:~~
 - a. ~~Not originate from a known infected or exposed herd:~~
 1. ~~b. 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. ~~A pseudorabies qualified negative herd in California, or~~
 - c. ~~A pseudorabies monitored feeder pig herd in a pseudorabies Stage II or Stage III state if consigned to a restricted swine feedlot, tested negative within 30 days prior to entry into Arizona or originate from a Qualified Pseudorabies-Free Herd.~~
 2. ~~If from a pseudorabies qualified negative herd in California, be tested negative for pseudorabies within 30 days before entry if moving directly to exhibition.~~
 3. ~~e. Be tested not less than 15 days or more than 30 days after entry into Arizona regardless of origin. 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:~~
 - d. ~~Be isolated for at least 30 days with the following stipulations:~~
 - a. ~~i. Isolation unit The isolation pen shall not be in close proximity and shall not be accessible to normal traffic flow, at least 200 feet from straying pigs, other livestock, pets, or working dogs, and not be accessible to normal traffic flow.~~
 - b. ~~ii. Equipment, tools, and implements shall not be moved from isolation pens to be and used at other pens another pen.~~
 - c. ~~iii. A means of disinfection shall be maintained for anyone required to work. Workers shall disinfect their shoes and clothing before working with other livestock or the main herd.~~
 - d. ~~iv. Distance The distance between an isolation pen and another other swine pens pen shall be not less than at least 200 feet and the isolation pen shall be at least double fenced to prevent exposure to accidental strays.~~

- v. ~~Quarantined release of isolated and tested or retested breeding stock shall be documented by the releasing veterinarian or livestock official.~~
- e. ~~Imported swine showing suspect or positive on first test after arrival may be either held for retest or sold for slaughter within 30 days. Swine showing a positive second test after arrival must be slaughtered within 15 days after notice of positive test results. 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.~~
- 2. ~~All feeder swine:~~
 - a. ~~May be consigned to a restricted swine feedlot for feeding, handling, receiving and maintenance of untested swine. Such feedlots may only be established when approved by the State Veterinarian. Sales from such restricted swine feedlots shall be for immediate slaughter only.~~
 - i. ~~Restricted swine feedlots are permitted to procure swine from suppliers where pseudorabies is not known to be present. This excludes pseudorabies vaccinated swine and swine herds with a history of infection within the past year.~~
 - b. ~~Feeder swine consigned to areas other than restricted swine feedlots are required to meet the same requirements for pseudorabies as breeding swine.~~
- 4. ~~If exhibition swine move directly to exhibition from a qualified negative herd in California or from a herd in a Stage IV state remain in the state, they shall be held under import quarantine at a location disclosed by the exhibitor within 3 days of the end of the exhibition until tested negative for pseudorabies no sooner than 15 days or later than 30 days after entry with the restrictions identified in subsections (C)(3)(a) through (f).~~

R3-2-614. ~~Requirements for importation of swine~~ Goats and Sheep

- A. ~~Goats of various breeds or crossbreeds are required to enter under permit and with a health certificate in conformity with R3-2-602 through R3-2-611, certifying that they have not been infected with or exposed to bluetongue. The owner of goats and sheep entering Arizona, or the owner's agent, shall comply with the requirements of Article 6 and pay the expenses incurred to quarantine, test, and retest the goats and sheep.~~
- B. ~~Sheep are required to enter under permit, with a health certificate in conformity with R3-2-602 through R3-2-611. Breeding rams 6 months or age and older shall test negative for Brucella ovis within 30 days of entry or originate from a certified brucellosis-free flock.~~
 - 1. ~~Breeding rams shall be certified as individually examined and free of gross lesions of ram epididymitis.~~
 - 2. ~~Rams with palpable evidence of epididymitis shall not be shipped to Arizona.~~
 - 3. ~~Sheep with known infection or exposure to bluetongue shall not be shipped to Arizona.~~

R3-2-616. ~~Requirements for dogs and cats~~ Cats and Dogs

- ~~A. Dogs entering the state of Arizona are required to be apparently healthy. Those animals originating from an area or state where a rabies quarantine is in effect are required to move only under special permit from the Office of the Arizona State Veterinarian.~~
- ~~B. Dogs four months of age or older shall be accompanied by an official Rabies Vaccination Certificate stating the dog has been vaccinated against rabies, identified by proper identification tag and the vaccination is current for the type vaccine used.~~
- ~~C. Cats have no requirements if apparently healthy.~~

~~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 R3-2-408.~~

R3-2-619. ~~Game, furbearing and wild animals~~ Repealed

~~Game, furbearing and wild animals are subject to the laws, rules and regulations of the Arizona Game and Fish Department, 2222 West Greenway Road, Phoenix, AZ 85023, phone (602) 942-3000.~~

R3-2-621. Non-restricted Live Wildlife Cervidae

The owner of non-restricted live wildlife Cervidae entering Arizona, or the owner's agent, shall comply with the requirements in Article 6 and the following conditions:

- 1. Pay the expenses incurred to quarantine, test, and retest the imported non-restricted live wildlife cervids;
- 2. Ensure that each non-restricted live wildlife cervid is individually identified on the health certificate by a USDA metal eartag number;
- 3. Tuberculosis testing.
 - a. Except for non-restricted live wildlife Cervidae from a tuberculosis accredited-free herd, a tuberculosis qualified herd, or a tuberculosis monitored herd, ensure that non-restricted live wildlife Cervidae are tested negative twice for tuberculosis no less than 90 days apart with the second test conducted within 90 days before the date of entry;

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- b. Test non-restrictive live wildlife Cervidae originating from a tuberculosis qualified or monitored herd for tuberculosis once within 90 days before entry.
- 4. Brucellosis testing.
 - a. Certified brucellosis-free cervid herd. No testing required.
 - b. Brucellosis-monitored cervid herd. All sexually intact non-restricted live wildlife Cervidae 6 months of age or older shall be tested negative for brucellosis within 90 days before entry.
 - c. Other cervid herds. Sexually intact non-restricted live wildlife Cervidae 6 months of age or older shall be tested negative for brucellosis within 30 days before entry. A retest shall be conducted within 90 days after entry.

R3-2-622. Monkeys

The owner or owner's agent of macaque entering Arizona shall comply with Article 6, except for R3-2-607, and the following conditions:

- 1. Each macaque shall be tested negative for Simian Herpes B virus within 30 days before entry into Arizona. If the macaque is less than 2 months of age, it shall be accompanied by a document issued and signed by an accredited veterinarian in the state of origin attesting that the biologic maternal parent of the macaque tested negative for Simian Herpes B virus not more than 30 days before the macaque's arrival in Arizona.
- 2. Each macaque shall be tested negative for tuberculosis within 30 days before movement into Arizona. Animals less than 3 months of age shall be accompanied by a health certificate with a statement attesting that no macaques housed within a circumference of 300 ft. from the macaque being shipped have exhibited symptoms of or tested positive for tuberculosis within 90 days.
- 3. Each macaque shall be permanently and uniquely identified with either a tattoo or microchip and the identification noted clearly on the health certificate and any accompanying document.

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TITLE 3. AGRICULTURE

**CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION**

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R3-4-105 | Repeal |
| R3-4-229 | Amend |
| R3-4-231 | Amend |
- 2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
 - Authorizing statute: A.R.S. § 3-107
 - Implementing statute: A.R.S. § 3-201.01(A)
 - 3. **The effective date of the rules:**
 - December 8, 1999
 - 4. **A list of all previous notices appearing in the Register addressing the final rule:**
 - Notice of Rulemaking Docket Opening: 5 A.A.R. 27, January 4, 1999.
 - Notice of Rulemaking Docket Opening: 5 A.A.R. 396, January 29, 1999.
 - Notice of Proposed Rulemaking: 5 A.A.R. 3269, September 24, 1999.
 - 5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Shirley Conard, Rules Specialist
Address:	Arizona Department of Agriculture 1688 West Adams, Room 235 Phoenix, Arizona 85007
Telephone:	(602) 542-0962
Fax:	(602) 542-5420
e-mail:	shirley.conard@agric.state.az.us

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking updates Title 3 of the *Arizona Administrative Code* and establishes additional requirements for the nut tree pest and nut pest quarantine rules.

R3-4-105, Prohibition. This Section covers specific prohibitions and dispositions of violations already described in A.R.S. § 3-215.

R3-4-229, Nut Tree Pests. This Section establishes the quarantined and infested areas; commodities covered; treatment options; and restrictions for dealing with the pest. This rulemaking adds pecan firewood, used appliances, boxes, and sacks to the list of commodities covered and requires that they be fumigated before being brought into the state.

R3-4-231, Nut Pests. This Section establishes the areas under quarantine; commodities covered; treatment options; and restrictions for dealing with nut pests; clarifies existing language; and updates the current format and structure to meet the guidelines of the Office of the Secretary of State. This rulemaking adds quarantine areas in New Mexico; requires that used appliances, boxes, and sacks be fumigated before being brought into the state; and requires that all nuts listed as a covered commodity originating in or shipped from any area under quarantine be dehulled.

7. **A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None.

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

Not applicable.

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

A. *The Arizona Department of Agriculture.*

Consolidating information and adding new areas of quarantine will not create any additional costs to the Department, but will help employees and stakeholders better understand how to comply with the requirements.

Adding more covered commodities and requiring dehulling of nuts requires the Department to inspect these new areas. These additional requirements add only a minimal economic impact and will be carried out during regular shipment inspections. In any case, the benefits of eradicating a pest infestation from the State far outweighs the cost of treating a covered commodity.

B. *Political Subdivision.*

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. *Businesses Directly Affected By the Rulemaking.(Common and private carriers, railroads instate and out-of-state nurseries.)*

The cost for dehulling nuts or for treating used appliances, bags, and sacks will depend upon the specific commodity and the location of the treatment. In any case, the benefits of eradicating a pest infestation from the state far outweighs the cost of treating a covered commodity.

D. *Private and public employment.*

Private and public employment is not directly affected by the implementation and enforcement of this rulemaking.

E. *Consumers and the Public.*

This rulemaking increases the positive public relations between the nursery industry and consumers by providing more pest requirements to assure that plants and nuts are not infested.

F. *State Revenues.*

This rulemaking will have no impact on state revenues.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Minor grammatical changes were made at the request of the G.R.R.C. staff.

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11. **A summary of the principal comments and the agency response to them:**
None.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None
13. **Incorporations by reference and their location in the rules:**
None.
14. **Was this rule previously adopted as an emergency rule?**
No.
15. **The full text of the rules follows:**

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

ARTICLE 1. GENERAL PROVISIONS

Section

R3-4-105. ~~Prohibitions~~ Repealed

ARTICLE 2. QUARANTINE

Section

R3-4-229. Nut Tree Pests

R3-4-231. Nut Pests

ARTICLE 1. GENERAL PROVISIONS

R3-4-105. ~~Prohibitions~~ Repealed

~~Any person in the state of Arizona is prohibited from having possession of, transporting, selling, giving away, or otherwise disposing of any article found in violation of any rule.~~

ARTICLE 2. QUARANTINE

R3-4-229. Nut Tree Pests

- A.** Definition. In addition to the definitions provided in A.R.S. § 3-201 and A.A.C. R3-4-102, the following ~~applies~~ terms apply to this Section-:
1. "Brooming" means a virus-like disease that drastically reduces nut production and sometimes causes death of the host tree.
 2. "Pest" means any of the following:
 - 1- a. Pecan leaf casebearer, *Acrobasis juglandis* (LeBaron);
 - 2- b. Pecan nut casebearer, *Acrobasis nuxvorella* (Neunzig);
 - 3- c. Pecan phylloxera, *Phylloxera devastatrix*;
 - 4- d. The pathogen that causes brooming disease of walnut.
- B.** Area under quarantine: All states, districts, and territories of the United States except California.
- C.** Infested area.
1. For *Acrobasis* spp.: All states and districts east of and including the states of Montana, Wyoming, Colorado, Oklahoma, and Texas; in New Mexico, the counties of Chaves, ~~DeBaca~~, Lea, Roosevelt, Eddy, Dona Ana, Otero, and Quay.
 2. For pecan phylloxera: Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.
 3. For brooming disease of walnut: All states and districts east of and including Montana, Wyoming, Colorado, and New Mexico.
- D.** Commodities covered:
1. All species and varieties of the following trees and all plant parts capable of propagation, except the nuts. Plant parts include buds, scions, and rootstocks:
 - 1- a. Hickory and pecan (*Carya* spp.),
 - 2- b. Walnut and butternut (*Juglans* spp.);
 2. Pecan firewood;
 3. Any used appliance, used box, or sack used during the growing, harvesting, handling, transporting, or storing nuts and hulls.

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E. Restrictions:

1. The commodities listed in subsection (D)(1)(a) shall be admitted into Arizona:
 - a. From the infested area prescribed in subsections (C)(1) and (2) if treated at origin, ~~provided~~ and each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming the commodity has been treated in accordance with subsection (F);
 - b. From an area under quarantine outside the infested area, ~~provided if~~ if each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming that the commodities originated in a county not known to be infested with the pests listed in subsections (A)(1), (2), and (3).
2. The commodities listed in subsection ~~(D)(2)~~ (D)(1)(b) shall be:
 - a. Prohibited from entering Arizona from the infested area prescribed in subsection (C)(3);
 - b. Admitted into Arizona from an area under quarantine outside the infested area prescribed in subsection (C)(3), provided if each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming:
 - i. ~~Brooming disease brooming~~ brooming is unknown in the origin county; ~~and~~
 - ii. ~~The amount and kind of commodity in the shipment.~~
3. The commodities listed in subsections (D)(2) and (3) are prohibited from entering the state unless fumigated as prescribed in subsection (F)(1).

F. Treatment:

1. Methyl bromide fumigation at normal atmospheric pressure, with circulations maintained for 30 minutes, as follows:
 - a. 2 lbs. per 1,000 cu.ft. for 4 hours at 70° F or more,
 - b. 3 lbs. per 1,000 cu.ft. for 4 hours at 60-69° F.
2. A hot-water dip at 140° F or more for a minimum of 30 continuous seconds.
3. Appliances.
 - a. Steam-cleaned, inspected, and certified free from debris by the origin state, or
 - b. Cold treatment in a cold storage chamber at or below 0° F for at least 7 consecutive days (168 hours).
- 3.4. Any other treatment approved by the Associate Director.

~~G. Any commodity listed in subsection (D) arriving in Arizona in violation of this Section shall, under the direction of the Department, be immediately sent out of the state, treated, or destroyed at the expense of the owner or the owner's representative.~~

R3-4-231. Nut pests

~~A. Notice of quarantine: It has been determined that Pecan weevil, Butternut curculio, Black walnut curculio, and Hickory shuckworm are dangerous pests not known to occur in the state of Arizona but are a serious threat to the nut industry and native black walnut trees of the state of Arizona. In order to prevent the introduction of these serious pests into the state of Arizona, it is hereby ordered and declared that the entry of quarantined articles into the state of Arizona shall be governed as provided in this rule.~~

~~B. A. Pests covered: Definition. In addition to the definitions provided in A.R.S. § 3-201 and A.A.C. R3-4-102, the following term applies to this Section:~~

~~“Pest” means any of the following:~~

- ~~Pecan weevil, *Curculio caryae* (Horn);~~
- ~~Butternut curculio, *Conotrachelus juglandis* LeC;~~
- ~~Black walnut curculio, *Conotrachelus retentus* Say;~~
- ~~Hickory shuckworm, *Laspeyresia caryana* (Fitch).~~

~~C. B. Area under quarantine: All states and districts of the United States except the states of California and New Mexico.~~

- ~~1. Pecan weevil: All states and districts of the United States except California and New Mexico.~~
- ~~2. Hickory shuckworm: The New Mexico counties of Lea, Eddy, and Dona Ana, and all other states and districts of the United States except California.~~
- ~~3. Black walnut curculio and butternut curculio: All states and districts of the United States except California.~~

~~D. C. Commodities covered:~~

- ~~1. Nuts of all species and varieties of hickory, pecan (*Carya spp.*), walnut and butternut (*Juglans spp.*), except extracted nut meats.~~
- ~~2. Boxes, sacks, and other containers, equipment, appliances, machinery and vehicles used in connection with harvesting, hulling, dehydrating, shelling, transporting, or storing of any unhulled nuts or hulls. Any used appliance, used box or sack used during growing, harvesting, handling, transporting, or storing nuts and hulls.~~

~~E. D. Restrictions: Commodities covered in R3-4-231(D), originating in or shipped from the quarantined area shall be refused admittance into the state of Arizona, unless each lot or shipment is accompanied by a certificate issued by an authorized representative of the Department of Agriculture of the state of origin, evidencing one of the treatments listed in R3-4-231(G) of this rule has been carried out under his supervision. In the case of small, noncommercial quantities of nuts with hulls, transported via mail or express, or as personal belongings, the Entomologist or inspector shall permit the removal and destruction of husks or hulls, under his supervision, at the risk and expense of the owner or receiver, after~~

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which the lot shall be released if no evidence of pecan weevil or other pests is found. (For the purpose of the rule, non-commercial quantities of nuts shall mean quantities of 50 pounds or less.)

1. A commodity listed in subsection (C)(1), originating in or shipped from the area under quarantine, shall be admitted into Arizona if the commodity has been cleaned of husks, hulls, debris, and stick-tights and each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming the commodity has been treated in accordance with subsection (E).
2. A commodity listed in subsection (C)(2) shall be admitted into Arizona if the commodity has been fumigated as prescribed in subsections (E)(3) and (E)(4).

~~F. Disposition Of Violations: Any Quarantined Commodity Arriving In Arizona In Violation Of This Quarantine Regulation Shall Be Immediately Sent Out Of The State Or Destroyed (Except As Specified In Subsection (E)) At The Option And Expense Of The Owner Or The Owner's Responsible Agents, And Under The Direction Of The State Entomologist Or His Inspectors.~~

~~G.E.~~ Treatment:

1. Cold treatment: The commodities shall be held in ~~an approved~~ a cold storage chamber at or below 0° F for ~~a period of~~ at least ~~seven~~ 7 consecutive days (168 hours). ~~For the purpose of certification, the~~ The treatment shall not start until the entire content of the lot of nuts has reached 0° F.
2. A hot-water bath treatment at 140° F for a minimum of 5 continuous minutes. Water temperature shall be maintained at or above 140° F during the entire treatment period.
3. Methyl bromide fumigation at normal atmospheric pressure, with circulations maintained for 30 continuous minutes, as follows:
 - a. 2 lbs. per 1,000 cu.ft. for 4 hours at least 70° F, or
 - b. 3 lbs. per 1,000 cu.ft. for 4 hours at 60-69° F.
4. Appliances.
 - a. Steam-cleaned, inspected, and certified free from debris by the origin state.
 - b. Cold treatment in a cold storage chamber at or below 0° F for at least 7 consecutive days (168 hours).

~~H. General rules: See "General Rules and Definitions, Article 1".~~

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TITLE 3. AGRICULTURE

**CHAPTER 6. DEPARTMENT OF AGRICULTURE
OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION**

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| Article 1
R3-6-101 | New Article
New Section |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. § 3-109.02.
- Implementing statute: A.R.S. § 3-109.02.
- 3. The effective date of the rules:**
- December 8, 1999.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
- Notice of Rulemaking Docket Opening: 5 A.A.R. 2058, June 25, 1999.
- Notice of Proposed Rulemaking: 5 A.A.R. 3147, September 17, 1999.

5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Shirley Conard, Rules Specialist
Address: Arizona Department of Agriculture
1688 West Adams, Room 235
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: shirley.conard@agric.state.az.us

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking establishes a certificate that designates specific products manufactured, distributed, and sold in Arizona. The certificate is available to any business that wants to establish that products have been manufactured, distributed, or sold in Arizona.

The Department issued the following certificates of free sale during the past 3 years:

<u>1998</u>	<u>1999</u>	<u>2000</u>
215	393	107 (July - October)

7. **A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None.

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

Not applicable.

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

A. *The Arizona Department of Agriculture.*

The Department is providing a service to any person who sells a consumable product either domestically or abroad. Any fees resulting from this rulemaking will pay the administrative costs to produce the certificates.

B. *Political Subdivision.*

Political subdivisions of this State are not directly affected by the implementation of this rulemaking.

C. *Businesses Directly Affected By the Rulemaking.*

Any person who sells a consumable product either domestically or abroad and needs to verify that product was manufactured or distributed in Arizona will benefit from this rulemaking. The certificate is available to any business that wants to establish that products have been manufactured, distributed, or sold in Arizona. The impact is unknown and depends upon the number of products requested to be certified.

D. *Private and public employment.*

Private and public employment is not directly affected by the implementation of this rulemaking.

E. *Consumers and the Public.*

Consumers and the public are not directly affected by the implementation of this rulemaking.

F. *State Revenues.*

This rulemaking will have no impact on State revenues.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

A.R.S. §§ 25-320(K) and 25-502(E) requires any agency that issues a professional, recreational or occupational license or certificate to request an applicant to provide his or her social security number before that agency issues a license to the applicant. The social security number of the responsible party has been added to this rulemaking.

Minor grammatical changes were made at the request of the G.R.R.C. staff.

11. **A summary of the principal comments and the agency response to them:**

None.

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12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

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

None.

14. Was this rule previously adopted as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 3. AGRICULTURE

**CHAPTER 6. DEPARTMENT OF AGRICULTURE
OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION**

ARTICLE 1. MARKETING

Section

R3-6-101. Certificate of Free Sale

ARTICLE 1. MARKETING

R3-6-101. Certificate of Free Sale

A. Any person manufacturing or distributing a consumable product in Arizona, and who wants to sell it domestically or abroad, may apply to the Department for a Certificate of Free Sale. If an applicant is a subsidiary of a corporation, the application will be accepted only from the parent company. The application shall contain:

1. The name, address, telephone, and facsimile number of the company;
2. The name of the contact person;
3. A list of the consumable products manufactured, distributed, or sold in Arizona;
4. The printed name, signature, and social security number of the responsible party;
5. The country of export, if applicable;
6. The fee prescribed in subsection (B);
7. Copies of 3 different invoices or bills-of-lading from the 3 months preceding the application; and
8. The purchaser's telephone number cited on each invoice or bill-of-lading.

B. Fees.

1. Certificate of Free Sale: \$25 for each 100 products, plus the cost of postage;
2. Duplicate certificates, if requested within 3 months of the original certificate issue: \$1 per page, plus the cost of postage.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS, AND OCCUPATIONS

CHAPTER 34. DEPARTMENT OF BUILDING AND FIRE SAFETY

PREAMBLE

1. Sections Affected

Article 1
R4-34-101
R4-34-102
R4-34-103
R4-34-104
R4-34-105
R4-34-106
R4-34-107
Article 2
R4-34-201
R4-34-202
R4-34-203
R4-34-205

Rulemaking Action

Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal

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Article 3	Repeal
R4-34-301	Repeal
R4-34-302	Repeal
R4-34-303	Repeal
R4-34-304	Repeal
R4-34-305	Repeal
R4-34-306	Repeal
R4-34-307	Repeal
R4-34-308	Repeal
R4-34-309	Repeal
Article 4	Repeal
R4-34-401	Repeal
R4-34-402	Repeal
R4-34-403	Repeal
R4-34-404	Repeal
Article 5	Repeal
R4-34-501	Repeal
R4-34-502	Repeal
R4-34-503	Repeal
Article 6	Repeal
R4-34-601	Repeal
R4-34-602	Repeal
R4-34-603	Repeal
R4-34-604	Repeal
R4-34-605	Repeal
R4-34-606	Repeal
R4-34-607	Repeal
R4-34-608	Repeal
R4-34-609	Repeal
R4-34-610	Repeal
Article 7	Repeal
R4-34-701	Repeal
R4-34-702	Repeal
R4-34-703	Repeal
R4-34-704	Repeal
Article 8	Repeal
R4-34-801	Repeal
R4-34-802	Repeal
Article 9	Repeal
R4-34-901	Repeal

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-2144

Implementing statutes: A.R.S. Title 41, Chapter 16, §§ 41-2141 - 41-2198.04

3. The effective date of the rules:

December 8, 1999

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 3 A.A.R. 1935, July 18, 1997

Notice of Public Information: 3 A.A.R. 2120, August 8, 1997

Notice of Proposed Rulemaking: 5 A.A.R. 2788, August 20, 1999

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: N. Eric Borg, Director

Address: Department of Building and Fire Safety
99 East Virginia, Suite #100
Phoenix, Arizona 85004

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Telephone: (602) 255-4072, ext. 244

Fax: (602) 255-4962

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Board is repealing the old rules based upon a 5-year-review report. The new rules are reformatted in a logical sequence. The new rules are clear and the Board has removed duplication. *Editor's Note: The new rules will be published in the January 7, 2000, issue of the Register.*

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Not applicable.

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

Not applicable.

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

There is no economic impact with this rule since it is being repealed. The rulemaking is deregulatory, under A.R.S. § 41-1055(D)(3).

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

None.

11. A summary of the principal comments and the agency response to them:

There were no written or oral comments received concerning these rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

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

None.

14. Was this rule previously adopted as an emergency rule:

No.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 34. BOARD OF MANUFACTURED HOUSING

(Authority: A.R.S. § 41-2141 et seq.)

ARTICLE 1. MANUFACTURING AND CONSTRUCTION STANDARDS AND CODES REPEALED

Section

- R4-34-101. ~~General~~ Repealed
- R4-34-102. ~~Manufactured homes~~ Repealed
- R4-34-103. ~~Recreational Vehicles and Subassemblies~~ Repealed
- R4-34-104. ~~Factory-built Buildings and Subassemblies~~ Repealed
- R4-34-105. ~~Alterations standards~~ Repealed
- R4-34-106. ~~Reconstruction of units~~ Repealed
- R4-34-107. ~~Rehabilitation of mobile homes~~ Repealed

ARTICLE 2. INSTALLATION STANDARDS AND CODES REPEALED

Section

- R4-34-201. ~~General~~ Repealed
- R4-34-202. ~~Manufactured Home or Mobile Home Installation Standards and Codes~~ Repealed
- R4-34-203. ~~Accessory structures~~ Repealed
- R4-34-205. ~~Installation of Factory-built Buildings~~ Repealed

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ARTICLE 3. ~~PLAN APPROVALS~~ REPEALED

Section

- R4-34-301. ~~General~~ Repealed
- R4-34-302. ~~Quality assurance manuals~~ Repealed
- R4-34-303. ~~Drawings and specifications~~ Repealed
- R4-34-304. ~~Alteration or reconstruction approvals~~ Repealed
- R4-34-305. ~~Plant certification~~ Repealed
- R4-34-306. ~~Ground anchoring approvals~~ Repealed
- R4-34-307. ~~Accessory structures approvals~~ Repealed
- R4-34-308. ~~Factory-built Building Installation Plan Requirements~~ Repealed
- R4-34-309. ~~Factory-built building installation application form~~ Repealed

ARTICLE 4. ~~INSPECTION AND TECHNICAL SERVICE~~ REPEALED

Section

- R4-34-401. ~~Manufacturing locations~~ Repealed
- R4-34-402. ~~Dealer facilities~~ Repealed
- R4-34-403. ~~Installation of manufactured homes, mobile homes, accessory structures, and factory-built buildings~~ Repealed
- R4-34-404. ~~Technical service~~ Repealed

ARTICLE 5. ~~LICENSE SCOPES~~ REPEALED

Section

- R4-34-501. ~~Manufacturers~~ Repealed
- R4-34-502. ~~Dealers~~ Repealed
- R4-34-503. ~~Installers~~ Repealed

ARTICLE 6. ~~FEES~~ REPEALED

Section

- R4-34-601. ~~License Fee and Bond Amount~~ Repealed
- R4-34-602. ~~Fees~~ Repealed
- R4-34-603. ~~Inspection and technical service fees~~ Repealed
- R4-34-604. ~~Reimbursement of travel cost~~ Repealed
- R4-34-605. ~~Plan and supplement approval fees~~ Repealed
- R4-34-606. ~~Installation permits and insignia fees~~ Repealed
- R4-34-607. ~~HUD monitoring inspection fees~~ Repealed
- R4-34-608. ~~HUD label administrative fees~~ Repealed
- R4-34-609. ~~Administrative function fees~~ Repealed
- R4-34-610. ~~Mobile home rehabilitation permit, insignia of approval, inspection fee, and waiver fee~~ Repealed

ARTICLE 7. ~~LICENSING~~ REPEALED

Section

- R4-34-701. ~~General~~ Repealed
- R4-34-702. ~~Manufacturers~~ Repealed
- R4-34-703. ~~Dealers and brokers~~ Repealed
- R4-34-704. ~~Installers~~ Repealed

ARTICLE 8. ~~BOND REQUIREMENTS~~ REPEALED

Section

- R4-34-801. ~~Surety bond forms~~ Repealed
- R4-34-802. ~~Cash deposit provisions~~ Repealed

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ARTICLE 9. ~~ADMINISTRATIVE PROCEDURES~~ REPEALED

Section

R4-34-901. Rehearing Repealed

ARTICLE 1. ~~MANUFACTURING AND CONSTRUCTION STANDARDS AND CODES~~ REPEALED

R4-34-101. General Repealed

For purposes of this Chapter, the following definitions apply:

1. "OMH" means Office of Manufactured Housing, a division of the Department of Building and Fire Safety.
2. "OA" means the Office of Administration, a division of the Department of Building and Fire Safety.

R4-34-102. Manufactured homes Repealed

Manufactured homes shall be manufactured in accordance with the U.S. Department of Housing and Urban Development, 24 CFR 3280 as amended 1990, Manufactured Home Construction and Safety Standards which are incorporated herein by reference and on file with the Office of the Secretary of State. Copies of these standards are available from the U.S. Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410. Incorporated materials do not include any later amendments or editions of the listed codes.

R4-34-103. Recreational Vehicles and Subassemblies Repealed

A. In addition to applicable federal and state motor vehicle safety standards, recreational vehicles and subassemblies shall be manufactured pursuant to the following:

1. The drawings and specifications required by R4-34-303(C).
2. Recreational vehicles of 3000 pounds or greater gross vehicle weight, and designed to be towed, shall have break-away switches as specified by A.R.S. § 28-952(A)(3) and (B).
3. The overall length of a recreational vehicle shall not exceed 40 feet.
4. A permanent serial number shall be affixed to each unit during the first stage of manufacturing. Its location and application shall be shown in the drawing package required by R4-34-303(C).
5. Each manufacturer shall affix a state insignia of approval to each completed unit. The insignia shall indicate the unit serial number and plan approval number and be located on the unit as indicated in the drawing package required by R4-34-303(C).
6. Portable camping trailers, motor homes, travel trailers, and truck campers, as defined in A.R.S. Title 41, Chapter 16, Article 1, shall be manufactured in compliance with ANSI A119.2, Recreational Vehicles, 1993 Edition and all appendices therein. These standards are on file with the Office of the Secretary of State. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018. Incorporated materials do not include any later amendments or editions of the listed codes.
7. Park trailers shall be manufactured in compliance with ANSI A119.5, Park Trailers, 1993 Edition and all appendices therein except that the definition of "Gross Trailer Area" in Chapter 1, Section 1-3, is modified to read, "The largest horizontal projection of the park trailer in the set-up mode. In calculating the square footage of a trailer, measurements shall be taken on the exterior of the trailer. The square footage includes all siding, corner trim, and molding, storage space, and areas enclosed by windows, but not roof overhangs." These standards are on file with the Office of the Secretary of State. Copies of these standards are available from American National Standards Institute, 1430 Broadway, New York, NY 10018. Incorporated materials do not include any later amendments or editions of the listed codes. "Park Trailer" means a recreational vehicle that is built on a single chassis, mounted on wheels, designed to be connected to utilities necessary for operation of installed fixtures and appliances, has a gross trailer area of not less than 320 square feet and not more than 400 square feet, except that it does not include fifth-wheel trailers.

B. A van is deemed to be a recreational vehicle if it meets any of the definitions in A.R.S. § 41-2142(29) and has one or more of the following permanently attached:

1. Gas or electric cooking appliances;
2. Mechanical refrigerator;
3. Toilet facilities;
4. Heating and air conditioning systems other than automotive;
5. 110/125 volt electric system, and
6. LP gas.

C. Upon written request, the Assistant Director of the OMH may approve alternate design and construction specifications which meet the pertinent requirements in subsection (A).

R4-34-104. Factory built Buildings and Subassemblies Repealed

A. Factory built buildings and subassemblies shall be manufactured pursuant to the following:

1. The codes and standards incorporated by reference in this Section are on file with the Office of the Secretary of State. Copies of these codes are available from the International Conference of Building Officials, 5360 South Workman

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Mill Road, Whittier, California 90601. Incorporated materials do not include any later amendments or editions of the listed codes:

- a. Uniform Building Code (ICBO) — 1991 Edition including the appendices except:
 - i. Part I, Chapters 2 and 3;
 - ii. Appendix Chapter 1;
 - iii. Appendix Chapter 7;
 - iv. Appendix Chapter 12, Division I and III;
 - v. Appendix Chapter 23, Division II;
 - vi. Appendix Chapter 31, Division I;
 - vii. Appendix Chapter 55;
 - viii. Appendix Chapter 57; and
 - ix. Appendix Chapter 70.
 - b. Uniform Mechanical Code (APMO) — 1991 Edition including the appendices except: Part I, Chapters 2 and 3.
 - e. Uniform Plumbing Code (IAPMO) — 1991 Edition and all appendices except:
 - i. Part I;
 - ii. Part II, Chapter 10, Section 1004 — Materials. Paragraph (a) is changed to read:

(a) Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel or other approved materials. Asbestos-cement, CPVC, PB, PE, or PVC water pipe manufactured to recognized standards may be used for cold water distribution system outside a building. CPVC and PN water pipe and tubing may be used for hot and cold water distribution systems within a building. All materials used in the water supply system, except valves and similar devices, shall be of a like material, except where otherwise approved by the Administrative Authority.
 - iii. Appendix E, and
 - iv. Appendix I.
 - d. National Electrical Code (NFPA 70) — 1990 Edition.
 - e. A.R.S. Title 41, Chapter 9, relating to Public Accommodation and Services.
2. A complete set of drawings and specifications pursuant to R4-34-303(B).
 3. Each unit shall have a permanent serial number affixed during the first stage of manufacturing. Sections of a multiple section unit shall be separately identified. Location and application of serial number shall be indicated in the drawing package required pursuant to R4-34-303(B).
 4. Each manufacturer shall affix a state insignia of approval to each completed section. The insignia shall indicate the unit serial number and plan approval number and be located on the unit as indicated in the drawing package required pursuant to R4-34-303(B).
 5. Manufacturers of factory-built buildings who wish to participate in HUD's voluntary Technical Suitability of Products Program for Category III Housing shall have a data plate affixed as prescribed by the HUD Handbook 4950.1 Rev-1 paragraph 2-13, Technical Suitability of Products Program processing procedures, August 1979, which provides as follows: Identification of Factory-Built Housing Units, 2-13.
 - a. A serial number shall be assigned to each unit to be fabricated under HUD requirements, and shall be entered in the permanent records of the manufacturer before the start of fabrication. Records of serial numbers shall be made available to the HUD inspector upon request. The serial number and the Structural Engineering Bulletin number or Area Letter of Acceptance number shall be displayed conspicuously (by stencil, placard, etc.) on the unit at all stages of construction as notice that the work is to meet the requirements of pertinent HUD documents.
 - b. Completed housing units shall be identified by a serial numbered, permanent type marker plate affixed to the structure prior to shipment from the factory. The permanent data plate shall show the manufacturer's name and address, the Structural Engineering Bulletin or Area Letter of Acceptance number, the date of completion in the factory, the design loads for wind and snow and the Seismic Zone, and other data at the manufacturer's option. The data plate shall be installed near the main electrical panel or other readily accessible location.
 - e. Factory-produced dwelling units which are not identified by serial numbers as described above shall not be considered for mortgage insurance.
 - d. Components such as panels, joists, and beam and column assemblies shall either:
 - i. Be manufactured in a plant whose total production of products of such nature meets Structural Engineering Bulletin or Area Letter of Acceptance requirements; or
 - ii. Be identified individually by number of Acceptance Document (SEB, ALA, or MEB).
- B.** Upon written request, the Assistant Director of OMH may approve alternate design and construction specifications which meet the minimum requirements in R4-34-104(A)(1):

R4-34-105. Alterations standards Repealed

- A.** Alterations shall be consistent with the applicable standards and codes set forth in this Chapter for the manufacture of the unit being altered. The alterations shall be described in drawings and specifications as required by R4-34-304.

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- B.** Upon written request, the Assistant Director of OMH may approve alteration plans of alternate design and specifications which are equivalent to the standards and codes in subsection (A) above.

R4-34-106. Reconstruction of units Repealed

- A.** The terms “manufacture”, “construction”, and “constructed” as used in A.R.S. Title 41, Chapter 16, Articles 1, 2 and 4, with reference to manufactured or mobile homes, recreational vehicles or factory built buildings, includes the reconstruction of such units as defined herein. “Reconstruction” means: construction work performed on a damaged manufactured or mobile home, recreational vehicle, or factory built building for the purpose of restoring such unit to a usable condition but does not include work limited to remodeling, replacing, or repairing appliances or components which will not significantly alter the systems or the structural integrity of the living areas. For purposes of this rule, a damaged unit means one that has incurred damage rendering the living area or systems of the unit, or any portion thereof, substantially unfit for the original use for which it was intended.
- B.** The standards and codes applicable to the reconstruction of units are as follows:
1. ~~Manufactured or mobile homes — R4-34-102.~~
 2. ~~Recreational vehicles — R4-34-103.~~
 3. ~~Factory built buildings — R4-34-104.~~
- C.** ~~The drawings and specifications required by R4-34-304 shall be approved before reconstruction of a unit is started.~~

R4-34-107. Rehabilitation of mobile homes Repealed

- A.** The rehabilitation of mobile homes shall be pursuant to the following requirements:
1. A smoke detector (which may be a single station alarm device) shall be installed on any wall in a hallway or space communicating with each bedroom area and the living area on the living area side, and, when located in a hallway, the detector shall be between the return air intake and the living area. Each smoke detector shall be installed in accordance with its listing and the top of the detector shall be located on a wall 4 inches to 12 inches below the ceiling. The detector may be battery powered or may be connected to an electrical outlet box by a permanent wiring method into a general electrical branch circuit, without any switch between the over current protection device protecting the branch circuit and the detector.
 2. The walls, ceilings, and doors of each compartment containing a gas fired furnace or water heater shall be lined with 5/16 inch gypsum board, unless the door opens to the exterior of the mobile home in which case the door may be all metal construction. All exterior compartments shall seal to the interior of the mobile home.
 3. Each room designated expressly for sleeping purposes shall have an exterior exit door or at least one outside egress window or other approved exit device with a minimum clear dimension of 22 inches and a minimum clear opening of 5 square feet. The bottom of the exit shall not be more than 36 inches above the floor.
 4. All electrical systems shall be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system shall be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated 20 amperes or less directly connected to the aluminum conductors shall be marked CO/ALR. Exterior receptacles other than heat tape receptacles, shall be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (Copper/Aluminum/or Copper Clad Aluminum) must be connected in accordance with NEC Section 110-14.
 5. The mobile home’s gas piping shall be tested with the appliance valves removed from the piping system and piping capped at those areas. The piping system shall withstand a pressure of at least 6 inch mercury or 3 psi gauge for a period of not less than 10 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than 1/10 pound or equivalent device. The source of normal operating pressure shall be isolated before the pressure test is made. After the appliance connections are reinstalled, the piping system and connections shall be tested with line pressure of not less than 10 inches nor more than 14 inches water column air pressure. The appliance connections shall be tested for leakage with soapy water or bubble solution. All gas furnaces and water heaters shall be vented to the exterior in accordance with UMC Chapter 9.
- B.** A rehabilitation permit shall be obtained from the Assistant Director of OA prior to any modification of the mobile home.
- C.** The mobile home shall be inspected by the OMH to ascertain compliance with subsection (A).
- D.** The OA shall issue a certificate of compliance for each mobile home in compliance with subsection (A), and the OMH shall affix an insignia of approval to the exterior wall nearest the point of entrance of the electrical service.
- E.** Upon a request the OMH may authorize issuance of a waiver for a unit that does not qualify as a mobile home. The category of the unit may be determined by inspection of the unit or presentation of acceptable documents.
- F.** A person served with a correction notice shall make the required corrections within the time period specified in the notice. The time period shall be determined by the OMH based on the severity of the hazard or violation and the time reasonably needed to make the correction. A minimum of 30 days shall be allowed unless an imminent safety hazard is found, or if the correction has been unreasonably delayed. In either event an Order to Vacate shall be issued to the person occupying the mobile home.

- ~~G. A person occupying the mobile home shall be served with an Order to Vacate that mobile home within five days if on inspection the mobile home is found to contain an imminent safety hazard.~~

ARTICLE 2. ~~INSTALLATION STANDARDS AND CODES~~ REPEALED

R4-34-201. General Repealed

- ~~A. For purposes of this Article the following definitions apply:~~
- ~~1. "Board" means the Board of Manufactured Housing.~~
 - ~~2. "Standards" means the state installation standards and codes as they relate to the installation of manufactured homes, mobile homes, factory built buildings, and accessory structures.~~
- ~~B. Requests for interpretation of the standards and codes shall be made in writing to the Assistant Director of OMH. Within 15 working days from receipt of the request, an interpretation shall be rendered by the OMH or the request shall be forwarded to the Board for interpretation.~~
- ~~C. An appeal request of an interpretation by the OMH shall be directed in writing to the Chairman of the Board. The Board shall consider the appeal at its next scheduled meeting and render a decision.~~
- ~~D. Any interpretation rendered by the OMH or the Board shall be communicated by Departmental bulletin to all licensed installers and local jurisdictions participating in the Installation Inspection Program.~~
- ~~E. A petition for an exception to codes and standards referred to in this Article as authorized by A.R.S. § 41-2144(D) shall:~~
- ~~1. Specify the standard or code sections affected;~~
 - ~~2. Contain justification for the requested exception and documented evidence of the local conditions which support the requested exception;~~
 - ~~3. Specify the boundaries of the area affected by the local conditions;~~
 - ~~4. Contain a statement of why the exception is necessary to protect the health and safety of the public; and~~
 - ~~5. Contain estimates of the economic impact the requested exception would have on the petitioning jurisdiction, other affected governmental entities, the public, unit owners, and licensees, and the facts upon which estimate is based.~~
- ~~F. An exception ordered by the Board shall apply only within the jurisdiction which petitioned for the exemption and only when in accordance with any conditions specified in the exception order.~~
- ~~G. An exception order will not become effective until its designated date which will be at least 60 days after a Departmental Bulletin has been issued to all licensed installers which describes the exception, the area within which it applies, and any provisions applicable to its use.~~

R4-34-202. Manufactured Home or Mobile Home Installation Standards and Codes Repealed

- ~~A. Multi-wide manufactured homes manufactured after June 30, 1977, shall be installed according to the manufacturer's instructions as related to the joining together of the sections, utility cross-over connections, requirements of center line and perimeter supports. Perimeter supports for all units shall be in accordance with manufacturer's instructions.~~
- ~~B. The standards for the installation of manufactured homes or mobile homes are as follows:~~
- ~~1. Prefabricated load-bearing support:
 - ~~a. Supports shall be located under the main beams of the chassis at intervals no greater than six feet and no more than two feet from either end of each main beam. When intervals no greater than six feet cannot be complied with due to running gear, supports shall be located as close as practical to the running gear and the remainder of the supports shall conform to the six and two foot requirements.~~
 - ~~b. Supports shall bear no greater load than 8,000 pounds.~~
 - ~~e. The supports shall have a minimum vertical concentrated load failure rating of 14,000 pounds.~~
 - ~~d. The acceptable supports to be used in this installation shall be by any of the methods set forth in the prefabricated supports and footing specifications (See Exhibit 2, Diagrams 1 through 6).~~~~
 - ~~2. Prefabricated support heights:
 - ~~a. No more than 25 percent of the supports along the main beams of the chassis, including footing, shall have a height in excess of 36 inches or less than 12 inches.~~
 - ~~b. The minimum height of the bottom of the floor joist shall be 18 inches above a soil base unless otherwise specified by the manufacturer.~~~~
 - ~~3. Permanent support heights and design. Construction shall be pursuant to the applicable requirements of R4-34-104(A)(1)(a).~~
 - ~~4. Footings:
 - ~~a. Prefabricated footings:
 - ~~i. Each footing shall be of such design and construction to withstand the transferred load from the load bearing support to the earth.~~
 - ~~ii. Footings shall be placed only on surfaces adequately prepared to distribute equalized transfer of applied loads and to minimize settlements of the footings.~~
 - ~~iii. The minimum size of each footing shall be compatible with the local soil conditions to minimize settling of the unit.~~~~~~

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- b. ~~Permanent footings. Design and construction shall be pursuant to the applicable requirements of R4-34-104(A)(1)(a).~~
 - e. ~~The acceptable footings to be used in this installation shall be by any of the methods set forth in the prefabricated supports and footing specifications (See Exhibit 2, Diagrams 1 through 6).~~
 - d. ~~General requirements for prefabricated footings:
 - i. ~~Mobile and manufactured homes, manufactured prior to January 1, 1984, may be installed on 12 x 12 inch footings only if piers having a maximum of 11 1/2 inch square base are utilized for supports.~~
 - ii. ~~Manufactured homes, manufactured on or after January 1, 1984, shall be installed on footings having 144 square inches of surface placed at 3 foot, six inches on center, or footings having 256 square inches of surface placed in accordance with subparagraph (B)(1)(a) of this Section.~~
 - iii. ~~Footing materials shall be as follows:
 - (a) ~~Minimum 3/4 inch thick plywood or 2 layers of 5/8 inch plywood no less than 12 inches wide. The plywood shall be Grade CDX APA Rated Sheeting Exposure 1, PSI treated for ground contact conforming to Uniform Building Code, Section 2501(3)(A) and (B);~~
 - (b) ~~Minimum 2 inch thick and no less than 12 inches wide wood treated for ground contact conforming to Uniform Building Code, Section 2501(3)(A) and (B);~~
 - (c) ~~Minimum 3 inch thick precast concrete pad with either 256 or 144 square inches of ground surface. The concrete shall have a minimum of 28 days compressive strength of not less than 4000 pounds per square inch; or~~
 - (d) ~~Hard plastic pad with either 256 or 144 square inches of ground surface. The plastic pad shall withstand a minimum vertical concentrated load failure rating of 14,000 pounds when tested on very dense and coarse gravel soils. Failure shall, at a minimum, consist of 4 inch cracks anywhere on the pad, or any curling or bowing of the pad's surface.~~~~
 - iv. ~~Plywood shall be stacked with their face grains perpendicular and fastened with corrosion resistant nails, 7/16 inch wide crown staples or screws.~~
 - v. ~~Wood products that are stacked shall be fastened with corrosion resistant nails, 7/16 inch wide crown staples or screws.~~
 - vi. ~~No split penetration from the end of a piece of 2 inch wood, and parallel to the edges of the piece, shall measure greater than 4 inches.~~
 - vii. ~~When precast concrete pads are stacked, both surface sides shall be no less than:
 - (a) ~~144 square inches when using 144 square inch footings.~~
 - (b) ~~256 square inches when using 256 square inch footings.~~~~
 - viii. ~~When concrete masonry unit (CMU) building blocks are utilized for supports, only 256 square inch ground and top surface footings shall be utilized.~~
 - ix. ~~Plastic pads shall only be stacked when the pad is provided with an interlocking system.~~~~
5. ~~Wedges.~~
- a. ~~Wedges may be placed only between the load bearing supports and main beams of the chassis.~~
 - b. ~~Wedges shall be capable of transfer of the applied load.~~
 - e. ~~Wedges shall be limited to two on any one bearing support.~~
 - d. ~~The method for installation of wedges is set forth in the prefabricated supports and footing specifications (See Exhibit 2, Diagrams 1 through 6).~~
6. ~~Utility hookups shall be pursuant to:~~
- a. ~~The Uniform Plumbing Code (UPC), 1991 Edition and all appendices, except Part I, Appendices B, H and I, incorporated herein by reference and on file with the Office of the Secretary of State. Copies of these codes are available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601. Incorporated materials do not include any later amendments or editions of the listed codes.
 - i. ~~That manufactured home or mobile home drain connections need not be provided with flexible connectors.~~
 - ii. ~~With the gas appliance flex connectors capped and the valves in the open position, the system shall be pressurized at 6 inches of mercury (45 ounces of mercury) or 3 psi gauge for 15 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or slope gauge calibrated so as to be read in increments of not greater than one-tenth pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure tests are made.~~
 - iii. ~~The gas connection to units which do not conform with Uniform Building Code, Chapter 23 requirements for anchorage to foundations for resistance of the uplift and sliding forces shall be flexible connectors approved for such use by the Uniform Plumbing Code. The connector shall not exceed six feet in length and shall be of a rated size to supply the total demand of the unit.~~
 - iv. ~~The water connection to units which do not conform with the Uniform Building Code, Chapter 23 requirements for anchorage to foundations for resistance of the uplift and sliding forces shall be flexible connectors approved for such use. The connector may be of copper tubing or other material approved by the Uniform~~~~

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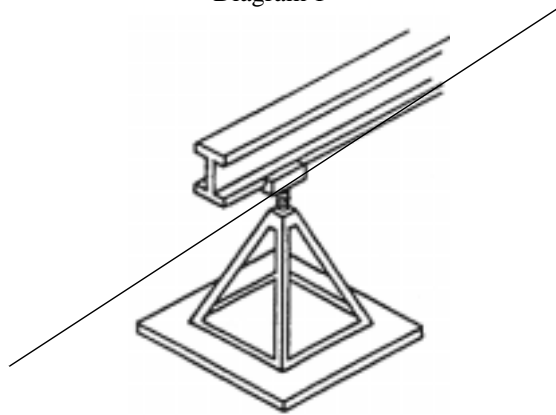
Plumbing Code. The connector shall not exceed six feet in length and shall be of a rated size to supply the total demand of the unit.

- b. The applicable requirements of R4-34-104(A)(1)(d) except:
 - i. Usage of flexible metal conduit shall be as follows: All manufactured or mobile homes shall be installed with a flexible metal conduit of a length no greater than 36 inches and no less than 18 inches to provide flexibility. Liquid-tight, flexible metal conduit shall be used when a manufactured home is set at ground level or in wet locations. Flexible metal conduit shall be connected at the location that only the rigid conduit emerges from the ground at a minimum of six inches above ground level.
 - ii. When service equipment is installed on a manufactured home in accordance with Article 230 of the National Electrical Code, the grounding electrode shall be installed in accordance with the manufacturer's instructions or Article 250 of the National Electrical Code.
- 7. Ground anchoring standards:
 - a. When a unit is anchored, the anchoring shall be consistent with R4-34-104(A)(1)(a) or to R4-34-102.
 - b. Anchoring shall resist, where applicable, flotation, collapse, or lateral movement due to flood waters, equal to or greater than the 100-year forecast of the local flood control authority for the location of the manufactured home or mobile home.

Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 1

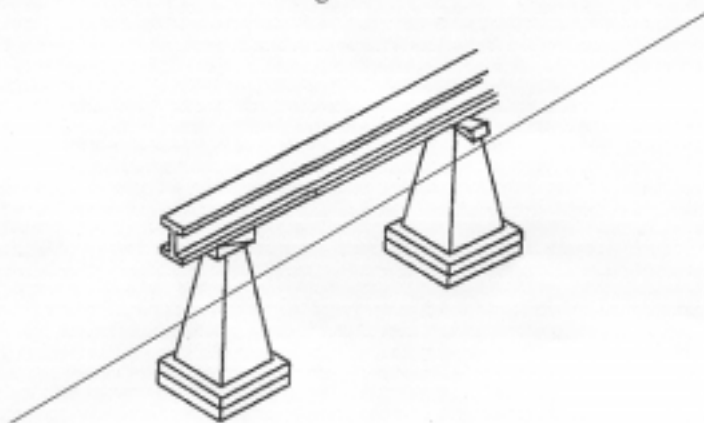


SUPPORT: An adjustable steel pier. The flange on top of the pier shall be staggered so that every other flange is on the opposite side of the beam.

Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 2



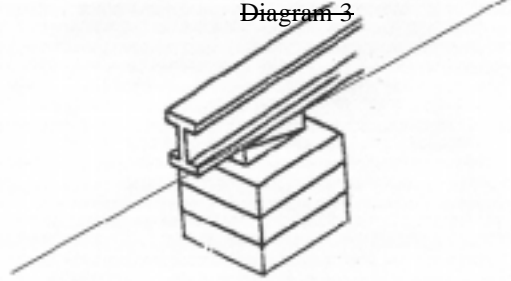
- 1) **SUPPORT:** Precast concrete
- 2) **WEDGES:** There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.

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Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 3

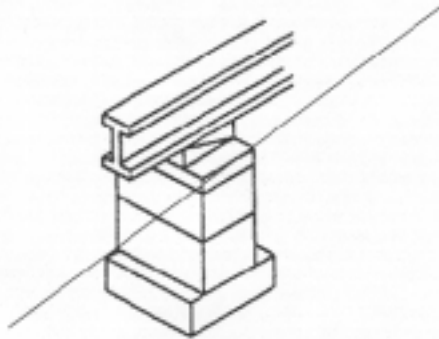


- 1) SUPPORT AND FOOTING: One or no more than two concrete supports stacked vertically.
- 2) WEDGES: There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.

Prefabricated Support and Footing Specifications

EXHIBIT 2

Diagram 4

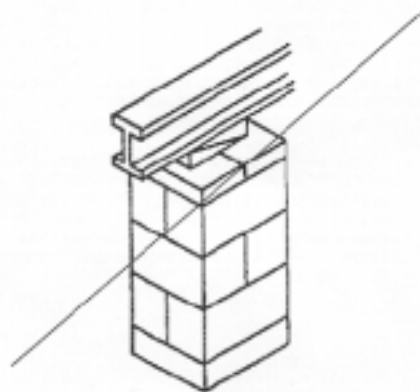


- 1) SUPPORT: No more than two courses of Concrete Masonry units (CMU's) building block per ASTM C90-75 or better.
- 2) CAP: Maximum of one solid 2" x 8" x 16" CMU cap per ASTM C145-75 or pressure treated wood cap.
- 3) WEDGES: There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.

Prefabricated Support and Footing Specifications

EXHIBIT 2

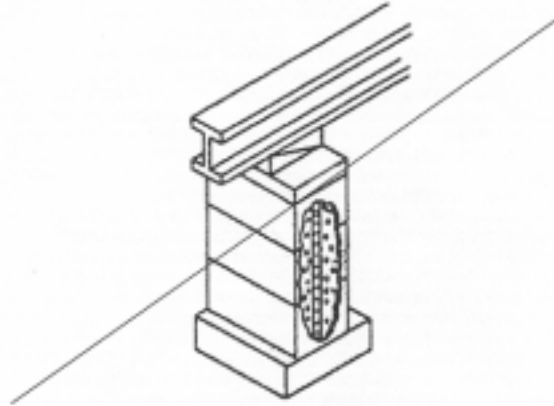
Diagram 5



- 1) SUPPORT: More than two courses of Concrete Masonry Units (CMU's) building block per ASTM C90-75 or better shall be interlocking.
- 2) CAP: Maximum of two solid 2" x 8" x 16" CMU cap per ASTM C145-75 or pressure treated wood cap running crosswise of frame.
- 3) WEDGES: There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.

Prefabricated Support and Footing Specifications
Diagram 6

EXHIBIT 2



- 1) **SUPPORT:** More than two courses of Concrete Masonry Units (CMU's) building block per ASTM C90-75 or better shall be grouted solid with 1/2" Ø rebar.
- 2) **CAP:** Maximum of two solid 2" x 8" x 16" CMU cap per ASTM C145-75 or pressure-treated wood cap.
- 3) **WEDGES:** There shall be two wedges placed on each support, both placed longitudinal or crosswise with the beam.

R4-34-203. ~~Accessory structures~~ Repealed

- A.** The installation, assembly, connection or construction of any accessory item shall be pursuant to applicable requirements of R4-34-104(A)(1)(a), (b), (c), and (d).
- B.** For the purpose of A.R.S. § 41-2142(1), the word "attached" means: fastened to the manufactured home or mobile home at the time of its installation and removable without degradation of the structural integrity of the manufactured or mobile home.
- C.** A complete set of drawings and specifications meeting the requirements of R4-34-307 shall be submitted for the construction of the following accessory structures other than prefabricated light metal or plastic type units:
 1. One-story habitable room;
 2. Storage room over 100 square feet;
 3. Patio roofs or awnings;
 4. Garages or carports;
 5. Screened-in or enclosed porches, or
 6. Any accessory structure which changes the structural integrity of the unit to which it is attached.
- D.** Skirtings and retaining walls. Access and ventilation: skirting and retaining walls shall have an 18-inch x 24-inch access crawl hole. Underfloor areas shall be accessible. Ventilation for underfloor areas shall be provided in accordance with R4-34-104(A)(1)(a), Section 2516(e)(6).
- E.** Underground skirting shall be installed on all ground-level installations of manufactured and mobile homes except where installation complies with rule R4-34-202(B)(3) and (B)(4)(b). For the purposes of this subsection, underground skirting is defined as weather- and corrosion-resistant material used to enclose the space from the bottom of the home to grade and designed to resist the lateral displacement of soil or other materials.
 1. The minimum acceptable underground skirting design to be used in installations shall be as found in the Underground Skirting Specifications (See Exhibits 1, General Notes and Diagrams 1 through 4).
 2. A registered engineer may propose equivalent materials and designs which must meet the strength, weather and corrosion resistant criteria applicable under the Uniform Building Code referred to in subsection (A) of this Section subject to review and approval by the OMH.

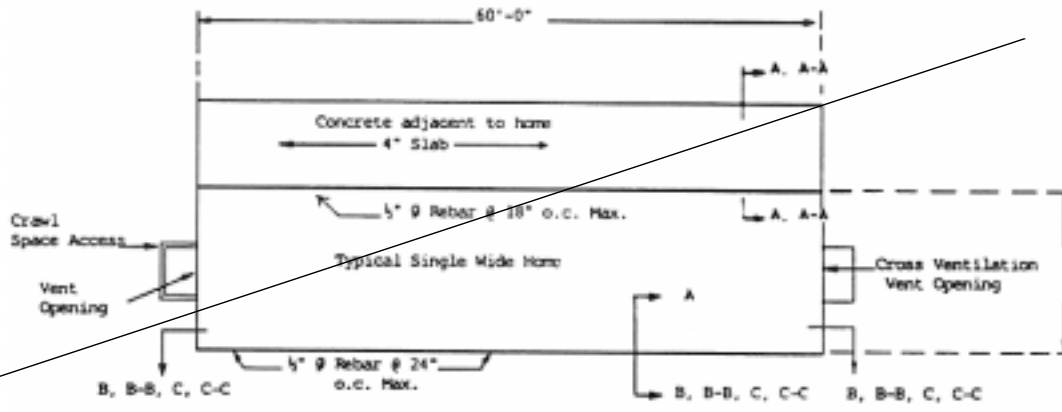
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GENERAL NOTES:

1. Provide cross ventilation of crawl space with openings that shall have a net area of not less than 1 square foot for each 150 square feet of floor area. Such openings shall be covered with corrosion resistant wire mesh with mesh openings of 1/4 inch in any dimension.
2. Provide a minimum 18 x 24 inch access to the crawl space. Where an access to crawl space is also used as a ventilation opening, such access shall always be open and shall be provided with the corrosion resistant wire mesh required in Note 1.
3. Plywood skirting sections shall be joined together by 3/8 inch treated plywood spliced 10 inches wide by three quarters the height of the skirting section, placed on the interior of the skirting, fastened by a 1/2 inch wide crown galvanized staple or galvanized steel nails, and placed against rebar in center of splice. The corners of the 3/8 inch plywood shall be joined together by AWPB-FDN 2 x 4 backers fastened by galvanized steel nails or staples. The ends of the lumber and 1/2 inch or greater plywood cut after pressure treating, which are to be placed below grade or within 6 inches above backfill, must be field treated with preservative conforming to American Wood Preservative Association Standard M4-84 or equivalent approved by the Office. Treated wood shall extend to the earth and shall be supported by at least 1/2 inch • rebar with coal tar epoxy conforming to Steel Structure Painting Council's specification SSPC paint #16 or equivalent, as approved by the Office, providing a coating for a minimum of 14 inches along the rebar from the end that protrudes from the soil.
4. Slope at finish grade of surface shall slope away from the home at:
 - A. Concrete slab—1/16 inch vertical drop for each 12 inches horizontal run.
 - B. Earth surfaces—1 inch vertical drop for each 12 inches horizontal run for a minimum of 4 feet from home.
5. Reference Diagrams 1, 2, 3 and 4.

Diagram 1

EXHIBIT 1



NOTE: Reference General Notes, Diagram 2, Diagram 3 and Diagram 4

Diagram 2

EXHIBIT 1

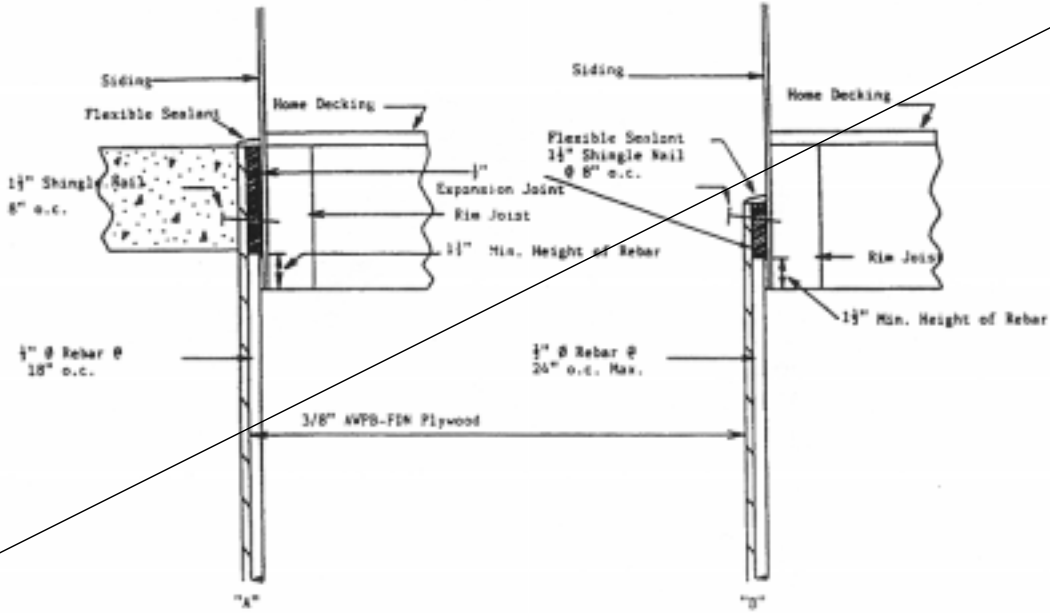


Diagram 3

EXHIBIT 1

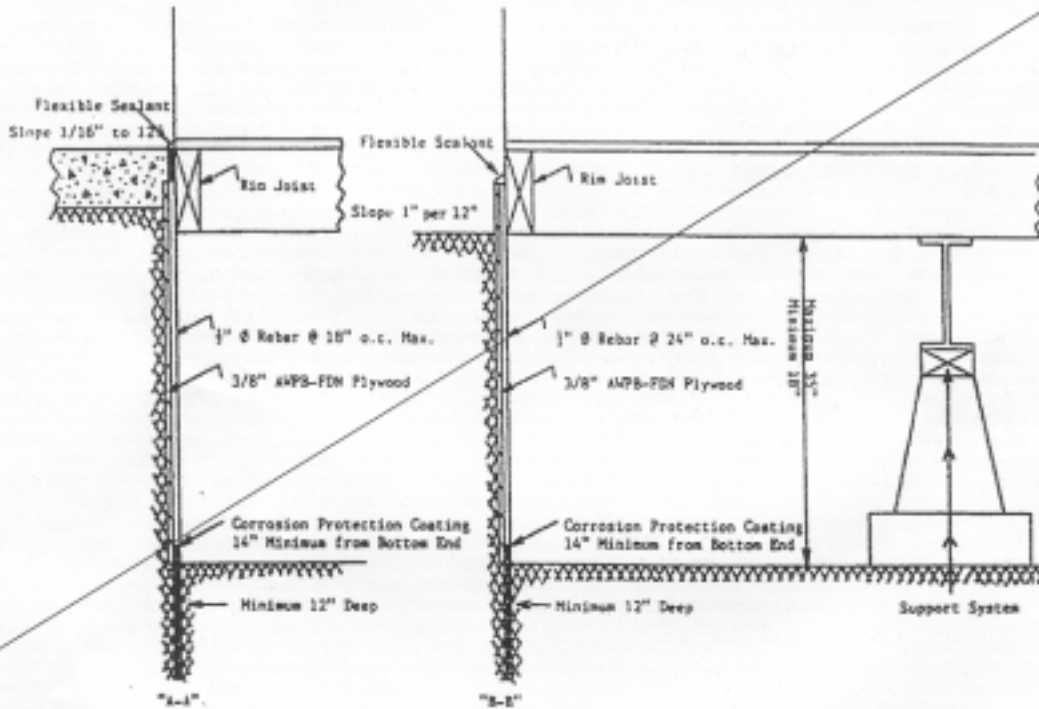
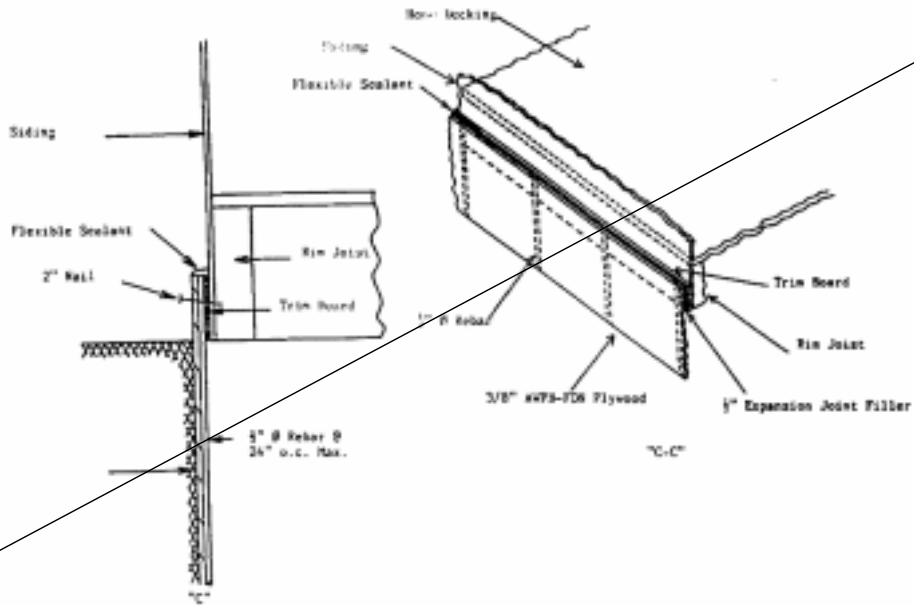


Diagram 4

EXHIBIT 4



NOTE: Reference General Notes, Diagram 1, Diagram 2 and Diagram 3

R4-34-205. Installation of Factory-built Buildings Repealed

- A.** Incorporation of building codes. Except as amended by this rule, the following building codes are incorporated herein by reference and are on file at the Office of the Secretary of State. Copies of the incorporated matter are available from the Office and from the International Conference of Building Officials, whose address is 5360 South Workman Mill Road, Whittier, CA 90601. This rule does not include any later amendments or editions of the incorporated matter. The following building codes shall be referred to in this rule by the following definitions:
1. The Uniform Building Code (ICBO), 1991 Edition, including the Appendices, hereinafter referred to as "Building Code."
 2. The Uniform Plumbing Code (IAPMO), 1991 Edition, as amended by R4-34-104(A)(1)(c)(ii), and all its appendices, hereinafter referred to as "Plumbing Code."
 3. The Uniform Mechanical Code (IAPMO), 1991 Edition, including the Appendices, hereinafter referred to as "Mechanical Code."
 4. The National Electrical Code (NFPA-70), 1990 Edition, hereinafter referred to as "Electrical Code."
- B.** Installation requirements. The installation of all factory-built buildings shall comply with the codes listed in the previous paragraph of this rule, except as amended below:
1. The Building Code, except for the following:
 - a. Part I, Chapter 2;
 - b. Part I, Chapter 3, §§ 301, 302, 303, 304, 305, and 306; and
 - c. Appendices, Chapters 1, 7, 12 Division I, 23 Division II, 32, 55, 57, and 70.
 2. The Plumbing Code, except for the following:
 - a. Part I; and
 - b. Appendices E and I.
 3. The Mechanical Code, except for Part I, Chapters 2 and 3.
 4. The Electrical Code, except for the following:
 - a. Section 250-84, entitled Resistance of Made Electrodes, is deleted and the following is inserted in its place: "A single electrode consisting of a rod, pipe, or plate shall have a resistance to ground of 25 ohms or less. Where multiple rod, pipe, or plate electrodes are installed to meet the requirements of this Section, they shall be not less than 6 ft. (1.83m) apart."
 - b. The following is added to the Electrical Code:
 - i. Service entrance shall be sized by adding the individual loads of each module and installed with KTN-R or equivalent fuses. If the total connected load is single phase and does not exceed 200 ampere 120/240 VAC, it

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- need not comply with R4-34-205(B)(4)(b)(ii).
- ii. Fault current interrupting rating supplied by the utility company shall be used to calculate the amperage at the time of installation in order to comply with Section 110.9 and Section 110.10.
- 5. Joining and securing of multi-wide units' floor, roof, and walls shall be in accordance with detailed plans available on-site at the time of installation.
- ~~C. Installation of factory-built room additions. Factory-built room additions installed on mobile/manufactured homes or park trailers are not required to meet the standards of R4-34-205(B) but shall meet the following standards:~~
 - 1. Supports shall be no less than as specified in R4-34-202(B)(1) and (2) and R4-34-202(B)(4) of this Article.
 - 2. Where electrical, plumbing or mechanical utilities are provided, they shall be connected in accordance with R4-34-202(B)(6).
- ~~D. Temporary installations of factory-built buildings. Temporary installations of factory-built buildings not used by the public and not to exceed one year are not required to meet the standards of R4-34-205(B) but shall be connected as required in R4-34-202(B)(6) concerning utility hookups.~~
- ~~E. Permit fee charged by the office or local agencies. A permit fee shall be charged either by the Office or the local enforcement agencies participating in the Installation Inspection Program. The fee charged by the Office shall be the amount established by the Board pursuant to A.R.S. § 41-2144(A)(5). The fee charged by a local enforcement agency shall not exceed the amount established by the Board pursuant to A.R.S. § 41-2144(A)(5).~~

ARTICLE 3. PLAN APPROVALS REPEALED

R4-34-301. General Repealed

- ~~A. Manufacturers~~
 - 1. Prior to construction of a unit or subassembly, each manufacturer shall obtain a plan approval.
 - 2. Subassemblies which are open do not need a separate plan approval if manufactured as part of a project for which an overall plan approval is on file with the OMIH.
 - 3. "Open subassembly" means: any subassembly where all components thereof can be readily inspected without disassembly, damage to or destruction thereof.
 - 4. The plan approval for the manufacture of a unit or subassembly shall consist of the following:
 - a. A quality assurance manual pursuant to R4-34-302.
 - b. Drawings and specifications pursuant to R4-34-303.
 - c. Plant certification pursuant to R4-34-305.
- ~~B. Dealers. Prior to performance of any alteration, each dealer shall obtain approval pursuant to R4-34-304 for such alteration.~~
- ~~C. Installers. Prior to ground anchoring a manufactured home, mobile home, or single family factory-built building, each installer shall obtain approval pursuant to R4-34-306 for such manufactured home, mobile home or single family factory-built building.~~
- ~~D. Reconstruction manufacturers. Prior to performance of any reconstruction, each manufacturer shall obtain plan approval pursuant to R4-34-304 for the reconstruction.~~
- ~~E. Installation of factory-built buildings. Prior to the installation of a factory-built building, any person installing such building shall obtain plan approval pursuant to R4-34-308.~~
- ~~F. Installing accessory structures. Prior to the installation of an accessory structure, any person installing such structure shall obtain plan approval pursuant to R4-34-307.~~

R4-34-302. Quality assurance manuals Repealed

- ~~A. Manufactured homes. The quality assurance manual shall be pursuant to 24 CFR 3282, as amended 1988, federal Manufactured Home Procedural and Enforcement regulations published pursuant to the Act defined in A.R.S. § 41-2142(2). The regulations are incorporated herein by reference and on file with the Office of the Secretary of State. Copies are available from the U.S. Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410. Incorporated materials do not include any later amendments or editions of the listed material.~~
- ~~B. Factory-built buildings and subassemblies~~
 - 1. Submittals will be in duplicate.
 - 2. Format shall be as follows:
 - a. The manual shall be a loose-leaf publication with each page no less than 8 1/2 x 11 inches in size.
 - b. An index page shall be provided for original approval certification.
 - c. The manual shall provide for revision traceability for each revision by numerical or alphabetical identity, the date of revision, and page number revised.
 - 3. Contents shall be, as a minimum, as follows:
 - a. An organization chart, by position, of all quality control personnel responsible for compliance of incoming components and in-plant manufacturing activities.
 - b. A descriptive presentation of the quality assurance program adhered to by the personnel positions as listed on the organization chart.

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- e. A flow chart depicting the minimum in-plant inspection requirements by work station, production control routing document, stage of manufacture, or type of work control or an equivalent method of in-plant inspection.
 - d. A descriptive presentation of tests performed and test equipment used.
 - 4. Quality assurance manual alternate. If the manufacturer's schedule warrants a specific inspection schedule for each unit rather than surveillance inspection of the manufacturing pursuant to a quality assurance manual, the required inspections shall be scheduled in an attachment to the drawings and specifications pursuant to R4-34-303.
- C. Recreational vehicles and subassemblies**
- 1. Quality assurance manuals shall be submitted in duplicate.
 - 2. Quality assurance manuals submitted for approval shall be on substantial paper 8 1/2 x 11 inches.
 - 3. An index page shall be provided.
 - 4. Each sheet shall be uniquely identified by a number and a date of issuance. All revisions shall also be dated as to date of issuance.
 - 5. Where the manufacturer proposes revisions to the quality control manual, two copies of such revisions shall be submitted for approval.
 - 6. Manual contents shall be, at a minimum, as follows:
 - a. Statement of scope and purpose.
 - b. A detailed descriptive presentation of the quality assurance program by key personnel positions.
 - e. A description of the minimum in-plant inspection requirements by department, production control routing document, state of manufacture, or type of work control or any equivalent method if in-plant inspection.
 - d. Descriptions of required tests, equipment and test locations in the production process.
 - e. Receiving inspection procedures for basic materials.
 - f. Material storage and stock rotation procedure.
 - g. Control of drawings, material specifications, and revisions of such.
 - h. Record keeping procedures.

R4-34-303. Drawings and specifications Repealed

A. Manufactured homes. Drawings and specifications shall satisfy the applicable requirements of R4-34-302(A).

B. Factory-built buildings and subassemblies

- 1. All submittals will be in duplicate.
- 2. Format shall be as follows:
 - a. An indented set of drawings, processes, listing of components, shop drawings or process and such other documents to specify and identify each component, process, assembly operation and manufacturing step.
 - b. Each sheet shall be a minimum of 8 1/2 x 11 inches.
 - e. Sheet number one shall be presented to the OMH with a 6 x 6-inch blank space near the title block.
 - d. Each set shall provide for the traceability for each revision by numerical or alphabetical identity and date of revision for each sheet revised.
- 3. The minimum contents shall be as follows:
 - a. A complete set of dimensioned views with designated tolerances for dimensions locating each component utilized in the manufacture of the unit or subassembly.
 - b. A complete set of dimensioned views designating the location of all processes performed in the manufacture of the unit or subassembly.
 - e. A complete listing of all components and subassemblies by cross identification to usage of same in the appropriate views.
 - d. A traceable identification for each component and subassembly listed.
 - e. A complete listing of all processes by cross identification to usage of same in the appropriate views.
 - f. Detailed process instructions or procedures for each process listed. Any proprietary process may be so noted in the listing but shall be made available to the OMH at the manufacturing facility for certification of same and certification that such process is followed during the manufacture of units or subassemblies.
 - g. Specify on-site foundation specification for each unit for a given soil bearing capacity.
 - h. Specify location and process of permanent serial number.
 - i. Specify the location of the placement of the Arizona Insignia of Approval.
 - j. Such other detailed information, for the safety and welfare of the public, as established and published by the Director.
 - k. Specify which components and processes comply with the requirements of R4-34-104(A)(1).
- 4. Provisions for acceptable alternates:
 - a. The Design Bureau of the OMH may approve alternate components or processes if such alternate is at least equivalent to that specified in the approved drawings and specifications.
 - b. The manufacturer may, without prior approval by the OMH, utilize alternate components or processes if:
 - i. There is on file with the OMH approved drawings and specifications for the overall project; and,
 - ii. The alternate component or process is certified by a registered engineer or architect as equivalent to or better

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- than that specified in the approved drawings and specifications; and,
- iii. The certified plans shall be forwarded to the OMH within seven days for approval, and amendment to original plans, accompanied by appropriate fees.

C. Recreational vehicles and subassemblies

1. All submittals shall be in duplicate.
2. Plans submitted for approval shall be on substantial paper not less than 8 1/2 x 11 inches or multiples thereof but not exceeding 25 x 36 inches.
3. Each floor plan shall provide traceability to systems or typical plans by numerical or alphabetical identifications.
4. Each sheet shall be uniquely identified by a heading or number and a date of issuance. All revisions shall also be dated as to date of issuance.
5. Where the manufacturer proposes revisions to the approvals, three copies of such revisions shall be submitted for approval.
6. Each submittal shall provide:
 - a. Floor plan for each modeling including, but not limited to:
 - i. Dimension or scaled presentation showing overall size.
 - ii. Location of windows, exterior exits, and alternate egress means.
 - iii. Location of partition and interior walls.
 - iv. Location of appliances; fixtures; fire extinguishers; heating and return air registers; connections for drain, water, gas and electrical; permanent vehicle identification number; and insignia of approval.
 - b. Drawings or schematics and specifications depicting plumbing systems including, but not limited to:
 - i. Description and, if applicable, listing agency of materials, fixtures, fittings, pipe, tubing, shower doors and appliances.
 - ii. Diameter and type of pipe and tubing, length of three eighths inch O.D. tubing and all trap arms.
 - iii. Size and type of fittings.
 - iv. Grade of drainage piping.
 - v. Methods of securing drain, waste and vent piping.
 - vi. Diagrams of potable water supply system, and waste, vent and drain system.
 - vii. Location of all cleanouts.
 - c. Drawings or schematics and specifications depicting mechanical system including, but not limited to:
 - i. Description and, if applicable, listing agency of materials, fittings, pipe, tubing, appliances, heating duct and registers.
 - ii. Diameter, length, and type of gas pipe and tubing.
 - iii. Size and type of gas or oil fittings, valves and connectors.
 - iv. Diagram of fuel piping system.
 - v. Locations of fuel piping supports and methods of securing.
 - vi. BTUH input rating of all fuel burning appliances.
 - vii. Location of LP gas containers, method of securing including supporting calculations or test reports, and method of protection from vehicle exhaust system heat.
 - viii. Clearances between range burners and combustible materials and method of protection where required.
 - ix. Gauge, size and type of warm air ducts and return air ducts.
 - d. Drawings or schematics and specifications depicting electrical system including, but not limited to:
 - i. Description and listing agency of 115/230 volt wiring materials.
 - ii. Description, rating, and if applicable, listing agency of devices and appliances.
 - iii. Type and rating of power supply assembly.
 - iv. Number of branch circuits and rating of each circuit.
 - v. Electrical load calculations when applicable.
 - vi. Location and number of outlets, fixtures, and appliances fixed in place on each circuit.
 - vii. Conductor size, type and material, and over-current protection device for each circuit.
 - viii. Installation of compartment installed batteries.
 - ix. Methods of grounding all exposed non-current carrying metal parts.
 - x. Location of generator and method of electrical installation.
 - xi. When applicable, a diagram of low voltage electrical system including conductor size and material, over-current protection, fixture and motor loads, and power supply.
7. Drawings or schematics and specifications depicting compliance with fire and life safety provisions including, but not limited to:
 - a. Description and flame spread ratings of interior finished materials.
 - b. Description and combustibility compliance of textile or film materials, when applicable.
 - c. Size and type of alternate egress.
 - d. Location of gasoline filler spouts and engine exhausts.

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- e. ~~Sealing of gasoline filler spouts and generator compartment to interior of unit.~~

R4-34-304. ~~Alteration or reconstruction approvals~~ Repealed

Plan approvals for alterations:

1. ~~All submittals shall be in duplicate.~~
2. ~~Notice of alterations made shall be sent to the manufacturer of the unit.~~
3. ~~Manufactured homes~~
 - a. ~~The plan approval shall be a detailed set of drawings and specifications which depict all aspects of the alterations or reconstruction and serial numbers of the units.~~
 - b. ~~The contents of the plan approval shall be restricted so as to prevent any nonconformance to the Manufactured Home Construction and Safety Standards published pursuant to the Act.~~
4. ~~Factory-built buildings and subassemblies~~
 - a. ~~The plan approval shall be a detailed set of drawings and specifications which depict all aspects of the alterations or reconstruction and serial numbers of the units.~~
 - b. ~~The format of the plan approval shall be consistent with R4-34-303(B)(2).~~
5. ~~Recreational vehicles~~
 - a. ~~The plan approval shall be a detailed set of drawings and specifications which depict all aspects of the alterations or reconstruction and serial numbers of the units.~~
 - b. ~~The contents of the plan approval shall be consistent with R4-34-303(C).~~

R4-34-305. ~~Plant certification~~ Repealed

- ~~A. Manufactured homes. The plant certification shall be pursuant to the applicable requirements of R4-34-302(A).~~
- ~~B. Factory-built buildings, mobile homes, subassemblies, and recreational vehicles. Each manufacturing facility shall be certified by the OMH or an authorized representative as to capability to manufacture units or subassemblies as shown on the OMH approved drawings, specifications and quality assurance manual.~~

R4-34-306. ~~Ground anchoring approvals~~ Repealed

- ~~A. Ground anchoring plans shall be certified by a registered engineer or approved by the OMH.~~
- ~~B. The plans shall be in compliance with the standards set forth in R4-34-202(B)(7), and of sufficient detail and description that all materials, dimensions, and processes can be readily identified.~~

R4-34-307. ~~Accessory structures approvals~~ Repealed

- ~~A. Drawings and specifications shall be:
 1. Submitted in duplicate;
 2. Submitted on dual purpose, 20 lb. paper not less than 8 1/2 x 11 inches or exceeding 25 x 36 inches;
 3. In compliance with the codes required under R4-34-104(A)(1)(a), (b), (c), and (d); and
 4. The contents shall be consistent with R4-34-303(B)(3).~~
- ~~B. Any design which is not in compliance with the above code requirements but is equivalent shall be engineered and sealed by an Arizona Registered Engineer.~~
- ~~C. Upon written request, the Assistant Director of OMH may approve alternate design and specifications which are equivalent to the standards and codes in subsection (A) above.~~

R4-34-308. ~~Factory-built Building Installation Plan Requirements~~ Repealed

- ~~A. Approval of plans required prior to installation. Prior to the installation of a factory-built building, excluding units described in R4-34-205(C) and (D), an application shall be submitted to and approved by the Office as required by this rule.~~
- ~~B. Contents of the application. The applicant shall submit an application to the Office, which application appears in R4-34-309. The documents described in the following paragraph shall be attached to the application for the work which is to be accomplished:~~
- ~~C. Attachments to the application. Two copies of each of the following shall be attached to the factory-built building installation application form:
 1. The installation plans, as further described in this rule. Such plans shall be on paper whose minimum size shall be 8 1/2 x 11 inches.
 2. Any calculations and test results required to show compliance with the standards required in R4-34-205, as further described in this rule.~~
- ~~D. Contents of installation plans. The following shall be included with the installation plans:
 1. Each sheet of the plan shall be dated and shall be numbered sequentially. The plans submitted shall include all revisions to the plans. All revisions shall be dated and shall be either numerically or alphabetically identified.
 2. The site plan of the place where the installation will occur. The site plan shall include the following:
 - a. The building location where the factory-built building is to be installed, the setbacks from the property lines and the separation between buildings in feet and inches, location of all utility lines in existence prior to the installation;~~

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- b. The legal description where the installation is to occur;
 - e. The street address where the installation is to occur; and
 - d. The approval of the appropriate zoning department, if required, by the appropriate county, municipality or other political subdivision where the installation is to occur.
3. The maximum design utility fault current, where required, shall be shown as part of the installation plans near one of the lines indicated on the electrical service plan.
4. The foundation plan, which shall include the following:
- a. A description of the soil class showing the allowable soil bearing pressure in lbs./sp. ft. where the installation is to occur.
 - b. The depth the footings will be placed.
 - e. If footings are to be placed on compacted fill or at a level other than 12" minimum below natural grade, a soil investigation report made by a soil engineer, or equivalent test documentation. All footings shall be designed to meet the allowable bearing pressure at the depth required.
 - d. A complete set of drawings indicating dimensions and details of the foundation footings, and anchoring with a complete list of materials by cross-identification to usage of the materials, which shall be shown in the appropriate views.
 - e. Calculations prepared by an engineer for all load conditions, including wind loads for both horizontal loads and uplift loads, overturning, and horizontal and torsional earthquake effects on foundations.
5. Electrical drawings
- a. Electrical drawings shall include one line diagrams indicating the following:
 - i. The type, location, ampere capacity and maximum fault current rating of all service equipment, except that service entrances not exceeding 200 ampere 120/240 VAC may be installed with KTN-R or equivalent fuses and sized by adding the individual loads of each module need not have a calculated fault current;
 - ii. The size, length and location of all service and feeder raceways not provided by the public utility;
 - iii. The dimensions of all gutters and wireways;
 - iv. The number, size and type of all line voltage, grounding and bonding conductors to be installed in wiring enclosures;
 - v. Designate aluminum or copper conductors;
 - vi. Type of insulation;
 - vii. Size, type of fuse and/or circuit breakers, and AIC ratings;
 - viii. Details of panelboard, switchboard and distribution centers showing type and arrangement of switches, overcurrent devices, general control equipment and AIC ratings;
 - ix. Panelboard and switchboard schedules or line diagram showing wattage and/or amperage of active branch or feeder circuits for modulars; and
 - x. Grounding connection to the service disconnecting means and water bond.
 - b. Electrical load calculations.
6. Plumbing. Plumbing drawings shall indicate the following:
- a. Location of sewer tap;
 - b. Location of water and gas meter;
 - e. Size and length of sewer, water and gas lines, provide fixture units, BTUH requirements and water pressure;
 - d. Type of material used for sewer, water and gas lines;
 - e. Grade of sewer line;
 - f. Tap elevation;
 - g. Depth of water line;
 - h. Location of all cleanouts and extend same to grade; and
 - i. Rim elevation of upstream manhole or cleanout and floor elevation.

E. Filing of application. The application shall be filed with the Assistant Director of the Office of Manufactured Housing.

R4-34-309. Factory built building installation application form Repealed

The Factory-Built Building Installation Application Form is as follows:

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STATE OF ARIZONA OFFICE OF MANUFACTURED HOUSING DEPARTMENT OF BUILDING AND FIRE SAFETY 1540 West Van Buren Phoenix, Arizona 85007 (602) 255-4072 APPLICATION FOR APPROVAL OF PLAN FOR INSTALLATION OF A FACTORY-BUILT BUILDING A.A.C. R4-34-308 and R4-34-309	FOR OFFICIAL USE ONLY <table style="width:100%; border: none;"> <tr> <td style="width:60%;">FEES (ARS § 41-2144(A)(5))</td> <td style="width:40%;">RECEIPTS:</td> </tr> <tr> <td>Administrative Fees \$20.00</td> <td></td> </tr> <tr> <td>Plan Review Fee _____</td> <td></td> </tr> <tr> <td>Total Fees _____</td> <td>No. _____</td> </tr> <tr> <td>Less Fee Received _____</td> <td>Inv # _____</td> </tr> <tr> <td>Amount Due _____</td> <td></td> </tr> <tr> <td>Amount Refunded _____</td> <td></td> </tr> <tr> <td> </td> <td></td> </tr> <tr> <td>Date Approved _____</td> <td>Plan Log No. _____</td> </tr> </table>	FEES (ARS § 41-2144(A)(5))	RECEIPTS:	Administrative Fees \$20.00		Plan Review Fee _____		Total Fees _____	No. _____	Less Fee Received _____	Inv # _____	Amount Due _____		Amount Refunded _____		 		Date Approved _____	Plan Log No. _____
FEES (ARS § 41-2144(A)(5))	RECEIPTS:																		
Administrative Fees \$20.00																			
Plan Review Fee _____																			
Total Fees _____	No. _____																		
Less Fee Received _____	Inv # _____																		
Amount Due _____																			
Amount Refunded _____																			
Date Approved _____	Plan Log No. _____																		

Submit two (2) copies of this Application and all drawings and specifications required by A.A.C. R4-34-308 to the above address along with the following fees:

- | | |
|---|------------------|
| 1. Administration Fee (submit with application) | \$20.00 |
| 2. Plan Review Fee (one hour minimum charge) | \$40.00 per hour |

Complete the following: If there is insufficient space, continue on additional paper.

(Please Print)

- 1) **APPLICANT:**
 NAME: _____
 ADDRESS: _____

Street	City/Town
County	State
Code	Zip

 PHONE NO. _____ FAX NO. _____

- 2) **FACTORY-BUILT BUILDING:**
 NAME OF UNIT MANUFACTURER: _____
 UNIT PLAN APPROVAL NUMBER: _____

- 3) **LOCATION OF INSTALLATION:**
 LEGAL DESCRIPTION: _____

 STREET ADDRESS: _____ City/Town: _____
 County: _____ Arizona Zip Code: _____

- 4) **STATE, COUNTY OR CITY ISSUING INSTALLATION PERMIT:**
 NAME: _____
 NAME AND PHONE NO. OF CONTACT PERSON: _____

- 5) **DATE OF APPLICATION:** _____ **SIGNATURE OF APPLICANT:** _____

FOR OFFICIAL USE ONLY

PLAN APPROVAL NUMBER: _____
 DATE OF APPROVAL: _____

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ARTICLE 4. ~~INSPECTION AND TECHNICAL SERVICE~~ REPEALED

R4-34-401. Manufacturing locations Repealed

~~A. Manufactured homes~~

- ~~1. The inspection program shall be consistent with the applicable requirements of R4-34-302(A).~~
- ~~2. Fees and travel expenses for the inspection program activities shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.~~

~~B. Factory-built buildings, subassemblies, recreational vehicles, and alterations and reconstruction. Fees and travel expenses for the inspection program activities shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.~~

R4-34-402. Dealer facilities Repealed

~~Fees and travel expenses for verification of nonconformance corrections shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.~~

R4-34-403. Installation of manufactured homes, mobile homes, accessory structures, and factory-built buildings Repealed

~~A. Inspection by local enforcement agencies.~~

- ~~1. An official of any local enforcement agency may make application to the Assistant Director to participate in the OMH program of permit issuance for, and inspection of, installations of manufactured homes, mobile homes, accessory structures, and factory-built buildings.~~
- ~~2. The Assistant Director may authorize the requested participation pursuant to agreement signed by the Assistant Director and an official of the local enforcement agency.~~
- ~~3. The agreement shall include:
 - a. Provision for inspection to ensure compliance pursuant to R4-34-201, R4-34-202, R4-34-203, and R4-34-204 as applicable to the participation requested.
 - b. Provision that permit and inspection fees shall be consistent with the fee schedule of R4-34-602(A) and (B).
 - e. Maintain records of issuance of permits.~~

~~B. Inspection by the OMH.~~

- ~~1. The OMH shall establish and publish an inspection program to ensure compliance pursuant to R4-34-201, R4-34-202, R4-34-203, and R4-34-204.~~
- ~~2. The inspection program shall include:
 - a. Provision for monitoring the performance of local enforcement agencies participating under agreement with the Assistant Director of OMH.
 - b. Provision for documentation to the participating local enforcement agency of the performance findings by the monitoring activities.
 - e. Comprehensive inspection of installations where such inspections are not provided by local enforcement agency and Assistant Director of OMH agreements.
 - d. Provision for documentation to the licensee of all nonconformances noted.
 - e. Provision for verification of correction of documented nonconformances.
 - f. Provision for removal of Insignia of Approval and notification to the manufactured home, mobile home, or single family factory-built building owner or occupant of the reason for such removal.~~
- ~~3. Fees and travel expenses for the inspection program activities shall be paid by the licensee pursuant to the rates established in R4-34-603 and R4-34-604.~~

R4-34-404. Technical service Repealed

~~A. Definition. For the purpose of these rules, "Technical service" means:~~

- ~~1. Engineering assistance, guidance or interpretation; or,~~
- ~~2. Assistance, interpretative application or clarification of compliance and enforcement of A.R.S. Title 41, Chapter 16, Articles 1, 2, and 4 and these rules.~~

~~B. Engineer assistance.~~

- ~~1. Service provided on the premises of a licensee shall be at the hourly rate pursuant to R4-34-602(A) and (B).~~
- ~~2. Service provided in the OMH shall be by appointment and without a fee unless such service is within the scope of fees specified in R4-34-605.~~
- ~~3. Written replies to written or oral inquiries will be without fee.~~
- ~~4. Phone response will be unofficial.~~

~~C. Compliance and enforcement~~

- ~~1. Phone response will be unofficial.~~
- ~~2. All bulletins of general applicability will be distributed to all licensees.~~

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ARTICLE 5. ~~LICENSE SCOPES~~ REPEALED

R4-34-501. Manufacturers Repealed

Class Scope

~~M-9A Manufacturer of factory-built buildings:~~

~~Manufacture factory-built buildings; install sub-assemblies; and reconstruct factory-built buildings.~~

~~M-9B Manufacturer of subassemblies:~~

~~Manufacture and reconstruct subassemblies.~~

~~M-9C Manufacturer of manufactured homes:~~

~~Manufacture and reconstruct manufactured homes.~~

~~M-9D Manufacturer of recreational vehicles:~~

~~Manufacture and reconstruct recreational vehicles; convert vehicles to recreational vehicles by installing plumbing, electrical, or gas systems.~~

~~M-9E Master manufacturer:~~

~~Accomplish work as described in license scopes M-9A, B, C, D, and F.~~

~~M-9F Reconstruction manufacturer:~~

~~Reconstruct factory-built buildings, manufactured or mobile homes, and recreational vehicles.~~

R4-34-502. Dealers Repealed

Class Scope

~~D-8 Master dealer of manufactured or mobile homes:~~

~~Buy, sell to a purchaser, or exchange new or used manufactured or mobile homes, and accessory structures and materials thereof. Negotiate or act as an agent for the sale or exchange of new or used manufactured or mobile homes, accessory structures or materials thereof. Make alterations to manufactured or mobile homes prior to a sale to a purchaser. Contract with licensed installers for installation of a manufactured or mobile home. Contract with licensed accessory structure installer or appropriate licensed contractors for installation of accessory structures to manufactured or mobile homes.~~

~~D-8A Dealer of manufactured or mobile homes:~~

~~Buy, sell to a purchaser, or exchange new or used manufactured or mobile homes. Negotiate or act as an agent for the sale or exchange of a new or used manufactured or mobile home. Contract with licensed installers or appropriately licensed contractors for installation of a manufactured or mobile home.~~

~~D-8B Broker of manufactured or mobile homes:~~

~~On behalf of another for compensation, buys, sells, exchanges, offers, or attempts to negotiate or acts as an agent for the sale or exchange of a used manufactured or mobile home. Contract with licensed installers or appropriately licensed contractors for the installation of the manufactured or mobile home or accessory structure.~~

~~D-9 Dealer of park trailer or portable truck camper with systems:~~

~~Buy, sell, exchange, negotiate, or act as an agent for the sale or exchange of a new or used park trailer or portable truck camper with systems. Make alterations prior to a sale.~~

~~D-10 Dealer of factory-built buildings:~~

~~Buy, sell or exchange new or used factory-built buildings to a purchaser; negotiate or act as an agent for the sale or exchange of a new or used factory-built building. Make alterations to factory-built buildings prior to a sale to a purchaser. Contract with appropriate licensed installer or contractor for the installation of a factory-built building.~~

~~D-11 Dealer of subassemblies:~~

~~Buy, sell or exchange new or used subassemblies to a purchaser; negotiate or act as an agent for the sale or exchange of a new or used subassembly. Make alterations to subassemblies prior to a sale to a purchaser. Contract with appropriate licensed contractors for the installation of a subassembly.~~

~~D-12 Combination dealer:~~

~~Buy, sell to a purchaser, or exchange new or used manufactured or mobile homes, park trailers or portable truck campers with systems, factory-built buildings, sub-assemblies or accessory structures or materials thereof. Negotiate or act as an agent for the sale or exchange of any new or used unit listed above. Make alterations to any of the units listed above prior to a sale to a purchaser. Contract with appropriately licensed installers or contractors for installation of a manufactured home, mobile home, or single family factory-built building. Contract with appropriately licensed installers or contractors for installation of accessory structures to manufactured homes and mobile homes, or single family factory-built building.~~

R4-34-503. Installers Repealed

Class Scope

~~I-10A Installer of manufactured or mobile homes:~~

~~Setup of manufactured or mobile homes on piers and footings.~~

~~I-10B Installer of ground anchors:~~

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- ~~Install ground anchors and tie down manufactured or mobile homes.~~
- I-10C ~~General installer of manufactured homes, mobile homes, or single family factory-built buildings:
Set up manufactured homes, mobile homes, or single family factory-built buildings on foundation systems. Install ground anchors and tie down manufactured or mobile homes. Connect water, sanitary waste, gas, and electrical systems of all amperages to the proper on-site utility terminals provided by others. Replace, repair, or perform alternations to utility connections. Install, repair, and service evaporative coolers on existing cooler systems installed in manufactured or mobile homes. Install roof jack to existing cooler systems and connect electricity and water to existing systems. Accomplish work as indicated under manufacturer's warranty for the unit.~~
- I-10D ~~Installer of awnings, skirting, retaining walls, patios, screened-in porches, carports, garages, and storage rooms:
Install prefabricated units or construct units, including the repair and alteration of accessory structures, attached to manufactured homes, or mobile homes, or single family factory-built buildings such as: awnings, skirting, retaining walls, patios, screened-in porches, carports, and garages including welding, job-site fabrications, placing of concrete footings or slabs, and all rough or finished general carpentry work, and other related hardware and accessories. Contract with appropriately licensed contractor for the installation, repair, and alteration of plumbing, electrical, and mechanical equipment, and subcontract all or any part of the work within this scope.~~
- I-10E ~~Installer of evaporative coolers and cooler systems:
Install, repair, and service evaporative coolers and cooler systems on manufactured homes, and mobile homes or single family factory-built buildings. Install roof jack to cooler ducts. Install duct work of acceptable materials. Provide electrical service to cooler from nearest supply source. Provide water to the cooler from the nearest fresh water source. Install electrical controls as required.~~
- I-10F ~~Installer of refrigeration:
a. Installation, alteration, and repair of comfort air conditioning systems for manufactured homes, and mobile homes or single family factory-built building units, including: evaporative cooling units; package refrigeration air conditioning units; reverse cycle heat pumps, both split and self-contained systems.
b. Install "A-coil" in furnace, if listed or certified by manufacturer for manufactured homes and mobile homes or single family factory-built buildings use and adaptable to the furnace in use. Install, alter, and repair ventilation systems for manufactured homes and mobile homes or single family factory-built buildings. These systems include the following areas of work and related equipment: duct work of any acceptable material; air filtering devices; water treatment devices; electric controls and control piping; thermal and acoustical insulation; vibration isolation materials and devices; liquid fuel piping and tanks; and water and gas piping from service connection to equipment it serves. Testing and balancing of refrigerant, cooling and heating circuits, and air handling systems.~~
- I-10G ~~Master installer of manufactured homes, mobile homes, or single family factory-built buildings:
Accomplish work as described in license scopes I-10C, D, E, F, and H. Within this scope, subcontract all or any part of the items listed on the original sales or installation contract.~~
- I-10H ~~Warranty Repair Installer:
Accomplish work as indicated under manufacturer's warranty for the unit.~~

ARTICLE 6. FEES REPEALED

R4-34-601. License fee and bond amount Repealed

- ~~**A.** The fee schedule for licenses shall be established and approved by the Board prior to May 15 for each forthcoming fiscal year.~~
- ~~**B.** The Assistant Director of OA shall notify all licensees of the established fee schedule prior to June 1 of each year.~~
- ~~**C.** The license bond amounts required per license classification shall be as follows:~~

License	Bond Amount
M-9A	\$10,000.00
M-9B	5,000.00
M-9C	65,000.00
M-9D	5,000.00
M-9E	100,000.00
M-9F	5,000.00
D-8	15,000.00
D-8A	15,000.00
D-8B	15,000.00
D-9	15,000.00
D-10	15,000.00
D-11	2,500.00
D-12	15,000.00

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I-10A	1,000.00
I-10B	1,000.00
I-10C	2,500.00
I-10D	1,000.00
I-10E	1,500.00
I-10F	1,500.00
I-10G	5,000.00

R4-34-602. Fees Repealed

- ~~A. Fees shall be established and approved by the Board, in an announced meeting, prior to May 15 of the forthcoming fiscal year.~~
- ~~B. The Assistant Director of OA shall notify all licensees, by mail, of the established fee schedule prior to June 1st of each year.~~

R4-34-603. Inspection and technical service fees Repealed

~~The fee schedule for inspections and technical service shall be established and licensees shall be notified as outlined in R4-34-602(A) and (B).~~

R4-34-604. Reimbursement of travel cost Repealed

- ~~A. In-state travel cost shall be paid at the per diem subsistence allowance provided by A.R.S. § 38-624. The automobile travel shall be based upon the distance traveled between the state enforcement office and the location of inspection at the rate established pursuant to A.R.S. § 38-623.~~
- ~~B. Out-of-state travel shall be paid based on published air fares, or equivalent rates, between state enforcement office, Phoenix, Arizona, and the point of inspection, plus necessary supplemental surface transportation and the prevailing per diem subsistence rate as provided by A.R.S. § 38-624. If more than one inspection location is involved, the transportation and per diem cost shall be prorated.~~

R4-34-605. Plan and supplement approval fees Repealed

- ~~A. Definitions for the purpose of this Article are as follows:
 - 1. "Plan" means those documents set out in R4-34-301(A)(4).
 - 2. "Supplement" means a submittal of not more than two sheets which may indicate floor plan dimensional sizes, minor changes which do not change more than 25 percent of a system or configuration, and which shall be incorporated as part of the originally approved plan.~~
- ~~B. The administrative fee for submittal of plans and supplements for review and approval shall be in accordance with R4-34-602(A) and (B).~~
- ~~C. The administrative fee shall be paid at the time of submitting plans and supplements for approval.~~
- ~~D. The Engineering Section shall document all time utilized for review of each submittal and shall charge a fee in accordance with R4-34-602(A) and (B), and no charge shall be less than one hour per submittal.~~
- ~~E. The licensee shall be billed for time utilized for the review and the licensee shall pay such bill within 30 days after review and prior to approval.~~
- ~~F. If a plan or supplement submitted is not acceptable and the licensee fails to supply a complete and correct submittal within 60 days after notification by letter, the submittal fee originally paid by the licensee upon filing shall be forfeited and the submittal returned. Resubmissions shall be accompanied by a new submittal fee.~~
- ~~G. Each plan approval shall be continuously updated to remain current with changes to standards and codes adopted by the Board. This may be accomplished by a supplementary submittal. Plans affected by more than 50 supplement charges shall be resubmitted.~~

R4-34-606. Installation permits and insignia fees Repealed

~~The fee schedule for permits and insignias for the installation of manufactured and mobile homes and accessory structures shall be as follows:~~

- ~~1. The fees charged by the OA shall be in accordance with R4-34-602(A) and (B).~~
- ~~2. The permit fee charged by local enforcement agencies participating in the Installation Inspection Program shall not exceed the amount established by the Board for the same service.~~

R4-34-607. HUD monitoring inspection fees Repealed

~~Each manufactured home manufacturer shall pay a fee as established by the U.S. Department of Housing and Urban Development for each unit manufactured in this state. This fee shall be made payable to the Secretary for purchase of HUD labels. This fee is in addition to the inspection fee required by R4-34-603.~~

R4-34-608. HUD label administrative fees Repealed

~~In addition to the fees required under R4-34-607, each manufactured home manufacturer shall pay to the OA a fee of \$5.00 for each label issued in this state.~~

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R4-34-609. Administrative function fees Repealed

An administrative function fee in accordance with R4-34-602(A) and (B) shall be charged for each of the following:

1. Changing name of license.
2. Changing name of license location.
3. Adding branch location.
4. Deleting branch location.
5. Reinstatement of bond.
6. Changing licensee's telephone number.
7. Processing returned checks.
8. Inactive status.

R4-34-610. Mobile home rehabilitation permit, insignia of approval, inspection fee, and waiver fee Repealed

A. The following fees, established in accordance with R4-34-602(A) and (B), shall be paid for mobile home rehabilitation for purposes of R4-34-107:

1. Permit fee.
2. Insignia fee.
3. Waiver fee.
4. Inspection fee.

B. The permit fee includes the cost of the first two inspections. The fee for each subsequent inspection shall be as established in accordance with R4-34-602(A) and (B) plus mileage at the rates established for state employee travel.

C. The waiver fee is applicable if the category of the unit can be determined to qualify for exemption. If an inspection of the unit is necessary to determine its category, the inspection fee shall be as established in accordance with R4-34-602(A) and (B) plus mileage at the rates established for state employee travel.

ARTICLE 7. LICENSING REPEALED

R4-34-701. General Repealed

A. Corporation. Corporate applicants shall submit a copy of the Articles of Incorporation, with all amendments as filed with the Arizona Corporation Commission, or, if a foreign corporation, its Application for Authority to Transact Business.

B. Change of address. Licensees shall report changes of business address to the Assistant Director of OA within five days.

C. Conditional license. An applicant may request on a form provided by OA a conditional license pending completion of a criminal background analysis.

1. The OA shall not issue a license, except under a conditional basis, until the applicant for the license has been investigated and the OA has received and reviewed the criminal background analysis.
2. Upon receipt and satisfactory review of the applicant's criminal background analysis by the Assistant Director of OA, and upon notification to the applicant, the previously issued conditional license shall automatically be effective as a permanent license to transact business within the scope of the license.

R4-34-702. Manufacturers Repealed

A. Quality assurance manual compliance. Each manufacturer will follow the procedures described in the approved quality control manual during the manufacturing of each unit or subassembly.

B. Complaint service:

1. For the purpose of A.R.S. §§ 41-2153(C) and 41-2181(A), "respond" means: furnish the OMH or OA with a written explanation detailing the reason(s) the complaint may not be justified or a sign-off form from the complainant that the verified complaint has been satisfied.
2. Each manufactured home manufacturer shall also comply with Subpart I of the U. S. Department of Housing and Urban Development Manufactured Home Procedural and Enforcement regulations.

C. Certification of compliance of units and subassemblies

1. Manufactured home certification shall be pursuant to the Act.
2. Each manufacturer of factory-built buildings, sub-assemblies, recreational vehicles, and reconstruction manufacturers shall certify compliance with approved plans by affixing an Arizona Insignia of Approval to each unit or subassembly prior to delivery to a dealer. Such insignia shall be affixed on the exterior visible surface as shown in the plan approval drawings.
3. Units that have been reconstructed as defined in R4-34-106, shall have an Arizona Insignia of Approval affixed by the manufacturer. Such insignia shall be affixed on the exterior surface as shown in the plan approval drawings.

D. Reporting of certification of compliance

1. Each manufactured home manufacturer will report affixment of HUD labels, complete any other required reports and establish and maintain records pursuant to the Act.
2. Each manufacturer of factory-built buildings, sub-assemblies, and recreational vehicles will report affixment of Arizona Insignias of Approval and shipment of units and subassemblies, pursuant to administrative publications to all licensees.

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- 3. Each manufacturer, who reconstructs any unit, will report affixment of Arizona Insignias of Approval and shipment of units, pursuant to administrative publications.
- E.** Each out of state manufacturer of manufactured homes shall submit to the OA a list of the names and addresses of all Arizona distributors and dealers authorized to receive its product line. Such list shall be kept current by notifying the OA of any additions prior to shipment and any deletion within 15 days.

R4-34-703. ~~Dealers and brokers Repealed~~

- A.** ~~Alterations by dealers. Prior to the start of any alteration, the licensee shall obtain plan approval for such alteration, pursuant to R4-34-304.~~
- B.** ~~Certification of compliance of units and subassemblies~~
 - 1. ~~Each dealer shall ensure that each new unit or subassembly bears the appropriate HUD label, or Arizona Insignia of Approval, prior to offering the unit for sale.~~
 - 2. ~~For the purpose of these rules, "new" means: a unit or subassembly NOT previously sold to a "purchaser".~~
- C.** ~~Noneconformances~~
 - 1. ~~"Noneconformance" means: any noneconformance listed under "description of violation" in an inspection report signed by a representative of the OMH and delivered to a licensee or employee thereof, whether or not such dealer concurs with the report.~~
 - 2. ~~Prior to a sale each dealer shall:~~
 - a. ~~Correct, or ensure that the manufacturer corrects, all known or alleged noneconformances; or,~~
 - b. ~~Make written request to the OMH for a review of any alleged noneconformance.~~
 - 3. ~~A notice of nonconformance shall be removed only by OMH personnel or upon written authorization from the Assistant Director of OMH.~~
- D.** ~~Complaint service:~~
 - 1. ~~For the purpose of A.R.S. §§ 41-2153(C) and 41-2181(A), "respond" means: furnish the OMH or OA with a written explanation detailing the reason(s) the complaint may not be justified or a sign-off from the complainant that the verified complaint has been satisfied.~~
 - 2. ~~Each manufactured home dealer shall also comply with Subpart I of the U. S. Department of Housing and Urban Development Mobile Home Procedural and Enforcement regulations.~~
- E.** ~~Each dealer who displays for sale, offers for sale, or sells a new recreational vehicle which has been manufactured in two or more stages shall inform the buyer that the recreational vehicle has been so manufactured and shall provide the purchaser with a form, approved by the OA, which sets forth the date of chassis and engine manufacture and the date and model year of the other stages of the vehicle as furnished to the dealer at the time he receives the manufacturer's statement of origin. The licensee shall retain for one year after date of sale a copy of the form, which shall be signed by the purchaser prior to entering into any sales contract, indicating that the purchaser has received a copy of the form.~~

R4-34-704. ~~Installers Repealed~~

- A.** ~~Plan approval. The installer shall obtain ground anchoring approval pursuant to R4-34-306 prior to anchoring any manufactured home, mobile home, or single family factory built building.~~
- B.** ~~Reports. Each installer shall make a monthly report regarding affixment of Insignias of Approval pursuant to administrative procedure established and published by the Assistant Director of OA.~~
- C.** ~~Insignia of approval. An Insignia of Approval shall be affixed to each manufactured home, mobile home, or single family factory built building on the exterior wall nearest the point of entrance of the electrical service.~~
- D.** ~~Complaint service. For the purpose of A.R.S. §§ 41-2153(C) and 41-2181(A), "respond" means: furnish the OMH or OA with a written explanation detailing the reason(s) the complaint may not be justified or a sign-off from the complainant that the verified complaint has been satisfied.~~
- E.** ~~Utility service facilities:~~
 - 1. ~~If the manufactured home, mobile home, or single family factory built building is to be installed in a mobile home park, the installer shall ascertain the compatibility between the existing utility service facilities and the utility connections of the manufactured or mobile home before entering into the installation agreement.~~
 - 2. ~~Unless properly licensed to perform the necessary work, an installer shall not enter into an agreement to connect a manufactured home, mobile home, or single family factory built building to utility service facilities which are not compatible with the manufactured home, mobile home, or single family factory built building.~~
- F.** ~~The licensee who contracts to install a unit subject to this Article shall, prior to beginning the installation of such home, verify that a valid installation permit has been obtained from the OA for all phases of the installation.~~

ARTICLE 8. ~~BOND REQUIREMENTS REPEALED~~

R4-34-801. ~~Surety bond forms Repealed~~

~~Manufacturers, dealers, and brokers, except dealers and brokers of manufactured homes, mobile homes, or single family factory built buildings, and installers shall submit a surety bond on a form provided by the OA.~~

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R4-34-802. ~~Cash deposit provisions Repealed~~

- A.** Any applicant, except those exempt under R4-34-801, for a license or any applicant for the renewal of an existing license who desires to post cash in lieu of a commercial surety bond in order to meet the requirements for a license shall deposit with the Assistant Director of the OA any one of the following:
1. Cash;
 2. Certified check payable to the State Treasurer;
 3. Cashier's check payable to the State Treasurer;
 4. Bank money order payable to the State Treasurer;
 5. Postal money order payable to the State Treasurer.
- B.** A personal check is not acceptable.
- C.** Upon receipt of the deposit, the Assistant Director of OA shall cause to be issued a receipt to the applicant as evidence of cash deposit.
- D.** The Assistant Director of OA shall then cause to be prepared in quadruplicate the cash deposit form which shall be forwarded to the State Treasurer with the deposit. After the cash deposit forms are approved and dated by the State Treasurer, the distribution of the forms is as follows:
1. Copy A—the State Treasurer for his files.
 2. Copies B and C—the Assistant Director of the OA.
 3. Copy D—the Accounts and Controls Section, Division of Finance, Department of Administration.
- E.** Upon receipt by the Assistant Director of OA, he shall attach copy B to the depositor's application for license to become an official part thereof and shall mail copy C to the licensee at the address shown in the files.
- F.** Upon the receipt by the Assistant Director of OA of an order from any court for the payment of funds under deposit, the Assistant Director shall authorize the State Treasurer to make payment as provided by said court order. Upon receipt of notice of payment, the Assistant Director shall notify the licensee at the latest address on file with the OA of such payment, and, if applicable, notice that such license was suspended by operation of law at the time of such payment and shall remain so suspended until such time as the licensee files additional cash returning the cash deposit to the required balance or, as an alternative, a commercial surety bond for the full amount as provided by law. Upon deposit by the licensee of the necessary cash or commercial surety bond, the suspended license shall be reinstated.
- G.** The cash deposit receipt form on file as hereinabove provided is not transferable and shall remain a permanent part of the license to which it is attached.
- H.** A cash deposit as hereby and above provided shall be made in the name of the applicant as it appears on the license application.
- I.** Withdrawal of cash deposit may be made under the following circumstances:
1. When for any reason after application is made the license is not issued.
 2. When license has been terminated for two years or more either by expiration, revocation or voluntary cancellation, if there are no outstanding or pending claims filed with the Office of the Attorney General against the deposit.
 3. When a commercial surety bond is posted as a replacement for the cash deposit, the liability against the cash deposit will be terminated two years after the filing of a commercial surety bond if there are no outstanding claims.
- J.** Request for withdrawal shall be made on forms provided by the Assistant Director of OA. The cash deposit withdrawal request forms shall be prepared in quadruplicate and presented to the Assistant Director. Upon approval, the Assistant Director shall forward the cash deposit withdrawal request to the State Treasurer. Distribution of the copies is as follows:
1. Copy A—the State Treasurer.
 2. Copies B and C—the Assistant Director of OA to become part of the license file.
 3. Copy D—the Accounts and Controls Section, Division of Finance, Department of Administration. The State Treasurer may prepare a warrant in the amount due and send it to the Assistant Director of OA who shall forward such warrant by certified mail to the licensee together with copy C of the withdrawal form.
- K.** A cash deposit may be withdrawn by the owner of a sole proprietorship, any partner of a partnership, or in the case of a corporation any person with written evidence of authority to withdraw the cash deposit, and in all other cases by any person who can establish legal right to said deposit.
- L.** A licensee who furnished a cash deposit in lieu of a surety bond upon applying for a license name change shall also execute the change on the cash deposit on a form provided by the OA.

ARTICLE 9. ADMINISTRATIVE PROCEDURES REPEALED

R4-34-901. ~~Rehearing Repealed~~

- A.** A petition for rehearing filed pursuant to A.R.S. § 41-2184 may be amended at any time before it is ruled upon by the Director. A response may be filed within ten days after service of such petition or amended petition by any other party or the Attorney General. The Director may require the filing of written briefs upon the issues raised in the petition and may provide for oral argument.

- ~~B.~~ The Director may affirm the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any of the reasons set forth in A.R.S. § 41-2184(D). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- ~~C.~~ When a petition for rehearing is based upon affidavits, they shall be served with the petition. An opposing party or the Attorney General may within ten days after such service serve opposing affidavits.

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

**CHAPTER 7. DEPARTMENT OF REVENUE
BINGO SECTION**

PREAMBLE

- 1. Sections Affected**

R15-7-501	Repeal
R15-7-607	Repeal
R15-7-609	Repeal
R15-7-610	Repeal
R15-7-613	Repeal
R15-7-614	Repeal
R15-7-615	Repeal
R15-7-616	Repeal
R15-7-618	Repeal
R15-7-619	Repeal
R15-7-620	Repeal
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 5-402 and 41-1092.02.

Implementing statutes: A.R.S. §§ 5-402 and 41-1092.02.
- 3. The effective date of the rules:**

December 9, 1999
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 2389, 7/23/99

Notice of Proposed Rulemaking: 5 A.A.R. 3206, 9/17/99
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jaimie Lee, Tax Analyst

Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, AZ 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

These rules deal with the administration of bingo hearings by the Department's Hearing Office. As a result of legislative changes, the Office of Administrative Hearings is now authorized to preside over bingo hearings. Therefore, the majority of these rules no longer fall within the Department's jurisdiction. In addition, the Department proposes to repeal R15-7-501 because the information is repetitive of statute.
- 7. Reference to any study that the agency relied on and its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable.

8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
9. **The summary of the economic, small business, and consumer impact:**
In accordance with A.R.S. § 41-1055(D)(3), the Department is not required to prepare an economic, small business, and consumer impact statement because the repeal of these rules decreases monitoring, record keeping or reporting burdens on agencies and licensees.
10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
None.
11. **A summary of the principal comments and the agency response to them:**
The Department did not receive any written or verbal comments on the rule action after the publication of the rule-making in the Notice of Proposed Rulemaking.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None.
13. **Incorporations by reference and their location in the rules:**
None.
14. **Was the rule previously adopted as an emergency rule?**
No.
15. **The full text of the rules follows:**

TITLE 15. REVENUE

CHAPTER 7. DEPARTMENT OF REVENUE
BINGO SECTION

ARTICLE 5. SUSPENSION; REVOCATION; APPEALS

Section

R15-7-501. ~~Suspension or revocation of license~~ Repealed

ARTICLE 6. HEARING AND APPEAL PROCEDURES

Section

- R15-7-607. ~~Memoranda~~ Repealed
- R15-7-609. ~~Rescheduling of hearing~~ Repealed
- R15-7-610. ~~Hearing before Hearing Officer~~ Repealed
- R15-7-613. ~~Stipulation of facts~~ Repealed
- R15-7-614. ~~Evidence~~ Repealed
- R15-7-615. ~~Official notice~~ Repealed
- R15-7-616. ~~Subpoena; deposition~~ Repealed
- R15-7-618. ~~Hearing procedures~~ Repealed
- R15-7-619. ~~Transcripts and records~~ Repealed
- R15-7-620. ~~Decisions and orders~~ Repealed

ARTICLE 5. SUSPENSION; REVOCATION; APPEALS

~~R15-7-501. Suspension or revocation of license~~ Repealed

The Department may suspend or revoke a bingo license for any violation of Title 5, Chapter 4, Arizona Revised Statutes, or any violation of the rules in this chapter.

ARTICLE 6. HEARING AND APPEAL PROCEDURES

~~R15-7-607. Memoranda~~ Repealed

- ~~A. Unless a license has been summarily suspended under A.R.S. § 5-402(1), a licensee may file memoranda in duplicate no less than ten days before hearing. The Hearing Officer shall immediately transmit a copy of any memoranda filed to the licensing authority which shall then have five days from its date of receipt by the licensing authority to file a response.~~
- ~~B. A memorandum filed by mail shall be considered filed on the date shown on its postmark.~~

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~~C. The Hearing Officer shall permit memoranda to be filed at any time prior to hearing when a license has been summarily suspended.~~

R15-7-609. Rescheduling of hearing Repealed

The hearing may be postponed or recessed for good cause shown, at the Hearing Officer's discretion, upon the written or oral request of the licensee or the licensing authority. Hearings shall be continued to a specified date, time and place.

R15-7-610. Hearing before Hearing Officer Repealed

The Hearing Officer designated by the Director of the Department shall preside at the hearing.

R15-7-613. Stipulation of facts Repealed

The licensee and the licensing authority may file a joint stipulation stating the facts upon which they agree, the facts which are in dispute and the reasons for the dispute. The Hearing Officer may require the parties to file such a stipulation. The stipulation may be filed at any time prior to the date of hearing unless otherwise ordered by the Hearing Officer.

R15-7-614. Evidence Repealed

~~A. Oral evidence shall be taken only on oath or affirmation.~~

~~B. Each party may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, impeach any witness regardless of which party first called the witness to testify, and rebut the evidence against it. A party or its employees, agents or officers may be called by the opposing party and examined as if under cross-examination. The Hearing Officer may examine a party or any person who is present.~~

~~C. The Hearing Officer shall be liberal in admitting evidence, but objections to the admission of and comments on the weakness of evidence shall be considered in assigning weight to the evidence. The Hearing Officer may deny admission of evidence which is considered irrelevant, untrustworthy or unduly repetitious.~~

~~D. Legible copies may, upon a showing of proper foundation, be admitted into evidence or substituted in place of the original documents.~~

~~E. The original records and files of the Department shall not be removed from its office for use as evidence or for other purposes.~~

R15-7-615. Official notice Repealed

~~A. The Hearing Officer may take official notice of the following as an admission of fact in the case:~~

- ~~1. The records maintained by the Department.~~
- ~~2. Applications, reports, and returns of whatever nature, filed with the Department for or on behalf of the licensee or any auxiliary, or for or on behalf of any lessor, lessee, grantor, grantee, or similar contractor of the licensee.~~
- ~~3. Any fact which may be judicially noticed by the courts of the state.~~

~~B. The parties may, at the hearing, contest any matters thus noticed.~~

R15-7-616. Subpoena; deposition Repealed

~~A. The Hearing Officer may, upon request or on the Hearing Officer's own initiative, cause to be issued subpoenas for the attendance of witnesses or for the production of books, records, documents and other evidence, and shall have the power to administer oaths. A subpoena requested by a party shall be served on behalf of and at the expense of the party requesting its issuance.~~

~~B. Any subpoena so issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.~~

~~C. Upon written application the Hearing Officer may permit a deposition to be taken, in the manner and upon the terms designated by the Hearing Officer, of a witness who cannot be subpoenaed or who is unable to attend the hearing.~~

R15-7-618. Hearing procedures Repealed

~~A. The burden of proof shall be upon the licensee as to all issues of fact except in any proceeding for suspension or revocation of a license.~~

~~B. Each party to the proceeding shall have the right to be represented by counsel, to submit evidence at the hearing and to cross-examine witnesses.~~

~~C. The Hearing Officer may conduct the hearing in an informal manner.~~

~~D. If the Hearing Officer desires the submission of posthearing memoranda or information, the Hearing Officer shall direct the parties to comply within a reasonable period of time not to exceed 30 days.~~

R15-7-619. Transcripts and records Repealed

~~A. All oral proceedings will be transcribed by a recording device and the recorded tapes will be maintained in the office of the Department. A copy of the tapes will be furnished at no cost to a party requesting the tapes.~~

~~B. A request that the hearing be transcribed manually shall be made in writing to the Hearing Office at least five days in advance of the hearing. Such transcript shall be prepared at the expense of the requesting party unless otherwise provided by law.~~

- ~~C.~~ Certified copies of records which the licensing authority is permitted by law to divulge shall be furnished to licensees upon written request. When certified copies of paper or records are requested, a reasonable charge shall be made.

R15-7-620. Decisions and orders Repealed

- ~~A.~~ If the licensing authority and the licensee agree as to the resolution of a matter prior to the hearing, it shall be so stipulated in writing and submitted to the Hearing Officer; the petition shall be deemed withdrawn and the proposed action shall be adjusted accordingly. In that case, the Director of the Department shall issue an order of resolution and copies of the order shall be forwarded to the licensee and the licensing authority.
- ~~B.~~ The Hearing Officer shall issue a proposed decision or order after reviewing the evidence.
- ~~C.~~ All proposed decisions and orders of the Hearing Officer shall be in writing and shall include findings of fact and conclusions of law separately stated.
- ~~D.~~ Notice of the proposed decisions or proposed order of the Hearing Officer shall be mailed to the licensee, return receipt requested. A copy of the proposed decision or proposed order shall be immediately forwarded to the licensing authority.