

# 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 or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

## NOTICE OF FINAL RULEMAKING

### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

##### PREAMBLE

**1. Sections Affected**

R4-22-103  
R4-22-105  
R4-22-106  
R4-22-110  
R4-22-111  
R2-22-112  
R4-22-113  
R4-22-114

**Rulemaking Action**

Amend  
Repeal  
Amend  
Amend  
Amend  
Amend  
Repeal  
Repeal

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

Authorizing statutes: A.R.S. §§ 32-1803 (A)(10) and (C) (1) and 41-1003  
Implementing statutes: A.R.S. §§ 32-1829, 32-1853.01, and 32-1859

**3. Effective date of the rules:**

August 7, 2004

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

Notice of Rulemaking Docket Opening: 8 A.A.R. 1551, March 29, 2002  
Notice of Proposed Rulemaking: 9 A.A.R. 1234, April 18, 2003  
Notice of Proposed Rulemaking: 9 A.A.R. 5510, December 26, 2003  
Notice of Rulemaking Docket Opening: 9 A.A.R. 5602, December 26, 2003

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

Name: Elaine LeTarte, Executive Director  
Address: Board of Osteopathic Examiners in Medicine and Surgery  
9535 E. Doubletree Ranch Road  
Scottsdale, AZ 85258-5539  
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E-mail: Executive.Director@azosteoboard.org

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

The proposed amendment to R4-22-103 corrects a statutory subsection citation that became inaccurate as a result of a recent statutory amendment. The proposed repeal of R4-22-105, applying to the issuance of temporary licenses, is consistent with the repeal of legislation that had authorized the Board to issue temporary licenses. The proposed amendment to R4-22-106, consistent with the provisions of A.R.S. § 41-1092.09, expands the time within which an aggrieved or interested party may request rehearing or review of a Board decision and the time within which the Board may determine on its own motion that rehearing is appropriate. The proposed amendments to R4-22-110 through R4-22-114 conform the Board's existing requirements and standards for medical assistants to nationally recognized standards and to the standards contained in the AZ Medical Board's rules. This final rulemaking combines proposed rules on medical assistant training that were opened under two dockets. All other proposed amendments not

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specifically described in this summary are to improve clarity, conciseness, and ease of understanding and do not change the substance of existing 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, and 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:**

The proposed amendments of the rules will have minor economic impact on osteopathic physicians and medical assistants regulated under 4 A.A.C. 22, and therefore on the public. The primary costs of these proposed rules will be borne by the Secretary of State for publication of the rules and by the Board in making them.

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

The rules originally proposed on March 29, 2002 and April 18, 2003 were changed by the addition of the rules originally proposed on December 26, 2003. The direction of those changes was to align the agency's rules for the training of medical assistants more closely with national standards, and the state standards contained in the rules of the Arizona Medical Board. R4-22-112 (B) was changed to delete a category of current medical assistants that was determined not to exist.

**11. A summary of comments made regarding the rule and the agency response to them:**

The agency received comment only about the rules pertaining to the training of medical assistants. The comment indicated that the first set of proposed rules did not align the agency's rules with the national standards or the AZ Medical Board rules. The agency responded to the comment by proposing additional rules that contained the language needed to align the rules.

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

None

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

The "Standards and Guidelines for Medical Assisting Educational Programs, revised 2003, Section III (C)(3)(a through c)," issued by the Commission on Accreditation of Allied Health Education Programs, has been incorporated by reference into proposed Rule R4-22-111. Copies of the Standards and Guidelines are on file with the Board, and may also be obtained from the Commission on Accreditation of Allied Health Education Programs, at [www.caa-hep.org](http://www.caa-hep.org).

**14. Was this rule previously made as an emergency rule?**

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

**ARTICLE 1. GENERAL PROVISIONS**

Sections:

- R4-22-103. ~~Accredited internships and residencies~~ Approved Internships and Residencies
- R4-22-105. ~~Temporary licenses~~ Repealed
- R4-22-106. ~~Rehearing or review of decision~~ Review of Decision
- R4-22-110. Approval of Educational Programs for Medical Assistants
- R4-22-111. Medical Assistants – Authorized Procedures
- R4-22-112. ~~Qualifications of Medical Assistants~~ Medical Assistant Training Requirement
- R4-22-113. ~~Regulation of Medical Assistants~~ Repealed
- R4-22-114. ~~Physician Responsibility for Medical Assistants~~ Repealed

**ARTICLE 1. GENERAL PROVISIONS**

**R4-22-103. ~~Accredited internships and residencies~~ Approved Internships and Residencies**

For purposes of ~~A.R.S. §32-1822(3)(c)~~, A.R.S. § 32-1822, the equivalent of an ~~accredited~~ approved internship or approved residency is any of the following:

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1. One or more years of a fellowship training program approved by the AOA American Osteopathic Association (AOA) or AMA the Accreditation Council on Graduate Medical Education (ACGME);
2. A current certification by the AOA in an osteopathic medical specialty; ~~or~~
3. For those who were awarded a Doctor of Osteopathy degree in 1946 or earlier, a minimum of ~~ten~~ 10 years of continuous active practice of osteopathic medicine and surgery immediately ~~prior to application~~ before applying for licensure.

**R4-22-105. ~~Temporary licenses~~ Repealed**

- ~~A.~~ Issuance: A temporary license shall be issued by the Secretary-Treasurer with the approval of the Board, provided the applicant meets the requirements for licensure under the terms and conditions as set forth in A.R.S. §32-1823.01. Temporary licenses will be numbered consecutively beginning with 100 and bearing the suffix "T", e.g. License No. 100-T.
- ~~B.~~ Letter of temporary licensure: The Board shall issue a "Letter of Temporary Licensure" to the applicant bearing:
1. The date of issue;
  2. The date of expiration;
  3. The signatures of the President or Vice President and the Secretary-Treasurer, and
  4. The seal of the Board.
- ~~C.~~ Local emergency: A "local emergency" shall be deemed to exist wherever so declared by the Director of the Department of Health Services.
- ~~D.~~ Inadequate availability of medical care: A lack of availability of adequate medical care in an Arizona community is deemed to exist if there is a critical shortage of physicians at tax-supported institutions or in any locale where there is no coverage or inadequate coverage by osteopathic physicians and surgeons.
- ~~E.~~ The fee for the initial six month term of a temporary license is \$100.00. The fee for the renewal term of a temporary license is \$100.00.

**R4-22-106. ~~Rehearing or review of decision~~ Review of Decision**

- ~~A.~~ Except as provided in subsection (G), any party in a contested case before the Arizona Board of Osteopathic Examiners in Medicine and Surgery who is aggrieved by a decision rendered in such case may file with the Arizona Board of Osteopathic Examiners in Medicine and Surgery, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds thereof. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.
- ~~B.~~ A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Arizona Board of Osteopathic Examiners in Medicine and Surgery. A response may be filed within days after service of such motion or amended motion by any other party. The Arizona Board of Osteopathic Examiners in Medicine and Surgery may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- ~~C.~~ A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the agency or its hearing office or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
  2. Misconduct of the Arizona Board of Osteopathic Examiners in Medicine and Surgery or its hearing officer or the prevailing party;
  3. Accident or surprise which could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
  7. That the decision is not justified by the evidence or is contrary to law.
- ~~D.~~ The Arizona Board of Osteopathic Examiners in Medicine and Surgery may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C) 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.
- ~~E.~~ Not later than 20 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in a motion. In either case the order granting such a rehearing shall specify the grounds thereof.
- ~~F.~~ When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Arizona Board of Osteopathic Examiners in Medicine and Surgery for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- ~~G.~~ If in a particular decision the Arizona Board of Osteopathic Examiners in Medicine and Surgery makes specific findings

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that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for a rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Arizona Board of Osteopathic Examiners in Medicine and Surgery's final decision.

- ~~H.~~ For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. §41-1001.
- ~~I.~~ To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Arizona Board of Osteopathic Examiners in Medicine and Surgery such statutory provisions shall govern.
- A. The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and rules established by the Office of Administrative Hearings.
- B. A party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  1. Irregularity in the proceedings of the Board, or any order or abuse of discretion, that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, its staff, an administrative law judge, or the prevailing party;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  5. Excessive penalty;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;
  7. That the Board's decision is a result of passion or prejudice; or
  8. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order.
- F. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days, for good cause as described in subsection (I).
- G. Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Board may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.
- H. If a rehearing is granted, the Board shall hold the rehearing within 60 days after the issue date on the order granting the rehearing.
- I. The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or other action could not have been known in time, using reasonable diligence, and:
  1. A ruling on the motion will further administrative convenience, expedition, or economy; or
  2. A ruling on the motion will avoid undue prejudice to any party.

**R4-22-110. Approval of Educational Programs for Medical Assistants**

- A. The Board shall approve an educational program for medical assistants when it has received all of the information specified in paragraph (B)(1) or (2), as applicable, concerning the program and the Board determines that the educational program provides at a minimum the following training: For purposes of this Section, a Board-approved medical assistant training program is a program:
  1. Accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP);
  2. Accredited by the Accrediting Bureau of Health Education Schools (ABHES);
  3. Accredited by any accrediting agency recognized by the United States Department of Education; or
  4. Designed and offered by a licensed osteopathic physician, meets or exceeds the standards of one of the accrediting programs listed in subsections (A)(1) through (A)(3), and verifies that those who complete the program have the entry level competencies referenced in R4-22-111.
    1. Cardiopulmonary resuscitation—6 hours;
    2. Patient assessment techniques, including blood pressure, temperature, height, weight, administering EKG tests and administering pulmonary function tests—20 hours;
    3. Injections and sterile techniques, including blood drawing and specimen collection, administering injections, and applying and changing dressings on wounds and injuries—20 hours;
    4. Physical medicine modalities, including administering whirlpool treatments, diathermy treatments, electronic galva-

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- tion stimulation treatments, ultrasound therapy, massage therapy, traction treatments, and applying Transcutaneous Nerve Stimulation units and hot and cold packs—20 hours;
5. Medical ethics and confidentiality requirements—16 hours.
- B.** ~~A provider of an educational program seeking approval of a training program for medical assistants, seeking approval of its program, shall submit the following items verification to the Board that the program meets the requirements in subsection (A):~~
1. ~~Copies of all course materials;~~
  2. ~~Class content outlines on a session by session basis;~~
  3. ~~Sample examinations for each course; and~~
  4. ~~A list of all instructors and their qualifications.~~
- C.** ~~An individual seeking approval of an educational program for medical assistants completed by that individual after December 31, 1985, shall submit the following items to the Board regarding the educational program:~~
1. ~~Name and address of each educational program provider;~~
  2. ~~The individual's transcript, or a list of the courses taken, and a description of the content of each course;~~
  3. ~~Documentation of completion of the educational program after December 31, 1985; and~~
  4. ~~Any other information which the Board may require in order to determine that the educational program meets the requirement of subsection (A) and that the applicant has completed the educational program.~~
- D.** ~~The Board shall not approve an educational program for an individual if the individual completed the program prior to January 1, 1986.~~
- E.** ~~Approval by the Board of an educational program for medical assistants shall remain valid so long as the program continues to satisfy the requirements of subsection (A).~~

**R4-22-111. Medical Assistants – Authorized Procedures**

~~Procedures authorized for medical assistants to engage in shall include the following: A medical assistant may, under the direct supervision of an osteopathic physician or a physician assistant, perform the medical procedures listed in the Commission on Accreditation of Allied Health Education Programs' "Standards and Guidelines for Medical Assisting Educational Programs, revised 2003, Section III (C) (3) (a through c)." This material is incorporated by reference, does not include any later revisions, amendments or editions, is on file with the Board, and may be obtained at [www.caahep.org](http://www.caahep.org). Additionally, a medical assistant working under the direct supervision of an osteopathic physician or physician assistant may:~~

1. ~~Cardiopulmonary resuscitation;~~
2. ~~Patient assessment techniques, including blood pressure, temperature, height, weight, administering EKG tests and administering pulmonary function tests;~~
3. ~~Injections and sterile techniques, including blood drawing and specimen collection, administering injections, and applying and changing dressings on wounds and injuries;~~
4. ~~Perform physical medicine modalities, including administering whirlpool treatments, diathermy treatments, electronic galvanic stimulation treatments, ultrasound therapy, massage therapy, and traction treatments; and~~
2. ~~Apply applying Transcutaneous Nerve Stimulation units and hot and cold packs; and~~
3. ~~Administer small volume nebulizers.~~

**R4-22-112. Qualifications of Medical Assistants Medical Assistant Training Requirement**

~~A medical assistant shall be 18 years of age or older and possess a high school degree or equivalent thereof.~~

- A.** ~~The supervising physician or physician assistant shall ensure that a medical assistant satisfies one of the following training requirements before the medical assistant is employed:~~
1. ~~Completes an approved medical assistant training program.~~
  2. ~~Completes an unapproved medical assistant training program and passes a medical assistant examination administered by either the American Association of Medical Assistants or the American Medical Technologists, or~~
  3. ~~Completes a medical services training program of the Armed Forces of the United States.~~
- B.** ~~This Section does not apply to a person who completed a medical assistant training program before the effective date of this Section and was employed continuously as a medical assistant since completing the program.~~

**R4-22-113. Regulation of Medical Assistants Repealed**

~~A medical assistant, when interacting with a patient or otherwise working as a medical assistant, shall wear a name tag which clearly identifies the medical assistant and state that the medical assistant is a medical assistant.~~

**R4-22-114. Physician Responsibility for Medical Assistants Repealed**

~~A physician employing a medical assistant shall insure that such medical assistant complies with all statutes and rules applicable to employment as a medical assistant. A physician who utilizes the services of a medical assistant to assist the physician in the practice of medicine shall supervise and be responsible for all actions or failures of the medical assistant relating to the physician's practice of medicine.~~

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

PREAMBLE

**1. Sections Affected**

**Rulemaking Action**

R4-30-101	Amend
R4-30-102	Amend
R4-30-103	Amend
R4-30-106	Amend
R4-30-107	Amend
R4-30-126	Amend
R4-30-201	Amend
R4-30-202	Amend
R4-30-202.01	Amend
R4-30-203	Amend
R4-30-204	Amend
R4-30-209	Amend
R4-30-210	Amend
R4-30-211	Repeal
R4-30-212	Amend
R4-30-214	Amend
R4-30-221	Amend
R4-30-222	Amend
R4-30-224	Amend
R4-30-242	Amend
R4-30-244	Amend
R4-30-247	Amend
R4-30-252	Amend
R4-30-254	Amend
R4-30-262	Amend
R4-30-264	Amend
R4-30-270	Amend
R4-30-271	Amend
R4-30-272	Amend
R4-30-282	Amend
R4-30-301	Amend
R4-30-303	Amend
R4-30-304	Amend
R4-30-305	Amend
Appendix A	New Appendix

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

Authorizing statutes: A.R.S. §§ 32-106(A)(1) & (9), and A.R.S. § 32-106(F)

Implementing statutes: A.R.S. §§ 32-106(F), 32-122, 32-122.01, 32-122.02, 32-122.03, 32-122.04, 32.123, 32-124, 32-125, 32-127, and 32-128(C)

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

August 7, 2004 (60 days after filing of the Notice of Final Rulemaking with the Secretary of State's Office).

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 3833, August 29, 2003

Notice of Proposed Rulemaking: 10 A.A.R. 442, February 13, 2004

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

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Fax: (602) 364-4931

E-mail: sherman.lewis@btr.state.az.us

**6. An explanation of the rules, including the Agency's reason for initiating the rules:**

The State Board of Technical Registration (Board) is charged with protecting the health, safety and welfare of the public. Toward this end, the Board examines, registers, and issues certificates to architects, assayers, clandestine drug lab remediation firms and their employees, certified remediation specialists, engineers, geologists, home inspectors, landscape architects and land surveyors. Under statute, A.R.S. § 32-106(A)(1), the Board has authority to adopt rules for, *inter alia*, the "performance of duties imposed upon it by law." The subject rulemaking is submitted pursuant to that authority.

The rulemaking is an "omnibus" package, comprised primarily of a series of "housekeeping" measures, which touch on several different areas of the Board's jurisdiction and regulations. It is intended to institute necessary improvements in agency regulations that will benefit the public in several important respects. First, the new rules will create consistency in the terminology relative to certification and registration in an effort to provide added clarity for the public and regulated professionals. Second, the rules will tighten compliance with agency regulations by inserting new language that is intended to provide an extra degree of exactness to the Agency's rules on enforcement.

In addition to deciding in favor of these "housekeeping" rule changes, the Board has determined that changing the prerequisites for home inspector certification would be in the best interests of all parties concerned. The Board is imposing an additional record-keeping requirement on applicants while reducing the number of home inspection reports those applicants are required to submit to the Board as part of their registration application package. The Board is proposing a rule change designed to increase the accountability of applicants and their supervisors and the reliability of the documentation they submit to the Board. Specifically, the Board is proposing a requirement that applicants retain the parallel home inspection reports that are part of their application package for a period of two years from their application. The Board is proposing a requirement that supervising home inspectors complete a sworn statement that the home inspection reports they review and supervise meet the standards set forth in Agency rules. The Board is proposing a rule change that would reduce the number of home inspection reports that applicants are required to submit from five to one. The Agency has found that these reports tend to duplicate each other as far as the quality of the work reflected and reviewing five reports is not necessary to secure an adequate evaluation of the applicant. The Board believes reducing the number of reports reviewed would eliminate a constraint to meeting administrative processing time-frames.

Two other provisions of the rule-making package are note-worthy. First, it incorporates a change in the fee schedule authority rule to conform to a statutory change enacted by the 45th Legislature, Second Regular Session in H.B. 2595, when it exempted from the rule-making process the Board's authority to set renewal fees. Second, the Board is adding a new requirement on the use of seals for signing professional documents. Specifically, the Board is requiring that registrants sign, date, and seal a professional document if the document is prepared for the purpose of dispute resolution, litigation, arbitration, or mediation.

Finally, the rulemaking package is designed to update Board rules and to make them consistent with recent statutory enactments, agency practice, and current rule-writing standards.

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

Not applicable

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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:**

It is expected that the rulemaking, by simplifying and updating the rules, will benefit all parties involved in the certification process.

The rule-making will clarify requirements for applicants seeking professional registration or certification in the regulated professions and occupations; specifically, architects, assayers, clandestine drug lab remediation firms and their employees, certified remediation specialists, engineers, geologists, home inspectors, landscape architects and surveyors. In calendar year 2002, the Agency received 1,936 applications for registration or certification for these areas of specialization. The rulemaking will streamline the application process for approximately this number of new applicants.

A.R.S. § 41-1001(19) defines "small business" as a "concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year." The majority of registrants regulated by the Board are employees of small businesses. The rule changes will not impose significant additional costs for small business.

Changing the prerequisites for certification as a home inspector is not expected to impose significant costs on applicants

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or their small business employers. Home inspector applicants or their small business employers will incur minimal additional costs resulting from new record-keeping requirements. The requirement that supervising home inspectors submit sworn statements certifying that home inspection reports completed by applicants under their supervision meet standards set forth in the rules will not result in significant added costs and will provide additional accountability. Reducing the number of home inspection reports required to be submitted for review is expected to reduce the burden of the application process for applicants and the Agency in terms of application processing time. The change will reduce report evaluation time by four-fifths.

The rulemaking will tighten language relating to enforcement and clarify compliance requirements, which is expected to affect small business positively. In the last calendar year, 287 investigations of non-compliance with Agency laws and regulations were opened. The rulemaking, by defining “insufficient evidence to support disciplinary action” and “de minimis” clarifies the Agency’s ability in allowing it to use non-disciplinary actions when minor (technical) violations of statutes and rules are substantiated. At the same time, the benefit to the consumer would be that the practitioner would be held accountable in a reasonable fashion for the violations and continued acts could result in discipline.

The rulemaking is not expected to have a significant impact on the following sectors of the economy: 1) the competitiveness of professionals in Arizona compared to their counterparts from other states; 2) the prices of goods and services in the state; 3) business estimates of additional personnel and outside expenses, such as legal and consulting fees; and 4) state revenues.

The additional administrative costs to state agencies, such as to the Board, the Secretary of State’s Office, the Governor’s Regulatory Review Council, are not thought to be significant.

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

Minor grammar and stylistic changes suggested by G.R.R.C.

**11. A summary of the comments made regarding the rules 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:**

Not applicable

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

Not applicable

**14. Were these rules previously made as emergency rules?**

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 30. BOARD OF TECHNICAL REGISTRATION**

**ARTICLE 1. GENERAL PROVISIONS**

Section

- R4-30-101. Definitions
- R4-30-102. Home Inspection Definitions
- R4-30-103. Drug Laboratory Site Remediation Definitions
- R4-30-106. Fees
- R4-30-107. Registration and Certification Expiration Dates
- R4-30-126. Service of Board Decisions; Rehearing of Board Decisions

**ARTICLE 2. REGISTRATION PROVISIONS**

Section

- R4-30-201. Professional Registration
- R4-30-202. In-training Designation
- R4-30-202.01. Remediation Specialist Certification
- R4-30-203. Waiver of Examination
- R4-30-204. Examinations
- R4-30-209. Time-frames for Professional Registration, Certification, or In-training Designation
- R4-30-210. Time-frames for Approval to Sit for, or for Waiver of, the Professional, Certification, or In-training Examina-



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- R4-30-211. ~~Time frames for Waiver of the Professional, Certification, or In training Examination~~ Repealed
- R4-30-212. Architect-in-training Designation
- R4-30-214. Architect Registration
- R4-30-221. Engineering Branches Recognized
- R4-30-222. Engineer-in-training Designation
- R4-30-224. Engineer Registration
- R4-30-242. Geologist-in-training Designation
- R4-30-244. Geologist Registration
- R4-30-247. Home Inspector Certification
- R4-30-252. Landscape Architect-in-training Designation
- R4-30-254. Landscape Architect Registration
- R4-30-262. Assayer-in-training Designation
- R4-30-264. Assayer Registration
- R4-30-270. Drug Laboratory Site Remediation Firm Registration
- R4-30-271. On-site Supervisor Certification and Renewal
- R4-30-272. On-site Worker ~~Registration~~ Certification and Renewal
- R4-30-282. Land Surveyor-in-training Designation

ARTICLE 3. REGULATORY PROVISIONS

Section

- R4-30-301. Rules of Professional Conduct
- R4-30-303. Securing Seals
- R4-30-304. Use of Seals
- R4-30-305. Drug Laboratory Site Remediation Best Standards and Practices
- Appendix A. ~~Repealed~~ Sample Seals

ARTICLE 1. GENERAL PROVISIONS

**R4-30-101. Definitions**

The following definitions apply in this Chapter unless the context otherwise requires:

1. ~~“Active engagement” means actually practicing or providing professional services. “Act” means the Technical Registration Act, A.R.S. Title 32, Chapter 1.~~ “Active engagement” means actually practicing or providing architectural, assaying, engineering, geological, landscape architectural, or land surveying services.
2. ~~“Act” means the Technical Registration Act, Title 32, Chapter 1, Arizona Revised Statutes. “Active engagement” means actually practicing or providing architectural, assaying, engineering, geological, landscape architectural, or land surveying services.~~
3. No change
  - a. No change
  - b. No change
  - c. No change
    - i. No change
    - ii. No change
    - iii. No change
4. No change
5. No change
6. “De minimis violations” means violations of Board statutes or rules that do not present a threat to public welfare, health, or safety.
- ~~6-7.~~ No change
- ~~7-8.~~ No change
- ~~8-9.~~ No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
- ~~9-10.~~ No change
- ~~10-11.~~ “Good moral character and repute” means that the registration or certification candidate applicant:
  - a. No change
  - b. Has not been convicted of a felony or misdemeanor if the offense has a reasonable relationship to the functions of the employment or category for which the registration, certification, or designation is sought; ~~except that this subsection does not apply to an applicant for certification as a home inspector who can show documentation of~~

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~~absolute discharge from sentence at least five years before the date of application;~~

- c. No change
- d. No change
- e. No change
- f. No change
- g. No change
- h. No change

~~11-12.~~No change

~~12-13.~~No change

14. “Insufficient evidence to support disciplinary action” means:

- a. The Board determines there was no evidence to warrant disciplinary action, but believes that continuation of the actions leading to the investigation may result in future Board action against the registrant; or
- b. The Board determines that there were de minimis violations of Board statutes or rules, but no disciplinary action should be taken against the certification or registration and that a letter of concern would be as effective a resolution as a letter of reprimand in deterring future violations of a like nature.

~~13-15.~~No change

- a. No change
- b. No change
- c. No change
- d. No change
- e. No change
- f. No change

~~14-16.~~No change

~~15-17.~~No change

~~16-18.~~No change

~~17-19.~~No change

~~18-20.~~No change

~~19-21.~~No change

~~20-22.~~No change

~~21-23.~~No change

~~22-24.~~No change

**R4-30-102. Home Inspection Definitions**

The following definitions apply to home inspection requirements in this Chapter:

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change
- 10. “Parallel inspection” means a home inspection by a candidate ~~an applicant~~ supervised by a certified home inspector, in the presence of no more than three other candidates ~~applicants~~, that includes a written report prepared by the ~~candi-~~  
~~date applicant, and reviewed and corrected~~ by the supervising certified home inspector, and returned to the applicant within 10 days after the supervising certified home inspector receives the written report.
- 11. No change
- 12. No change
- 13. No change
- 14. No change
- 15. No change
- 16. No change
- 17. No change
- 18. No change
- 19. No change
- 20. No change

**R4-30-103. Drug Laboratory Site Remediation Definitions**

In addition to the definitions provided in A.R.S. §§ 12-990, 32-101, and R4-30-101, the following definitions ~~shall~~ apply only

to drug laboratory site remediation requirements in this Chapter:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change
14. No change
15. No change
16. No change
17. No change
18. No change
19. No change
20. No change
21. No change
22. No change
23. No change
24. No change
25. No change
26. No change
27. No change
28. No change
29. No change
30. No change
31. No change
32. No change
33. No change
34. No change
35. No change
36. No change
37. ~~“On-site/ remediation supervisor” means an employee of a drug laboratory site remediation firm who is authorized to oversee on-site workers in the performance of their duties.~~
38. ~~“On-site supervisor” has the same meaning as “on-site/ remediation supervisor.”~~
- 39-37. No change
- 40-38. No change
- 41-39. No change
- 42-40. No change
- 43-41. No change
- 44-42. No change
- 45-43. No change
- 46-44. No change
- 47-45. No change
- 48-46. No change
- 49-47. No change
- 50-48. No change
- 51-49. No change
- 52-50. No change
- 53-51. No change
- 54-52. No change
- 55-53. No change
- 56-54. No change
- 57-55. No change

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58-56. No change

**R4-30-106. Fees**

- A. No change
  - 1. ~~The triennial renewal fee is \$126.~~
  - 2. ~~The delinquent renewal fee is \$21.00 per year or any fraction of a year that the renewal is delinquent.~~
  - 3-1. No change
  - 4-2. No change
  - 5-3. No change
  - 6-4. No change
  - 7-5. No change
  - 8-6. No change
  - 9-7. No change
  - 10-8. No change
  - 11. ~~The annual renewal fee for certification as a home inspector is \$400.00.~~
  - 12. ~~The Drug Laboratory Site Remediation Firm initial registration fee, and annual renewal fee, is \$1,000.00.~~
  - 13. ~~The On-site Worker initial registration fee, and annual renewal fee, is \$300.00.~~
  - 14. ~~The On-site Remediation Supervisor initial certification fee, and annual renewal fee, is \$300.00.~~
- B. No change
- C. No change
- D. No change

**R4-30-107. Registration and Certification Expiration dates**

- A. ~~Registrants' Registrants with~~ triennial registration have expiration dates ~~are~~ based upon the date of initial registration. The following table indicates triennial registration renewal periods:

Initial Registration Granted Date	Initial Triennial Renewal Expiration Date
Jan. 1 through Mar. 31	Three years from Mar. 31
Apr. 1 through Jun. 30	Three years from Jun. 30
Jul. 1 through Sept. 30	Three years from Sept. 30
Oct. 1 through Dec. 31	Three years from Dec. 31

- B. No change
- C. ~~Home inspector~~ All annual registrations and certifications expire one year from the date of issuance.
- D. ~~Drug Laboratory Site Remediation Firm Registration, On-site Worker Registration and On-Site Remediation Supervisor Certifications shall expire one year from the date of issuance.~~

**R4-30-126. Service of Board Decisions; Rehearing of Board Decisions**

- A. Except as provided in subsection (G), any party to an appealable agency action or contested case before the Board who is aggrieved by a decision rendered in the matter may file with the Board, not later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for the motion. A decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party's last known address of record with the agency. The filing of a motion for rehearing is a condition precedent to the right of appeal provided in A.R.S. § 32-128(H)(J).
- B. No change
- C. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change
  - 7. No change
- D. No change
- E. No change
- F. No change
- G. No change

ARTICLE 2. REGISTRATION PROVISIONS

**R4-30-201. Professional Registration**

- A. ~~A candidate~~ An applicant for professional registration ~~as an architect, assayer, engineer, geologist, landscape architect, or land surveyor~~ shall submit an original and one copy of a completed application package that contains the following: ~~the following application package to the Board:~~
- ~~1. An original and one copy of a completed application;~~
  - ~~2.~~1. Evidence of successful completion of the current national professional examination or waiver of the examination pursuant to A.R.S. § 32-126 and R4-30-203 in the category, and branch if applicable, for which registration is sought. ~~Candidates~~ Applicants shall arrange to have their examination results sent directly to the Board from the applicable testing agency holding the examination results;
  - ~~3.~~2. No change
  - ~~4.~~3. No change
- B. ~~A candidate~~ An applicant who wishes to sit for professional examination shall submit ~~to the Board~~ an original and one copy of a completed application for professional examination, and provide the following ~~information:~~
1. Name, residence address, ~~e-mail address, residence~~ mailing address if different from residence, and telephone number, and residence facsimile number of the ~~candidate~~ applicant;
  2. Date of birth and social security number of the ~~candidate~~ applicant;
  3. No change
  4. Category, and branch of engineering if applicable, for which the ~~candidate~~ applicant is seeking registration;
  5. No change
    - a. Any disciplinary action, including suspension and revocation, taken by any state or jurisdiction on any professional or occupational registration, certification, or license held by the ~~candidate~~ applicant in any state or jurisdiction;
    - b. Refusal of any professional or occupational registration, certification, or license by any state or jurisdiction;
    - c. Any pending disciplinary action in any state or jurisdiction on any professional or occupational registration, certification, or license held by the ~~candidate~~ applicant;
    - d. Any alias or other name used by the ~~candidate~~ applicant; and
    - e. No change
  6. ~~Jurisdiction~~ State or jurisdiction in which any other professional or occupational registration, certification, or license is held, type of registration, certification, or license, number, year granted, how registration, certification, or licensure was granted (that is, by examination, education, experience, or reciprocity), and the number of examination hours taken by the ~~candidate~~ applicant;
  7. Name of the state or jurisdiction, the type of professional or occupational registration, certification, or license the ~~candidate~~ applicant is seeking, and the current status of any professional or occupational application for registration, certification, or license pending in any ~~other~~ state or jurisdiction;
  8. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution ~~that the candidate applicant attended.~~
  9. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution ~~that the candidate applicant attended.~~
  10. Name, current address, and telephone number of the ~~candidate's applicant's~~ applicant's current and former employers in the category for which registration is sought; dates of employment; ~~candidate's applicant's~~ applicant's title; description of the work performed, and number of hours worked per week;
  11. Names and addresses of immediate supervisors in past and present employment in the category for which registration is sought. ~~Candidates~~ Applicants who have been working in the category for which registration is sought for 10 or more years shall provide the names and addresses of all immediate supervisors during the most recent ten-year period. If a ~~candidate~~ applicant cannot supply the names and addresses of supervisors for at least three engagements, the ~~candidate~~ applicant shall provide to the Board a written, sworn statement explaining the inability to provide this information, and the names and addresses of three additional references, unrelated to the ~~candidate~~ applicant, at least two of whom are registered in the category for which registration is sought;
  12. A release authorizing the Board to investigate the ~~candidate's applicant's~~ applicant's education, experience, moral character, and repute;
  13. Certificate of Experience Record and Reference Forms from the ~~candidate's applicant's~~ applicant's present and past immediate supervisors. The ~~candidate~~ applicant shall also provide Certificate of Experience Record and Reference Forms to additional references as required by the Board. The ~~candidate~~ applicant shall provide the name, address, and telephone numbers of all references. The ~~candidate~~ applicant shall ensure that completed reference forms are provided to the Board;
  14. Evidence of successful completion, or waiver by the Board, of the applicable in-training examination. ~~A candidate~~ An applicant for professional registration, who has successfully completed an in-training examination in another jurisdiction in the category for which registration is sought equivalent to the examination for that category adminis-

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tered in Arizona, shall submit proof of examination directly from the authority that administered the original examination. ~~A candidate~~ An applicant seeking professional registration as an architect or landscape architect may take the in-training examination at the same time as the professional examination. ~~A candidate~~ An applicant seeking professional registration as an assayer, engineer, geologist, or land surveyor shall pass the applicable in-training examination ~~prior to~~ before admission to the professional examination;

15. No change

- C. ~~A candidate~~ An applicant holding a certificate of qualification issued by one of the national registration bodies recognized in R4-30-203(B) shall arrange to have the record forwarded to the Board by the national registration body. If the forms provided by the national registration body contain all the information described in A.R.S. § 32-122.01 and subsection (B), the Board may accept the forms in lieu of requiring the ~~candidate~~ applicant to furnish the information directly to the Board.
- D. The Board staff shall review all applications and, if necessary, refer completed applications to an advisory committee for evaluation. If the application is complete and in the proper form and the Board staff or committee is satisfied that all statements on the application are true and that the ~~candidate~~ applicant is eligible in all other aspects to be registered in the field for which the application was filed, the Board staff or committee shall recommend that the Board certify the ~~candidate~~ applicant as eligible to take the examination, or if exempt from examination pursuant to statute or rule, as eligible for registration. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true or that the ~~candidate~~ applicant is eligible in all respects for examination or registration, the Board staff shall make a further investigation of the ~~candidate~~ applicant. The Board staff and committee shall submit recommendations to the Board for approval. The Board may also require ~~a candidate~~ an applicant to submit additional oral or written information if the ~~candidate~~ applicant has not furnished satisfactory evidence of qualifications for examination or registration.
- E. No change
- F. No change

**R4-30-202. In-training Designation**

- A. ~~A candidate~~ An applicant for in-training designation shall submit an original and one copy of a completed in-training ~~the following~~ application package that contains the following: ~~to the Board:~~
  - 1. ~~An original and one copy of a completed application;~~
  - 2. 1. No change
  - 3. 2. No change
  - 4. 3. No change
- B. An in-training ~~candidate~~ applicant who wants to sit for an in-training examination shall submit ~~to the Board~~ an original and one copy of a completed application for in-training designation to the Board, providing and provide the following information:
  - 1. Name, residence address, mailing address if different from residence, telephone number, and facsimile number and ~~current or school address and telephone number and facsimile number if different from residence,~~ of the ~~candidate~~ applicant;
  - 2. Date of birth and social security number of the ~~candidate~~ applicant;
  - 3. No change
  - 4. Category, and branch of engineering if applicable, for which the ~~candidate~~ applicant is seeking an in-training designation;
  - 5. Information regarding any conviction for a felony or misdemeanor, other than a minor traffic violation, and any alias or other name used by the ~~candidate~~ applicant;
  - 6. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university, or educational institution that the ~~candidate~~ applicant attended;
  - 7. Certified transcripts sent directly to the Board from the registrar of each college, university, or educational institution ~~that the candidate applicant attended;~~
  - 8. A release authorizing the Board to investigate the ~~candidate's~~ applicant's education, experience, moral character, and repute;
  - 9. ~~An affidavit~~ Certification that the information provided to the Board is accurate, true, and complete.
- C. If otherwise qualified, the Board shall permit ~~a candidate~~ an applicant for in-training designation to take the in-training examination in the final year of a baccalaureate, masters, or other degree program accepted by the Board and accredited in the category for which the application is made. The ~~candidate~~ applicant shall have the application form endorsed by the ~~candidate's~~ applicant's college dean or faculty advisor, or, if already a graduate, may arrange to have a final transcript, indicating the degree awarded, sent directly from the registrar to the Board, in lieu of the endorsement.
- D. The Board shall permit ~~a candidate~~ an applicant for in-training designation without an accredited college degree to take the in-training examination after submitting to the Board evidence of four years, or if an architect-in-training ~~candidate~~ applicant, five years of satisfactory experience or education or both. The ~~candidate~~ applicant shall provide the name, current address, and ~~and~~ telephone number, ~~and facsimile number~~ of all current and former employers; names of all supervisors and their titles; and ~~and~~ dates of employment; ~~candidate's~~ applicant's title, and a description of the work performed. The ~~candidate~~

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~~applicant~~ shall provide Certificate of Experience Record and Reference Forms to immediate supervisors at present and past employers. The ~~candidate applicant~~ shall ensure that the completed reference forms are submitted to the Board. The ~~candidate applicant~~ shall meet all other requirements of this Section.

**R4-30-202.01. Remediation Specialist Certification**

A. ~~A candidate~~ An applicant for certification as a remediation specialist shall submit an original and one copy of a completed application package ~~containing that contains~~ the following information:

1. Name, residence address, mailing address if different from residence, and residence telephone number, ~~and residence facsimile number of the candidate, if applicable applicant;~~
2. Date of birth and social security number of the ~~candidate applicant;~~
3. A detailed explanatory statement regarding:
  - a. Any disciplinary action, including suspension and revocation, taken by any ~~other~~ state or jurisdiction on any professional or occupational registration, certification, or license held by the candidate applicant in any ~~other~~ state or jurisdiction;
  - b. Refusal of any professional or occupational registration, certification, or license by any ~~other~~ state or jurisdiction;
  - c. Any pending disciplinary action in any ~~other~~ state or jurisdiction on any professional or occupational registration, certification, or license held by the candidate applicant;
  - d. Any alias or other name used by the ~~candidate applicant;~~ and
  - e. No change
4. ~~Jurisdiction~~ State or jurisdiction in which any ~~other~~ professional or occupational registration, certification, or license is held; type of professional or occupational registration, certification, or license; registration, certification, or license number, year ~~license~~ granted, how registration, certification, or license was granted (that is, by examination, education, experience or reciprocity), and the number of examination hours taken by the ~~candidate applicant;~~
5. Name of the state or jurisdiction, type of professional or occupational registration, certification, or license the ~~candidate applicant~~ applicant is seeking, and the current status of any application for professional or occupational registration, certification, or license pending in any ~~other~~ state or jurisdiction;
6. Name, mailing address, years attended, graduation date, major, and type of degree received from each college, university or educational institution ~~that the candidate applicant attended;~~
7. Relevant certified transcripts sent directly to the Board from the registrar of educational institutions ~~that the candidate applicant attended;~~
8. Name, current address, and telephone number, ~~and facsimile number of the candidate's applicant's~~ current and former employers in the area of remediation; dates of employment; ~~candidate's applicant's~~ title; description of the work performed, and the number of hours worked per week;
9. Names and addresses of immediate supervisors in past and present employment in the area of remediation. ~~Candidates Applicants~~ Applicants who have been working in remediation for 10 or more years shall provide the names and addresses of all immediate supervisors during the most recent ten-year period. If a ~~candidate~~ an applicant cannot supply the names and addresses of all immediate supervisors for at least three engagements, the ~~candidate applicant~~ applicant shall provide to the Board a written, sworn statement explaining the inability to provide this information;
10. A release authorizing the Board to investigate the ~~candidate's applicant's~~ education, experience, moral character and repute;
11. Certificate of Experience Record and Reference forms from the ~~candidate's applicant's~~ present and past immediate supervisors. The ~~candidate applicant~~ applicant shall also provide Certificate of Experience Record and Reference forms to additional references as required by the Board. The ~~candidate applicant~~ applicant shall provide the name, address, and telephone numbers of all references. ~~The candidate and shall ensure that completed reference forms are provided to the Board;~~
12. An affidavit Certification that the information provided to the Board is accurate, true, and complete;
13. No change
14. No change

B. The Board staff shall review all applications and, if necessary, refer completed applications to an advisory committee for evaluation. If the application is complete and in the proper form and the Board staff or committee is satisfied that all statements on the application are true and that the ~~candidate applicant~~ applicant is eligible in all other aspects to be certified as a remediation specialist, the Board staff or committee shall recommend that the Board certify the ~~candidate applicant~~ applicant as eligible to take the examination. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true or that the ~~candidate applicant~~ applicant is eligible in all other respects for registration, the Board staff shall make a further investigation of the ~~candidate applicant~~ applicant. The Board staff ~~and~~ or committee shall submit recommendations to the Board for approval. The Board may also require a ~~candidate~~ an applicant to submit additional oral or written information if the ~~candidate applicant~~ applicant has not furnished satisfactory evidence of qualifications for examination or certification.

**R4-30-203. Waiver of Examination**

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- A. The Board shall grant a waiver of the professional examination requirement in A.R.S. § 32-122.01 and R4-30-201 to a ~~candidate~~ an applicant for professional registration who holds a valid professional or occupational registration, certification, or license in the category for which registration, certification, or licensure is sought, and is in good standing in another state, ~~or jurisdiction, territory or county~~ provided:
1. The ~~candidate~~ applicant submits verifiable documentation to the Board that the education, experience, and examination requirements under which the ~~candidate~~ applicant was registered in the original state or jurisdiction were substantially identical to those existing in Arizona at the time of the ~~candidate's~~ applicant's original registration, certification, or licensure; or
  2. The ~~candidate~~ applicant submits verifiable documentation to the Board that the ~~candidate~~ applicant has been actively engaged as a professional or occupational registrant, certificant, or licensee in another state, ~~or jurisdiction, territory, or county~~ for at least 10 years in the category for which registration, certification, or licensure is sought. For purposes of this subsection, "actively engaged as a professional registrant" means that the ~~candidate~~ applicant holds a valid professional or occupational registration, certification, or license in good standing, and has been practicing or offering professional services for at least 10 of the last 15 years.
- B. The Board shall grant a waiver of the professional examination requirement in A.R.S. § 32-122.01 and R4-30-201 to a ~~candidate~~ an applicant for professional registration who submits verifiable documentation to the Board that the ~~candidate~~ applicant holds one of the following professional records, issued by a national registration body, and is registered in good standing in another state or jurisdiction. The Board recognizes the following national registration body records:
1. No change
  2. No change
  3. No change
- C. When reviewing an engineering ~~candidate's~~ applicant's experience and examination information, the Board shall take into account the specific branch of engineering in which the ~~candidate~~ applicant is seeking proficiency recognition.
- D. The Board shall waive the in-training examination if a ~~candidate~~ an applicant has successfully completed an in-training examination in another state or jurisdiction in the category for which registration is sought, which is equivalent to those examinations administered in Arizona. The ~~candidate~~ applicant shall ensure that proof of successful completion is forwarded directly from the authority that administered the original examination.
- E. The Board shall waive the in-training examination for a ~~candidate~~ an applicant who has a degree listed in R4-30-208(A) or other educational credit approved by the Board in the category, and branch if applicable, for which registration is sought, and meets all other requirements of A.R.S. § 32-126 ~~(C)~~ (D).
- F. All ~~candidates~~ applicants who request a waiver of any examination requirement shall meet all other requirements for professional registration or in-training designation ~~set forth~~ in R4-30-201 and R4-30-202. A ~~candidate~~ An applicant applying for a waiver under subsection (B) shall ensure that the required documentation is forwarded directly to the Board from the national registration body.
- G. The Board shall waive the remediation specialist examination requirement if the ~~candidate~~ applicant has successfully completed a remediation specialist examination in another state or jurisdiction that is substantially equivalent to the remediation specialist examination provided in Arizona.

**R4-30-204. Examinations**

- A. All examinations shall be given at the times and places determined by the Board. Once the Board approves a ~~candidate~~ an applicant to sit for any examination, the ~~candidate~~ applicant shall communicate all questions and concerns regarding extensions and refunds to the applicable testing agency. The ~~candidate~~ applicant shall make any request for additional time or other special test examination accommodation to the Board within a reasonable time before the test examination date. The Board shall not refund any examination fee paid to a testing agency.
- B. A ~~candidate~~ An applicant who fails to achieve a passing grade on any division of any examination may request re-examination by notifying the Board in writing of the ~~candidate's~~ applicant's desire to re-take the examination and paying the appropriate examination fee. A ~~candidate~~ An applicant who re-takes any examination shall advise the Board of any changes in the information provided under R4-30-201(B) and R4-30-202(B) within 30 days from the date of the change. The Board shall close a ~~candidate's~~ an applicant's file if the Board does not receive written confirmation from the ~~candidate~~ applicant of the ~~candidate's~~ applicant's desire to re-take the examination within one year from the request for re-examination. A ~~candidate~~ An applicant whose file has been closed and who later wishes to apply for professional registration shall submit a new application package to the Board pursuant to R4-30-201 and R4-30-202.
- C. A ~~candidate~~ An applicant who has failed any division of an examination shall be re-examined only on the division failed. The Board shall deny a ~~candidate's~~ an application if the ~~candidate~~ applicant fails to pass all divisions of an examination within five years after first taking any division of an examination. The ~~candidate~~ applicant shall submit a new application, and retake and pass those divisions of the examination, except the in-training examination, whose results are five or more years old.
- D. A ~~candidate~~ An applicant who wishes to review the ~~candidate's~~ applicant's examination scores shall file a written request with the Board within 30 days after receiving notification of the failing grade. The ~~candidate~~ applicant may review an examination by making prior arrangements with the staff and paying the applicable fee. The ~~candidate~~ applicant shall



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complete any review within 60 days of the request for a review. In reviewing multiple choice questions, ~~a candidate~~ an applicant may review only those questions that were incorrect.

- E. ~~A candidate~~ An applicant who desires a re-grade of an examination shall file a written request with the Board within 30 days after receiving notification of the failing grade or within 30 days after reviewing the examination, whichever is applicable, and pay the applicable fee. The ~~candidate~~ applicant shall identify the questions to be reviewed. The ~~candidate~~ applicant shall state why a review of the item is justified. The ~~candidate~~ applicant shall provide specific facts, data, and references to support any assertion that the solution deserves more credit. The Board shall determine whether it will re-grade the examination or whether it will send the examination to the applicable testing agency for re-grading.
- F. If ~~a candidate~~ an applicant does not have the required education and experience, the Board may hold the application for a period of time not exceeding one year upon request of the ~~candidate~~ applicant. All time-frames adopted pursuant to Title 41, Chapter 6, Article 7.1 are suspended during the above-referenced time.
- G. ~~A candidate~~ An applicant may withdraw an application for registration or designation by written request to the Board. Any fee paid by the ~~candidate~~ applicant is non-refundable. If ~~a candidate~~ an applicant withdraws an application, the Board shall close the file. ~~A candidate~~ An applicant whose file has been closed and who later wishes to apply for professional registration or in-training designation shall submit a new application package to the Board pursuant to R4-30-201 and R4-30-202.

**R4-30-209. Time-frames for Professional Registration, Certification, or In-training Designation**

- A. No change
  1. If the application package is complete, the Board shall notify the ~~candidate~~ applicant that the package is complete and that the administrative completeness review is finished.
  2. If the application package is incomplete, the Board shall notify the ~~candidate~~ applicant that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the ~~candidate~~ applicant until the Board receives all missing information or documentation.
  3. ~~A candidate~~ An applicant with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. However, the Board may hold a home inspector applicant's package for one year to permit a home inspector applicant to meet the requirements of R4-30-247(A)(7). If the ~~candidate~~ applicant fails to supply the missing information or documentation, the Board may close the ~~candidate's~~ applicant's application file. Any fee paid by the ~~candidate~~ applicant is non-refundable. ~~A candidate~~ An applicant whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.
  4. If ~~a candidate~~ an applicant requests to sit for the professional, certification, or in-training examination, or requests a waiver of examination, the time-frames in R4-30-210 apply until the Board grants or denies the ~~candidate's~~ applicant's request, to sit for the examination.
  5. ~~If a candidate requests a waiver of examination under R4-30-203, the time-frames in R4-30-211 apply until the Board grants or denies the waiver of examination.~~
  6. ~~If a candidate is applying for certification as a home inspector, the time-frames in this Section apply until the Board grants or denies certification.~~
- B. The Board shall complete its substantive review of the application package and render a decision no later than 60 days after the date the Board mails the notice of administrative completeness to the ~~candidate~~ applicant.
  1. If the Board finds that the ~~candidate~~ applicant meets all requirements in statute and rule, the Board shall approve the ~~candidate~~ applicant for professional registration, certification, or in-training designation.
  2. If the Board finds that the ~~candidate~~ applicant does not meet all requirements in statute and rule, the Board shall deny the ~~candidate~~ applicant professional registration, certification, or in-training designation. The Board shall provide written notice of the denial. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the ~~candidate's~~ applicant's right to appeal, including the number of days the ~~candidate~~ applicant has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
  3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is ~~erved~~ mailed until the date that all missing information or documentation is received- or the deadline for submission passes.
  4. When the Board and ~~candidate~~ applicant mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frame totaling no more than 30 days.
  5. If the ~~candidate~~ applicant fails to supply the missing information or documentation by the deadline date, the Board may close the ~~candidate's~~ applicant's application file. Any fee paid by the ~~candidate~~ applicant is non-refundable. ~~A candidate~~ An applicant whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.
- C. Saturdays, Sundays, and legal holidays are not counted in calculating the number of days under this Section. ~~A candidate~~

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is served by the Board when the Board mails the notice by regular mail.

- D. No change
- 1. No change
- 2. No change
- 3. No change

**R4-30-210. Time-frames for Approval to Sit for, or for Waiver of, the Professional, Certification, or In-training Examination**

- A. Within 60 days of receiving the initial application package to sit for, or for waiver of, the professional, certification, or in-training examination, the Board shall finish an administrative completeness review.
  - 1. If the application package is complete, the Board shall notify the ~~candidate~~ applicant that the package is complete and that the administrative completeness review is finished.
  - 2. If the application package is incomplete, the Board shall notify the ~~candidate~~ applicant that the package is deficient and specify the information or documentation that is missing. All time-frames are suspended from the date the notice is mailed to the ~~candidate~~ applicant until the Board receives all missing information or documentation.
  - 3. ~~A candidate~~ An applicant with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the ~~candidate~~ applicant fails to supply the missing information or documentation, the Board may close the ~~candidate's~~ applicant's application file. Any fee paid by the ~~candidate~~ applicant is non-refundable. ~~A candidate~~ An applicant whose file has been closed and who later wishes to sit for the in-training, certification, or professional examination, or who requests a waiver of examination, shall submit a new application package and pay the applicable fee.
- B. The Board shall complete its substantive review of the application package and render a decision no later than 120 days after the date the Board mails the notice of administrative completeness to the ~~candidate~~ applicant.
  - 1. If the Board finds that the ~~candidate~~ applicant meets all requirements in statute and rule, the Board shall either approve the ~~candidate~~ applicant to sit for the next in-training, certification, or professional applicable examination, or the Board shall waive the examination requirement.
  - 2. If the Board finds that the ~~candidate~~ applicant does not meet all requirements in statute or rule, the Board shall not allow the ~~candidate~~ applicant to sit for the ~~in-training, certification, or professional~~ applicable examination; or shall deny a waiver of examination. The Board shall provide written notice of its refusal to allow the candidate to sit for the examination. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
  - 3. The Board shall provide written notice of its refusal to allow the applicant to sit for the examination, or for its decision to deny a waiver of the examination. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, an explanation of the applicant's right to appeal, including the number of days the applicant has to file an appeal, and the name and telephone number of a Board contact person who will answer questions regarding the appeal process. If the Board issues a denial of waiver of an examination, it may allow the applicant to sit for the applicable examination or, depending on the circumstances and the applicant's qualifications, require the applicant to submit an application to sit for the applicable examination.
  - 3-4. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The time-frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is mailed until the date that all missing information or documentation is received.
  - 4-5. ~~When~~ If the Board and ~~candidate~~ applicant mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time-frames totaling not more than 45 days.
  - 5-6. If the ~~candidate~~ applicant fails to supply the missing information or documentation by the deadline date, the Board may close the ~~candidate's~~ applicant's application file. Any fee paid by the ~~candidate~~ applicant is non-refundable. ~~A candidate~~ An applicant whose file has been closed and who later wishes to sit for the ~~in-training, certification, or professional~~ applicable examination or request a waiver of examination shall submit a new application package and pay the applicable fee.
- C. Saturdays, Sundays, and legal holidays are not counted in calculating the number of days under this Section. ~~A candidate is served by the Board when the Board mails the notice by regular mail.~~
- D. For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for ~~a candidate~~ an applicant wishing to sit for ~~either the in-training, certification, or professional examination~~ the applicable examination or to request a waiver of examination:
  - 1. No change
  - 2. No change
  - 3. No change

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**R4-30-211. ~~Time frames for Waiver of the Professional, Certification, or In-training Examination Repealed~~**

- A.** Within 60 days of receiving the initial application package for a waiver of the professional, certification, or in-training examination, the Board shall finish an administrative completeness review.
1. If the application package is complete, the Board shall notify the candidate that the package is complete and that the administrative completeness review is finished.
  2. If the application package is incomplete, the Board shall notify the candidate that the package is deficient and specify the information or documentation that is missing. All time frames are suspended from the date the notice is mailed to the candidate until the Board receives all missing information or documentation.
  3. A candidate with an incomplete application package shall supply the missing information or documentation within 90 days from the date of the notice of deficiencies. If the candidate fails to supply the missing information or documentation the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.
- B.** The Board shall complete its substantive review of the application package and render a decision no later than 120 days after the date the Board mails the notice of administrative completeness to the candidate.
1. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall waive the professional, certification, or in-training examination requirement for the candidate.
  2. If the Board finds that the candidate does not meet all requirements in statute and rule, the Board shall deny the waiver. The Board may allow the candidate to sit for the professional, certification, or in-training examination, or the Board may require the candidate to submit an application to sit for the professional, certification or in-training examination. The Board shall provide written notice of denial. The notice shall include justification for the denial, references to the statutes or rules on which the denial was based, and an explanation of the candidate's right to appeal, including the number of days the candidate has to file an appeal, the name and telephone number of a Board contact person who will answer questions regarding the appeals process.
  3. If the Board finds a deficiency during the substantive review of the application package, the Board shall issue a written request, specifying the additional information or documentation to be submitted and the deadline for submission. The time frame for substantive review of an application package is suspended from the date the written request for additional information or documentation is served until the date that all missing information or documentation is received.
  4. When the Board and candidate mutually agree in writing, the Board or its designee shall grant extensions of the substantive review time frame totaling no more than 45 days.
  5. If the candidate fails to supply the missing information or documentation by the deadline date, the Board may close the candidate's application file. Any fee paid by the candidate is non-refundable. A candidate whose file has been closed and who later wishes to apply for professional registration, certification, or in-training designation shall submit a new application package and pay the applicable fee.
- C.** Saturdays, Sundays, and legal holidays are not counted in calculating the number of days under this Section. A candidate is served by the Board when the Board mails the notice by regular mail.
- D.** For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for a candidate requesting a waiver of the professional, certification, or in-training examination:
1. Administrative completeness review time frame: 60 days;
  2. Substantive review time frame: 120 days; and
  3. Overall time frame: 180 days.

**R4-30-212. Architect-in-training Designation**

- A.** To qualify for admission to the in-training examination solely on the basis of education, ~~a candidate~~ an applicant shall be a graduate of a five-year architectural degree program accredited at the time of graduation by the National Architectural Accrediting Board (NAAB).
- B.** To qualify for admission to the in-training examination, ~~a candidate~~ an applicant who is not a graduate of a five-year NAAB-accredited degree program shall have at least five years of education or experience or both directly related to the practice of architecture. Experience directly related to the practice of architecture of a character satisfactory to the Board includes ~~but is not limited to~~ the following:
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. No change
- C.** ~~A candidate~~ An applicant shall successfully complete the architect-in-training examination designated by the Board and

provided by the National Council of Architectural Registration Boards.

**R4-30-214. Architect Registration**

A. ~~A candidate~~ An applicant shall provide evidence of diverse work experience; that is of a character acceptable to the Board, ~~that and which includes, but is not limited to,~~ each of the following areas:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change
14. No change
15. No change

B. ~~A candidate~~ An applicant shall successfully complete the professional architect examination designated by the Board and provided by the National Council of Architectural Registration Boards.

**R4-30-221. Engineering Branches Recognized**

A. The Board shall recognize the branches of engineering described below for review of experience, selection of examination, definition of examination areas, and definition of demonstrated proficiency areas to be inscribed on the seal. The branches do not limit the areas of a registrant's practice of engineering. (See R4-30-301~~(10),(11), and (12)~~(18))

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. No change
13. No change
14. No change
15. No change
16. No change

B. ~~A candidate~~ An applicant shall submit a separate application and application fee for each branch for which application is made. ~~A candidate~~ An applicant who wishes to change the branch of application after the application has been evaluated shall submit the request in writing and pay an additional application fee.

**R4-30-222. Engineer-in-training Designation**

A. To qualify for admission to the in-training examination solely on the basis of education, ~~a candidate~~ an applicant shall be a graduate of a four-year engineering degree program accredited at the time of graduation by the Accreditation Board for Engineering and Technology (ABET) or an equivalent predecessor organization.

B. To qualify for admission to the in-training examination, ~~a candidate~~ an applicant who is not a graduate of a four-year ABET-accredited engineering degree program shall have at least four years of education or experience or a combination of both directly related to the practice of engineering. Experience directly related to the practice of engineering of a character satisfactory to the Board includes ~~but is not limited to~~ the following in the ~~candidate's~~ applicant's branch of engineering:

1. No change
2. No change
3. No change
4. No change
5. No change

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6. No change
7. No change
8. No change
9. No change
10. No change
11. No change

C. ~~A candidate~~ An applicant shall successfully complete the engineer-in-training examination designated by the Board and provided by the National Council of Examiners for Engineers and Surveyors.

**R4-30-224. Engineer Registration**

A. Work experience credited toward the eight-year active engagement requirement shall be directly related to the applicant's branch of engineering and of a character satisfactory to the Board and attained as described in R4-30-222, except that work experience for specific branches of engineering as described in ~~R4-30-222~~ R4-30-221 shall be for the purpose of qualifying ~~a candidate~~ an applicant for registration only and shall not be construed to restrict or confine the work practices of or engineering engagements accepted by a registrant.

B. ~~A candidate~~ An applicant shall successfully complete the professional engineer examinations offered in the ~~candidate's~~ applicant's branch of engineering designated by the Board.

**R4-30-242. Geologist-in-training Designation**

A. To qualify for admission to the in-training examination solely on the basis of education, ~~a candidate~~ an applicant shall be a graduate of a four-year degree program with a major in geology at a college or university accredited at the time of graduation by a regional accrediting agency recognized by the Arizona Board of Regents.

B. To qualify for admission to the in-training examination, ~~a candidate~~ an applicant who is not a graduate of a four-year degree program as specified in subsection (A) shall have at least four years of education or experience or both directly related to the practice of geology. Experience directly related to the practice of geology of a character satisfactory to the Board shall include ~~but not be limited to~~ the following:

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change

C. ~~A candidate~~ An applicant shall successfully complete the geologist-in-training examination designated by the Board and provided by the Association of State Boards of Geology.

**R4-30-244. Geologist Registration**

~~A candidate~~ An applicant shall successfully complete the professional geologist examination designated by the Board and provided by the Association of State Boards of Geology.

**R4-30-247. Home Inspector Certification**

A. An applicant for certification as a home inspector shall submit ~~all of the following in an application package to the Board:~~ an original and one copy of a completed application package that contains the following:

- ~~1. An original and one copy of a completed application;~~
- ~~2.~~ 1. No change
- ~~3.~~ 2. The information in subsections ~~(C)~~ (B)(1) through (10);
- ~~4.~~ 3. No change
- ~~5.~~ 4. No change
- ~~6.~~ 5. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
  - g. No change
  - h. No change
  - i. No change
  - j. No change
  - k. No change

~~7.~~ 6. An applicant who has lawfully conducted home inspections as part of a business shall provide evidence of successful

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completion of 100 home inspections that meet the standards referenced in R4-30-301.01 on a form provided by the Board. An applicant under this subsection shall meet all other requirements for certification in this Section;

~~8-7.~~ To complete a home inspector in-training program, an applicant who otherwise qualifies for certification as a home inspector except for meeting the qualification in subsection (A)(~~7~~)(6), shall present evidence of completion of 30 parallel ~~home~~ inspections. The 30 parallel ~~home~~ inspections and home inspection report shall meet the standards in R4-30-301.01 and be retained by the applicant for at least two years from the date of application. The applicant shall conduct these inspections on separate residential dwelling units and shall list them on a log provided by the Board. The log shall include, with respect to each inspection, the address of the property, the date of the inspection, and the name and certification number of the supervising home inspector. The Board may hold the applicant's package for a period of one year based solely on the need for time to permit the applicant to complete the required parallel inspections. All time-frames promulgated under A.R.S. Title 41, Chapter 6, Article 7.1 are suspended during this period.

~~B.~~ The Board may hold an application package for a period of one year based on the need for time to complete the required parallel home inspections.

~~C.B.~~ The application package shall contain the following information:

1. Name, residence address, mailing address if different from residence address, e-mail address (if applicable), residence and telephone number; and residence facsimile number (if applicable);
2. Date of birth and social security number of the ~~candidate~~ applicant;
3. No change
4. A detailed explanatory statement regarding:
  - a. Any disciplinary action, including suspension and revocation, taken by ~~another~~ any state or jurisdiction on any professional or occupational registration, license, or certification held by the applicant in any ~~other~~ state or jurisdiction;
  - b. Refusal of any professional or occupational registration, license, or certification by any ~~other~~ state or jurisdiction;
  - c. Any pending disciplinary action in any ~~other~~ state or jurisdiction on any professional or occupational registration, license, or certification held by the ~~candidate~~ applicant;
  - d. No change
  - e. No change
5. Documentation of absolute discharge from sentence at least five years before the date of application if an applicant has been convicted of one or more felonies;
6. Jurisdiction State or jurisdiction in which any ~~other~~ professional or occupational registration, license or certification is held; type of registration, license, or certification; number; year granted, and how registration, license, or certification was granted (that is, by examination, education, experience, or reciprocity);
7. The current status of any application for any type of professional or occupational registration, license, or certification pending in another state or jurisdiction;
8. A release authorizing the Board to investigate the applicant's education, experience, and ~~good~~ moral character and repute;
9. Certification that the information provided to the Board is accurate, true, and complete; ~~and~~
10. ~~Copies~~ Copy of five one reports report that meet meets the standards in R4-30-301.01; ~~and~~
11. Sworn statement or statements by the supervising certified home inspector or inspectors that the parallel inspections conducted by the applicant meet the standards in R4-30-301.01.

~~D.C.~~ The Board staff shall review all applications and, if necessary, refer completed applications to the Home Inspector Rules and Standards Committee for evaluation. If the application is complete and in the proper form, ~~and~~ the Board staff or committee is satisfied that all statements on the application are true, ~~and that~~ the applicant is eligible in all other aspects to be certified as a home inspector, the Board staff or committee shall recommend that the Board certify the applicant. If the evidence is not clear and convincing of qualification for certification, the matter shall be reviewed by the committee and the committee may request additional information regarding any issue upon which the applicant has not established qualification by clear and convincing evidence.

~~E.D.~~ A certified home inspector shall notify the Board in writing within five business days of any loss of, or change in, financial assurance. If a certified home inspector loses financial assurance, the inspector shall provide written notification to the Board within five business days. The Board shall suspend the certificate holder's certification immediately and prohibit further home inspections until current proof of financial assurance is provided to the Board. The Board shall revoke a certificate if the certificate holder fails to provide proof of financial assurance within 90 days of loss of financial assurance or lapse of policy. ~~A candidate~~ All certified home inspectors shall ~~also~~ provide proof of financial assurance at the time of each annual certification renewal. The Board shall not renew a home inspector certification unless the financial assurance is in full force and effect.

**R4-30-252. Landscape Architect-in-training Designation**

A. To qualify for admission to the in-training examination solely on the basis of education, ~~a candidate~~ an applicant shall be a graduate of a four- or five-year landscape architectural degree program accredited at the time of graduation by the Land-

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scape Architectural Accreditation Board (LAAB) or an equivalent predecessor organization.

- B. To qualify for admission to the in-training examination, ~~a candidate~~ an applicant who is not a graduate of a four- or five-year LAAB-accredited landscape architectural degree program shall have at least four years of education or experience or both directly related to the practice of landscape architecture. Experience directly related to the practice of landscape architecture of a character satisfactory to the Board shall include ~~but not be limited to~~ the following:
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. No change
- C. ~~A candidate~~ An applicant shall successfully complete the landscape architect-in-training examination designated by the Board and provided by the Council of Landscape Architectural Registration Boards.

**R4-30-254. Landscape Architect Registration**

~~A candidate~~ An applicant shall successfully complete the professional landscape architect examination designated by the Board and provided by the Council of Landscape Architectural Registration Boards.

**R4-30-262. Assayer-in-training Designation**

- A. To qualify for admission to the in-training examination solely on the basis of education, ~~a candidate~~ an applicant shall be a graduate of a four-year degree program with a major in chemistry, metallurgy or other science directly related to the analysis of metals and ores at a college or university accredited at the time of graduation by a regional accrediting agency recognized by the Arizona Board of Regents.
- B. To qualify for admission to the in-training examination, ~~a candidate~~ an applicant who is not a graduate of a four-year degree program with a major in chemistry, metallurgy or other science directly related to the analysis of metals and ores at an accredited college or university specified in subsection (A), shall have at least four years of education or experience or both directly related to the practice of assaying. Experience directly related to the practice of assaying of a character satisfactory to the Board shall include ~~but not be limited to~~ the following:
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. No change
- C. ~~A candidate~~ An applicant shall successfully complete the assayer-in-training examination administered and provided by the Board.

**R4-30-264. Assayer Registration**

~~A candidate~~ An applicant shall successfully complete the professional assayer examination administered and provided by the Board.

**R4-30-270. Drug Laboratory Site Remediation Firm Registration**

An applicant for drug laboratory site remediation firm registration shall submit ~~the following application package to the Board:~~ an original and one copy of a completed application package that contains the following:

- ~~1. An original completed application, containing the following information:~~
  - ~~a.1.~~ 1. Name of business, business address, mailing address if different from business address, and business telephone number, ~~and mailing address, if different than the business address;~~
  - ~~b.2.~~ 2. No change
  - ~~c.3.~~ 3. No change
  - ~~d.4.~~ 4. No change
  - ~~e.5.~~ 5. No change
  - ~~f.6.~~ 6. No change
  - ~~g.7.~~ 7. No change
  - ~~h.8.~~ 8. No change

**R4-30-271. On-site Supervisor Certification and Renewal**

- A. An applicant for on-site supervisor certification shall submit an original and one copy of a completed application package ~~containing that contains~~ the following information:

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1. Name, residence address, mailing address if different from residence address, and ~~residence~~ telephone number;
  2. No change
  3. No change
  4. ~~Jurisdiction~~ State or jurisdiction in which any other professional or occupational certification, registration, or license is held by the applicant, type of certification, registration, or license, number, and year granted;
  5. The name of the state or jurisdiction, the type of professional or occupational certification, registration, or license the applicant is seeking, and the status of any professional or occupational certification, registration, or license application pending in any state or jurisdiction;
  6. No change
    - a. Refusal of professional or occupational certification, registration, or license by any state or jurisdiction;
    - b. Any pending disciplinary action in any state or jurisdiction on any professional or occupational certification, registration, or license held by the applicant;
    - c. No change
    - d. No change
    - e. Any disciplinary action taken by any state or jurisdiction on any professional or occupational registration, certification, or license held by the applicant in any state or jurisdiction.
  7. No change
  8. No change
  9. No change
  10. No change
  11. No change
  12. A signed release authorizing the Board to investigate the applicant's education, experience, and ~~good~~ moral character and repute; and
  13. No change
- B.** No change
1. No change
  2. No change
  3. No change
  4. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
  5. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
  6. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
  7. No change
- C.** No change

**R4-30-272. On-site Worker ~~Registration~~ Certification and Renewal**

- A.** An applicant for on-site worker ~~registration~~ certification shall submit an original and one copy of a completed application package ~~containing that contains~~ the following information:
1. Name, residence address, mailing address if different from residence address, and ~~residence~~ telephone number;
  2. No change
  3. No change
  4. ~~Jurisdiction~~ State or jurisdiction in which any ~~other~~ professional or occupational certification, registration, or license



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- is held by the applicant, type of certification, registration, or license, number, and year granted;
5. Name of the state or jurisdiction, the type of professional or occupational certification, registration, or license the applicant is seeking, and the status of any professional or occupational application pending in any state or jurisdiction;
  6. A detailed explanatory statement regarding:
    - a. Any refusal of professional or occupational certification, registration, or license by any state or jurisdiction;
    - b. Any pending disciplinary action in any state or jurisdiction on any professional or occupational certification, registration, or license held by the applicant;
    - c. No change
    - d. No change
    - e. Any disciplinary action taken by any state or jurisdiction on any professional or occupational certification, registration, or license held by the applicant in any state or jurisdiction;
  7. No change
  8. No change
  9. A signed release authorizing the Board to investigate the applicant's education, experience, and ~~good~~ moral character and repute; and
  10. No change
- B.** Effective September 30, 2003, an applicant for renewal of on-site worker ~~registration~~ certification shall submit an application package that contains:
1. A completed renewal application form provided by the Board, signed and dated by the ~~registrant~~ applicant that provides the information contained in subsections (A)(1), (2), (6) and (7);
  2. A copy of the ~~registrant's~~ applicant's current 8-hour HAZWOPER refresher certificate;
  3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
  4. No change
- C.** The Board staff shall review all applications and, if necessary, refer completed applications to the Environmental Remediation Rules and Standards Committee for evaluation. If the application is complete and in the proper form, and the Board staff or committee is satisfied that all statements on the application are true and the applicant is eligible in all other respects to be ~~registered~~ certified, the Board staff or committee shall recommend that the Board ~~register~~ certify the applicant. If for any reason the Board staff or committee is not satisfied that all of the statements on the application are true, the Board staff shall make a further investigation of the applicant. The Board staff or committee shall submit recommendations to the Board for approval. The Board may also require an applicant to submit additional oral or written information if the applicant has not furnished satisfactory evidence of qualifications for ~~registration~~ certification.

**R4-30-282. Land Surveyor-in-training Designation**

- A.** To qualify for admission to the in-training examination solely on the basis of education, ~~a candidate~~ an applicant shall be a graduate of a four-year land surveying degree program accredited at the time of graduation by the Accreditation Board for Engineering and Technology (ABET) or an equivalent predecessor organization.
- B.** To qualify for admission to the in-training examination, ~~a candidate~~ an applicant who is not a graduate of a four-year ABET-accredited land surveying degree program shall have at least four years of education or experience or both directly related to the practice of land surveying. Experience directly related to the practice of land surveying of a character satisfactory to the Board shall include ~~but not be limited to~~ the following:
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. No change
  9. No change
  10. No change
  11. No change
  12. No change

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- C. The ~~candidate~~ applicant shall successfully complete the land surveyor-in-training examination designated by the Board and provided by the National Council of Examiners and Surveyors.

ARTICLE 3. REGULATORY PROVISIONS

**R4-30-301. Rules of Professional Conduct**

- ~~A.~~ All registrants shall comply with the following ~~standards~~ rules of professional conduct:
1. A registrant shall not submit any materially false statements or fail to disclose any material facts requested in connection with an application for registration, certification, or subpoena.
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
  8. No change
  9. A registrant shall not accept any professional engagement or assignment outside the registrant's area of certification.
  - ~~10-9.~~ No change
    - a. No change
    - b. No change
  - ~~11-10.~~ No change
  - ~~12-11.~~ No change
  - ~~13-12.~~ No change
  - ~~14-13.~~ No change
  - ~~15-14.~~ No change
  - ~~16-15.~~ No change
- ~~B.~~ All registrants shall comply with the following rules of professional conduct:
- ~~1-16.~~ No change
  - ~~2-17.~~ Except as provided subsections ~~(B)(3) and (4), (18) and (19)~~, a registrant shall not accept any professional engagement or assignment outside the registrant's professional registration category unless:
    - a. No change
    - b. No change
  - ~~3-18.~~ No change
  - ~~4-19.~~ No change
  - ~~5-20.~~ No change

**R4-30-303. Securing Seals**

- A. Each registrant required to use a seal shall secure and use an ink seal 1 1/2 inches in diameter and identical in style, size, and appearance to the sample shown in Appendix F A. The upper portion of the annular space between the second and third circles shall bear whichever of the following phrases is applicable to the registrant:
1. No change
  2. No change
- B. The registrant may order the seal through any vendor and shall pay the cost of its manufacture. Immediately upon receipt of the seal and ~~prior to~~ before using the seal for any purpose, the registrant shall file with the Board, for its records, on a form provided by the Board, an imprint of the seal with an original signature superimposed over it and an affidavit regarding the use of the seal. The Board, within 10 working days of receipt of the form from the registrant, shall disapprove any seal ~~not meeting that does not meet~~ the exact specifications of subsection (A) ~~of this rule and shall require that~~ the registrant ~~to obtain and pay for another seal meeting that meets~~ those specifications ~~prior to before~~ sealing any work. Engineers registered in more than one branch shall secure and use a seal for each branch of engineering in which registration has been granted. ~~No additional or replacement seal shall be ordered or obtained by a registrant without first providing the Board, for its records, a sworn statement attesting to the need and purpose. No additional replacement seal shall be obtained without following the procedures set forth in this subsection for securing seals.~~

**R4-30-304. Use of Seals**

- A. No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change

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- 7. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
- B. No change
- C. No change
- D. ~~A registrant shall sign, date and seal a professional document before the document is submitted to a client, contractor, any regulatory or review body, or any other person, unless the document is marked "preliminary" or "not for construction."~~ A registrant shall sign, date, and seal a professional document:
  - 1. Before the document is submitted to a client, contractor, any regulatory or review body, or any other person, unless the document is marked "preliminary," "draft," or "not for construction"; and
  - 2. In all cases, if the document is prepared for the purpose of dispute resolution, litigation, arbitration, or mediation.
- E. No change
  - 1. No change
  - 2. No change
  - 3. No change
- F. No change
- G. No change

**R4-30-305. Drug Laboratory Site Remediation Best Standards and Practices**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
  - 4. No change
  - 5. No change
  - 6. No change
    - a. Complete identifying information of the real property, such as street address, mailing address, owner of record, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home; registration number of the drug laboratory site remediation firm, name and certification number of the on-site supervisor; and ~~name and registration numbers of the~~ on-site workers that will be performing remediation services on the residually contaminated portion of the real property;
    - b. Copies of the current certification of the on-site supervisor and ~~registrations of~~ on-site workers that will be performing remediation services on the residually contaminated portion of the real property;
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
    - h. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
      - v. No change
      - vi. No change
    - i. No change
    - j. No change
  - 7. No change
    - a. No change
    - b. No change
    - c. No change

- B.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
  - 5. No change
    - a. No change
      - i. No change
      - ii. No change
      - iii. No change
      - iv. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
  - 6. No change
  - 7. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
  - 8. No change
    - a. No change
    - b. No change
      - i. No change
      - ii. No change
        - (1) No change
        - (2) No change
        - (3) No change
        - (4) No change
        - (5) No change
    - c. No change
      - i. No change
      - ii. No change
        - (1) No change
        - (2) No change
        - (3) No change
        - (4) No change
        - (5) No change
        - (6) No change
  - 9. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
- C.** No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
    - a. No change

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- b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. No change
  - g. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
    - v. No change
    - vi. No change
    - vii. No change
  - h. No change
    - i. No change
    - ii. No change
    - iii. No change
  - i. No change
    - i. No change
    - ii. No change
    - iii. No change
    - iv. No change
  - j. No change
    - i. No change
      - (1) No change
      - (2) No change
      - (3) No change
    - ii. No change
  - k. No change
    - i. No change
    - ii. No change
    - iii. No change
  - l. No change
    - i. No change
    - ii. No change
    - iii. No change
      - (1) No change
      - (2) No change
      - (3) No change
- D. No change**
- 1. No change
    - a. No change
    - b. No change
    - c. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
    - h. No change
  - 3. No change

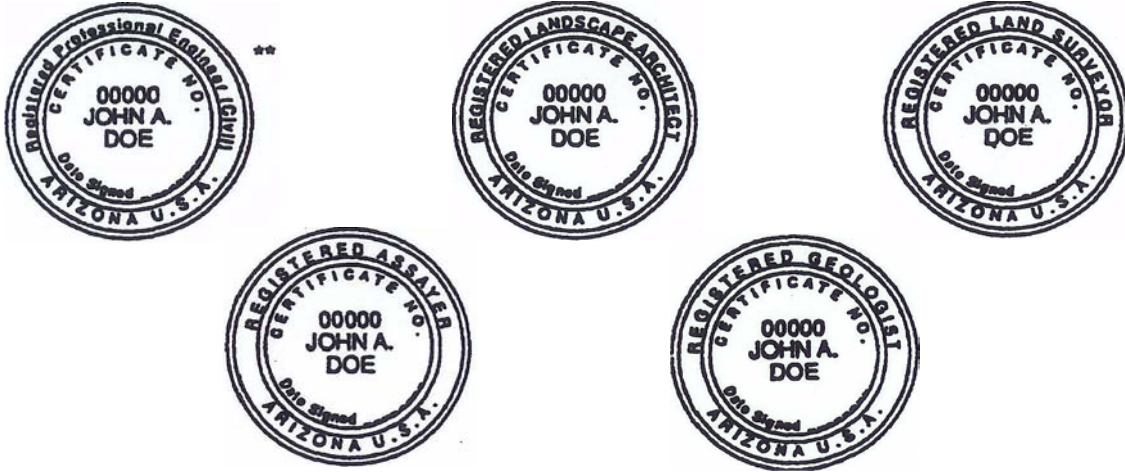
**Appendix A. ~~Repeated~~ Sample Seals**

Notices of Final Rulemaking

Appendix A. Sample Seals

SAMPLES:

Sign your name across lower portion of the seal. Do not cover your name or registration number with your signature.



\*\* ENGINEERS MUST LIST BRANCH – Agriculture, Chemical, Civil, Control Systems, Electrical, Environmental, Fire Protection, Geological, Industrial, Mechanical, Mining, Nuclear, Petroleum, Sanitary, or Structural

Outer circle should be  $1\frac{1}{2}'' \pm \frac{1}{16}''$   
Inner circle should be  $1\frac{1}{8}'' \pm \frac{1}{16}''$



Notices of Final Rulemaking

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b>1. <u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R12-4-102                          | Amend                           |
- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 17-231  
Implementing statute: A.R.S. § 17-333
- 3. The effective date of the rule:**  
August 13, 2004 (60 days after G.R.R.C. approves this rulemaking and files it with the Secretary of State).
- 4. A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Docket Opening: 9 A.A.R. 5065, November 21, 2003;  
Notice of Proposed Rulemaking: 10 A.A.R. 968, March 12, 2004.
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Mark E. Naugle, Rule & Risk Manager  
Address: Arizona Game and Fish Department  
2221 W. Greenway Road DORR  
Phoenix, AZ 85023-4399  
Telephone: (602) 789-3289  
Fax: (602) 789-3677
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**

At their October 2003 meeting, the Arizona Game and Fish Commission directed the Department to pursue out-of-cycle rulemaking to amend R12-4-102, Fees for Licenses, Tags, Stamps and Special Permits, to increase fees where applicable to the maximum authorized by statute in time for the 2005 Spring Draw.

In 1999, the authorizing statutes for this rule were amended to increase the amount that could be charged for licenses, tags, stamps, and special permits. However, the Bill under which these amendments were made specified that if fees were to be raised prior to July 1, 2000, they could only be raised by 2/3 of the difference between the old fee ceiling and the new fee ceiling. After that date, the Commission could raise fees to the statutory maximum.

In order to implement the rulemaking effectively and with as little impact to its customers as possible, the Department has made additional amendments to R12-4-102. In the Notice of Proposed Rulemaking, the Department proposed amending the rule to increase fees for all tags on a particular date before the 2005 Spring Draw began. However, the rulemaking would also increase fees for 2004 fall hunt tags that would be sold at the same time. This would result in customers paying one fee for a 2004 fall hunt tag earlier in the year, and other customers paying a higher fee for the same tag later in the year. In order to resolve this situation, the Department will additionally amend the rule to state that the amended fees will only affect licenses, tags, and stamps to be used beginning in 2005 in conjunction with the spring hunts. The Department will also make stylistic and grammatical changes to the rule language to make it consistent with other rules and current guidelines for rulemaking language and style.

The Department will amend the rule to increase these particular fees for licenses and tags to the maximum fee authorized by A.R.S. § 17-333 as follows:

  - Antelope permit-tag and nonpermit-tag for residents to \$65.00, and for non-residents to \$325.00;
  - Bear permit-tag and nonpermit-tag for residents to \$14.50, and for non-residents to \$200.00;
  - Bighorn sheep permit-tag and nonpermit-tag for residents to \$195.00, and for non-residents to \$1,000.00;
  - Deer and archery deer permit-tags and nonpermit-tags for residents to \$19.50, and for non-residents to \$125.00;
  - Elk permit-tags and nonpermit-tags for residents to \$78.00, and for non-residents to \$400.00;
  - Javelina and archery javelina permit-tags and nonpermit-tags for residents to \$12.50, and for non-residents to \$70.00;
  - Mountain lion permit-tags and non-permit tags for non-residents to \$200.00;

**Notices of Final Rulemaking**

- Turkey and archery turkey permit-tags and nonpermit-tags for residents to \$11.00;
- White Amur Stocking License will be raised to \$200.00.

In addition, the Department proposes to decrease the following fees in order to help achieve its wildlife management objectives:

- Mountain lion permit-tags and nonpermit-tags will be reduced to ten dollars.

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

None

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

Not applicable

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

The Department anticipates that the rulemaking will create an economic impact to the agency, hunters of this state, and businesses that patronize the license fees that are being amended. The Department will benefit from receiving additional revenue to use for agency operation and for the effective management of wildlife. The Department does not anticipate that demand for permit-tags will decrease as cost increases, because applications for hunt permit-tags have increased over the past five years. The rulemaking will create additional costs for its customers, particularly hunters and white amur stockers, which are mainly golf courses. However, the Department does not anticipate that the 100% fee increase for the white amur stocking license represents a significant enough impact to affect revenues or employment. The rulemaking will create additional costs for hunters by increasing fees for tags and to authorize use of wildlife opportunities. However, the Department's customers understand the relevance and importance of tag and stamp fees to the agency's objectives of effective wildlife management and providing wildlife opportunities to its customers. The Department anticipates that hunters will receive an immediate benefit by not being required to pay higher fees for tags to be used in 2004. Hunters will receive an eventual benefit from the increased fees manifested in improved wildlife opportunities. The rulemaking will not affect public or private employment, or state revenues. The Department has determined that there are no less costly or intrusive methods for achieving the objectives of the rulemaking.

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

In order to implement the rulemaking effectively and with as little impact to its customers as possible, the Department has made additional amendments to R12-4-102. In the Notice of Proposed Rulemaking, the Department proposed amending the rule to increase fees for all tags on a particular date before the 2005 Spring Draw began. However, the rulemaking would also increase fees for 2004 fall hunt tags that would be sold at the same time. This would result in customers paying one fee for a 2004 fall hunt tag earlier in the year, and other customers paying a higher fee for the same tag later in the year. In order to resolve this situation, the Department will additionally amend the rule to state that the amended fees will only affect licenses, tags, and stamps to be used beginning in 2005 in conjunction with the spring hunts.

In addition, the Department will amend the rule to clarify that the Arizona Colorado River Special Use Stamp is no longer required for Nevada fishing license holders. The Department is making this amendment to make the rule consistent with a previous amendment to R12-4-312, which no longer requires that Nevada fishing license holders purchase an Arizona Colorado River Special Use Stamp. The Department will also make stylistic and grammatical changes to the rule language to make it consistent with current guidelines for rulemaking language and style.

**11. A summary of the comments made regarding the rule, and the agency response to them:**

Written Comment	Agency Response
Raise the tag fees an additional 50 cents and reduce the application fee to a dollar.	The Department does not believe that the suggestion offered is an effective alternative to achieve the objective of the rulemaking. The Department is unable to raise some tag fees, because they are already at the statutory maximum. The Department was directed to increase tag fees under the House Bill that authorized the increases, not to change application fees.
Any fee increase should be approved this year and start next year. The Department should also provide justification for the fee increases.	The Department has additionally amended the rule to raise fees for tags that will be used in 2005. Hunt tags that will be used in 2004 will remain at their current fee. The Department has provided justification for its fee increases in this document.



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I support fee increases for nonresident hunters, but not for resident hunters (3).	The Department does not believe that the suggestion offered is an effective alternative to achieve the objective of the rulemaking. The Department was directed to increase all tag fees, regardless of residency, under the authority of the bill authorizing the increases. Also, increasing fees for nonresidents while maintaining them for residents is potentially discriminatory.
Raise fines for the many resident lawbreakers instead of increasing fees.	The Department does not believe that the suggestion offered is an effective alternative to achieve the objective of the rulemaking. Fines for wildlife violations, which are categorized as misdemeanors, are not set by the Department, but by statute and the judiciary branch. Courts also retain part of the fines, which would deter funds from the agency.
The Department should increase the application fee instead of tag fees.	The Department does not believe that the suggestion offered is an effective alternative to achieve the objective of the rulemaking. The Department was directed to increase fees for tags as authorized by the 1999 House Bill, not application fees.
Do not raise tag fees, and please remove the lake fees. Make do with what you have.	The Department does not believe that the suggestion offered is an effective alternative to achieve the objective of the rulemaking.
I suggest that the annual hunting and licensing fees for seniors 65 and older who are residents for 20 years should be reduced by 50% of the existing fee. Seniors over 70 should have all fees waived, and licenses and stamps be issued for free. Increase fees for nonresidents by 10%.	The Department does not believe that the suggestion offered is an effective alternative to achieve the objective of the rulemaking. The Department is not prepared to offer as many exemptions as are requested, and cannot increase tag fees for nonresidents, because some tag fees are already at the statutory maximum.
I would like to offer alternative fee increases for tags: Antelope: \$100 resident, \$200 nonresident Bear: \$100 resident, \$200 nonresident Bighorn Sheep: \$300m \$500 nonresident Deer: \$100 resident, \$200 nonresident Elk: \$150 resident, \$500 nonresident Javelina: \$50, \$150 nonresident Mountain lion: \$50 resident, \$150 nonresident Turkey: \$50 resident, \$150 nonresident White Amur Stocking License: \$350	The Department does not believe that the suggestion offered is an effective alternative to achieve the objective of the rulemaking. The Department cannot accept this proposal, because some of the suggested fees exceed the statutory maximum.

**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. Any material incorporated by reference and its location in the text:**

Not applicable

**14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule:**

The rule was not previously made as an emergency rule.

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

*Arizona Administrative Register / Secretary of State*  
**Notices of Final Rulemaking**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

Sections

R12-4-102. Fees for Licenses, Tags, Stamps, and Permits

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

**R12-4-102. Fees for Licenses, Tags, Stamps, and Permits**

Persons purchasing the licenses, tags, stamps, or permits listed in this Section shall pay the prescribed fees at the time of application, or the fees prescribed by the Director under R12-4-115.

<b>Hunting and Fishing License Fees</b>	<b><u>Fees Effective for Licenses, Tags, Stamps, and Permits to Be Used Until 2005</u></b>	<b><u>Fees Effective for Licenses, Tags, Stamps, and Permits to Be Used Beginning in 2005</u></b>
Class A, General Fishing License		
· Resident	\$18.00	<u>\$18.00</u>
· Nonresident Pursuant to A.R.S. § 17-333(A)(1), the fee for this license issued in November or December of the year for which the license is valid is half price; that includes half of the surcharge prescribed as authorized by A.R.S. § 17-345.	\$51.50	<u>\$51.50</u>
Class B, Four-month Fishing License		
· Nonresident	\$37.50	<u>\$37.50</u>
Class C, Five-day Fishing License		
· Nonresident	\$26.00	<u>\$26.00</u>
Class D, One-day Fishing License		
· Resident or Nonresident	\$12.50	<u>\$12.50</u>
Class E, Colorado River Only Fishing License		
· Nonresident	\$42.50	<u>\$42.50</u>
Class F, Combination Hunting and Fishing License		
· Resident Adult	\$44.00	<u>\$44.00</u>
· Nonresident Adult	\$177.50	<u>\$177.50</u>
· Resident or Nonresident Youth. Fee applies before and through the calendar year of the applicant's 20th birthday.	\$25.50	<u>\$25.50</u>
Class G, General Hunting License		
· Resident	\$25.50	<u>\$25.50</u>
· Nonresident	\$113.50	<u>\$113.50</u>
Class H, Three-day Hunting License		
· Nonresident	\$51.50	<u>\$51.50</u>
· Resident Youth Group Two-day Fishing License	\$25.00	<u>\$25.00</u>

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Class U, Urban Fishing License		
· Resident or Nonresident	\$16.00	<u>\$16.00</u>
<b>Hunt Permit-tag Fees</b>		
<b>Antelope</b>		
· Resident	\$59.50	<u>\$65.00</u>
· Nonresident	\$299.50	<u>\$325.00</u>
<b>Bear</b>		
· Resident	\$13.00	<u>\$14.50</u>
· Nonresident	\$183.00	<u>\$200.00</u>
<b>Bighorn Sheep</b>		
· Resident	\$179.50	<u>\$195.00</u>
· Nonresident	\$915.00	<u>\$1,000.00</u>
<b>Buffalo</b>		
· Adult Bulls or Any Buffalo		
· Resident	\$750.00	<u>\$750.00</u>
· Nonresident	\$3,750.00	<u>\$3,750.00</u>
· Adult Cows		
· Resident	\$450.00	<u>\$450.00</u>
· Nonresident	\$2,250.00	<u>\$2,250.00</u>
· Yearling		
· Resident	\$240.00	<u>\$240.00</u>
· Nonresident	\$1,200.00	<u>\$1,200.00</u>
· Yearling or Cow		
· Resident	\$450.00	<u>\$450.00</u>
· Nonresident	\$2,250.00	<u>\$2,250.00</u>
<b>Deer and Archery Deer</b>		
· Resident	\$17.50	<u>\$19.50</u>
· Nonresident	\$108.50	<u>\$125.50</u>
<b>Elk</b>		
· Resident	\$71.50	<u>\$78.00</u>
· Nonresident	\$366.00	<u>\$400.00</u>
<b>Javelina and Archery Javelina</b>		
· Resident	\$11.00	<u>\$12.50</u>
· Nonresident	\$63.00	<u>\$70.00</u>
<b>Mountain Lion</b>		
· Resident	\$13.00	<u>\$10.00</u>
· Nonresident	\$183.00	<u>\$200.00</u>
<b>Turkey and Archery Turkey</b>		
· Resident	\$10.00	<u>\$11.00</u>
· Nonresident	\$50.50	<u>\$50.50</u>
<b>Sandhill Crane</b>		
· Resident or Nonresident	\$5.00	<u>\$5.00</u>
<b>Nonpermit-tag and Restricted Nonpermit-tag Fees</b>		
<b>Antelope</b>		
· Resident	\$59.50	<u>\$65.00</u>
· Nonresident	\$299.50	<u>\$325.00</u>

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Bear		
· Resident	\$13.00	<u>\$14.50</u>
· Nonresident	\$183.00	<u>\$200.00</u>
Bighorn Sheep		
· Resident	\$179.50	<u>\$195.00</u>
· Nonresident	\$915.00	<u>\$1,000.00</u>
Buffalo		
· Adult Bulls or Any Buffalo		
· Resident	\$750.00	<u>\$750.00</u>
· Nonresident	\$3,750.00	<u>\$3,750.00</u>
· Adult Cows		
· Resident	\$450.00	<u>\$450.00</u>
· Nonresident	\$2,250.00	<u>\$2,250.00</u>
· Yearling		
· Resident	\$240.00	<u>\$240.00</u>
· Nonresident	\$1,200.00	<u>\$1,200.00</u>
· Yearling or Cow		
· Resident	\$450.00	<u>\$450.00</u>
· Nonresident	\$2,250.00	<u>\$2,250.00</u>
Deer and Archery Deer		
· Resident	\$17.50	<u>\$19.50</u>
· Nonresident	\$108.50	<u>\$125.50</u>
Elk		
· Resident	\$71.50	<u>\$78.00</u>
· Nonresident	\$366.00	<u>\$400.00</u>
Javelina and Archery Javelina		
· Resident	\$11.00	<u>\$12.50</u>
· Nonresident	\$63.00	<u>\$70.00</u>
Mountain Lion		
· Resident	\$13.00	<u>\$10.00</u>
· Nonresident	\$183.00	<u>\$200.00</u>
Turkey and Archery Turkey		
· Resident	\$10.00	<u>\$11.00</u>
· Nonresident	\$50.50	<u>\$50.50</u>
<b>Stamps and Special Use Permit Fees</b>		
Arizona Colorado River Special Use Permit Stamp. For use by California fishing licensees, resident or nonresident.	\$3.00	<u>\$3.00</u>
Arizona Colorado River Special Use Permit Stamp. <del>For use by Nevada fishing licensees, resident or nonresident.</del>	\$3.00	<u>\$3.00</u>
Arizona Lake Powell Stamp. For use by resident Utah licensees.	\$3.00	<u>\$3.00</u>
Bobcat Permit Tag. For resident or nonresident.	\$2.00	<u>\$2.00</u>
State Waterfowl Stamp. Validates resident or nonresident Class F, G, or H license for ducks, geese, and swans.	\$7.50	<u>\$7.50</u>
State Migratory Bird Stamp, as prescribed in A.R.S. § 17-333.03. Resident or nonresident.	\$3.00	<u>\$3.00</u>
Trout Stamp. When affixed to the back of the license, validates Class A license for trout.		
· Resident	\$10.50	<u>\$10.50</u>

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· Nonresident	\$49.50	<u>\$49.50</u>
Two-Pole Stamp. When affixed to the back of a Class A, B, C, D, E, F. Pioneer or Urban fishing license, allows simultaneous fishing as defined in R12-4-101.	\$4.00	<u>\$4.00</u>
<b>Other License Fees</b>		
Falconer License	\$75.00	<u>\$75.00</u>
Field Trial License	\$5.00	<u>\$5.00</u>
Fur Dealer's License	\$100.00	<u>\$100.00</u>
Guide License		
· Resident or Nonresident	\$100.00	<u>\$100.00</u>
License Dealer's License	\$75.00	<u>\$75.00</u>
Minnow Dealer's License	\$30.00	<u>\$30.00</u>
Private Game Farm License	\$40.00	<u>\$40.00</u>
Shooting Preserve License	\$100.00	<u>\$100.00</u>
Taxidermist License	\$50.00	<u>\$50.00</u>
Trapping License		
· Resident	\$10.00	<u>\$10.00</u>
· Nonresident	\$50.00	<u>\$50.00</u>
· Resident Juvenile	\$10.00	<u>\$10.00</u>
White Amur Stocking License	\$100.00	<u>\$200.00</u>
Wildlife Hobby License	\$5.00	<u>\$5.00</u>
Zoo License	\$100.00	<u>\$100.00</u>
<b>Administrative Fees</b>		
Duplicate Fee. Duplicates are not issued for Trout Stamps, Arizona Colorado River Special Use Permits, Arizona Colorado River Special Use Permit Stamps, Arizona Lake Powell Stamps, State Migratory Bird Stamps, or State Waterfowl Stamps.	\$3.00	<u>\$3.00</u>
Permit Application Fee.	\$5.00	<u>\$5.00</u>
Kaibab North Special Deer Hunting Permit, resident or nonresident	\$5.00	<u>\$5.00</u>

**NOTICE OF FINAL RULEMAKING**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
TITLE, REGISTRATION, AND DRIVER LICENSES**

**PREAMBLE**

- 1. Sections Affected:**

R17-4-501 R17-4-508	<b>Rulemaking Action:</b> Amend Amend
------------------------	---
  
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-366  
 Implementing statute: A.R.S. §§ 28-3051 and 28-3223
  
- 3. The effective date of the rules:**

August 7, 2004 (60 days after the date of filing with the Secretary of State).
  
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 369, January 30, 2004  
 Notice of Proposed Rulemaking: 10 A.A.R. 349, January 30, 2004

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

Name: Troy Walters, Rules Analyst  
Address: Administrative Rules Unit  
Department of Transportation, Mail Drop 507M  
3737 N. 7th St., Suite 160  
Phoenix, AZ 85014-5079  
Telephone: (602) 712-6722  
Fax: (602) 241-1624  
E-mail: twalters@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at [www.dot.state.az.us/about/rules/index.htm](http://www.dot.state.az.us/about/rules/index.htm).

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

R17-4-508 contains the medical standards for commercial motor vehicle drivers. R17-4-501 incorporates one definition previously in a subsection of R17-4-508. This rulemaking action arises from a five-year review report approved by the Governor's Regulatory Review Council on December 7, 1999 (F-99-1202). The agency is updating and revising the rules for clarity and to include current agency practice in assessing commercially licensed driver physical qualifications.

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

The agency did not rely on any study in this rulemaking.

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

Not applicable

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

The agency's statistics for an average year show that approximately 500 commercial driver licenses (CDLs) are suspended, denied, or revoked for failing to meet federal commercial driver physical qualifications. Additionally, 11,500 are suspended for failing to submit USDOT physical examination forms to the agency. Examination costs to the driver-applicant are minimal. CDL reinstatement is immediate upon driver submission of appropriate physical examination documentation. Agency cost per case is minimal to ensure compliance with 49 CFR 391 standards. Collectively, however, the benefits in motoring safety and commercial driver health standards integrity are substantial to the citizens and business entities of Arizona.

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

Only minor, technical changes were made between the proposed rules and the final rules.

**11. A summary of the comments made regarding the rule and the agency response to them:**

No comments were received regarding this 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 this rule previously adopted as an emergency rule?**

No

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

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 5. SAFETY

Section  
R17-4-501. Definitions

Notices of Final Rulemaking

R17-4-508. ~~Physical Qualifications for Commercial Motor Vehicle Drivers~~ Commercial Driver License “CDL” Physical Qualifications

ARTICLE 5. SAFETY

**R17-4-501. Definitions**

~~Unless otherwise indicated, the following definitions apply to this Article~~ The following definitions apply to this Article unless otherwise specified:

1. “Adaptation” means a modification of or addition to the standard operating controls or equipment of a motor vehicle.
2. “Applicant” or “licensee” means a person:
  - a. Applying for an Arizona driver license or driver license renewal, or
  - b. Required by the Division to complete an examination successfully or to obtain an evaluation.
3. “Application” means the Division form required to be completed by or for an applicant for a driver license or driver license renewal.
4. “Arizona Driver License Manual” or “manual” means the reference booklet for applicants, issued by the Division, containing non-technical explanations of the Arizona motor vehicle laws.
5. “Aura” means a sensation experienced before the onset of a neurological disorder.
6. “Certified substance abuse counselor” is defined in A.R.S. § 28-3005(C)(4).
7. “Commercial Driver License physical qualifications” or “CDL physical qualifications” means driver medical qualification standards for a person licensed in class A, B, or C to operate a commercial vehicle as prescribed under 49 CFR 391, incorporated by reference under R17-5-202 and R17-5-204.
- ~~7-8.~~ “Director” means the Division Director or the Division Director’s designee.
- ~~8-9.~~ “Disqualifying medical condition” means a visual, physical, or psychological condition, including substance abuse, that impairs functional ability.
- ~~9-10.~~ “Division” means the Arizona Department of Transportation, Motor Vehicle Division.
- ~~10-11.~~ “Driver license” is defined in A.R.S. § 28-101(19).
- ~~11-12.~~ “Evaluation” means a medical assessment of an applicant or licensee by a specialist as defined under ~~(21)~~ (22) of this Section to determine whether a disqualifying medical condition exists.
- ~~12-13.~~ “Examination” means testing or evaluating an applicant’s or licensee’s:
  - a. Ability to read and understand official traffic control devices,
  - b. Knowledge of safe driving practices and the traffic laws of this state, and
  - c. Functional ability.
- ~~13-14.~~ “Functional ability” means the ability to operate safely a motor vehicle of the type permitted by an Arizona driver license class or endorsement.
- ~~14-15.~~ “Identification number” means a distinguishing number assigned by the Division to a person for a license or instruction permit.
- ~~15-16.~~ “Licensee” means a person issued a driver license by this state.
- ~~16-17.~~ “Licensing action” means an action by the Division to:
  - a. Issue, deny, suspend, revoke, cancel, or restrict a driver license; or
  - b. Require an examination or evaluation of an applicant or licensee.
- ~~17-18.~~ “Medical screening questions and certification” means the questions and certification on the application, as shown in Exhibit A following ~~this Section~~ R17-4-502.
- ~~18-19.~~ “Neurological disorder” means a malfunction or disease of the nervous system.
- ~~19-20.~~ “Physician” means a person licensed to practice medicine or osteopathy in any state, territory, or possession of the United States or the Commonwealth of Puerto Rico.
- ~~20-21.~~ “Seizure” means a neurological disorder characterized by a sudden alteration in consciousness, sensation, motor control, or behavior, due to an abnormal electrical discharge in the brain.
- ~~21-22.~~ “Specialist” means:
  - a. A physician who is a surgeon or a psychiatrist;
  - b. A physician whose practice is limited to:
    - i. A particular anatomical or physiological area or function of the human body, or
    - ii. Patients within a specific age range; or
  - c. A psychologist.
- ~~22-23.~~ “Substance abuse” means:
  - a. Use of alcohol in a manner that makes the user an alcoholic as defined in A.R.S. § 36-2021(1), or
  - b. Drug dependency as described in A.R.S. § 36-2501(A)(5).
- ~~23-24.~~ “Substance abuse evaluation” means an assessment by a physician, specialist, or certified substance abuse counselor to determine whether the use of alcohol or a drug impairs functional ability.
- ~~24-25.~~ “Successful completion of an examination” means an applicant or licensee:
  - a. Establishes the visual, physical, and psychological ability to operate a motor vehicle safely, or

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- b. Achieves a score of at least 80 percent on a written test and road test.

**R17-4-508. ~~Physical Qualifications for Commercial Motor Vehicle Drivers~~ Commercial Driver License “CDL” Physical Qualifications**

**A. Definitions**

- 1. “Commercial Motor Vehicle” has the same meaning as set forth in A.R.S. § 28-402.
- 2. “Division” means the Motor Vehicle Division of the Arizona Department of Transportation.
- 3. “Physical qualifications” means those physical qualifications set forth in 49 CFR as adopted in R17-4-435 and R17-4-435.02.

**B. Requirements. Every Arizona licensed driver operating a commercial motor vehicle shall:**

- 1. Meet the physical qualifications set forth in 49 CFR as adopted in R17-4-435 and R17-4-435.02, and
- 2. Have an original or copy of a current medical examination certificate as required by 49 CFR as adopted in R17-4-435 and R17-4-435.02 in the vehicle and available to law enforcement officers upon request.

1. A CDL applicant shall submit to the Division a U.S. Department of Transportation medical examination form completed as prescribed under 49 CFR 391.43:

a. By a professional licensed to practice by the federal government, any state, or U.S. territory with one of the following credentials:

- i. Medical Doctor,
- ii. Doctor of Osteopathy,
- iii. Doctor of Chiropractic,
- iv. Nurse Practitioner, or
- v. Physician Assistant, and

b. Upon the applicant’s initial application and at the time of each 24-month renewal.

- 2. As prescribed under 49 CFR 391.41(a), a CDL licensee shall keep an original or photographic copy of the licensee’s current medical examination form required under subsection (A)(1) available for law enforcement inspection upon request.
- 3. A CDL licensee shall notify the Division of a physical condition that develops or worsens causing noncompliance with the CDL physical qualifications within 10 days after the condition develops or worsens.

**B. CDL suspension and revocation notification procedure. To notify a licensee of any CDL suspension and revocation under subsection (C), the Division shall simultaneously mail two notices within 15 days after a medical examination form’s due or actual submission date to the licensee’s address of record that:**

- 1. Suspends the licensee’s CDL beginning on the notice’s date; and
- 2. Revokes the licensee’s CDL 15 days after the date of the suspension notice issued under subsection (B)(1).

**C. ~~Failure to meet or maintain physical qualifications in accordance with 49 CFR as adopted in R17-4-435 and R17-4-435.02.~~**

- 1. ~~No person shall be issued a Class A, B, or C license if that person fails to meet physical qualifications in accordance with 49 CFR as adopted in R17-4-435 and R17-4-435.02.~~
- 2. ~~A person who has been issued a Class A, B, or C license who subsequently fails to maintain physical qualifications in accordance with 49 CFR as adopted in R17-4-435 and R17-4-435.02 shall notify the Division of the condition within 5 days of the occurrence or as soon as the condition allows.~~
- 3. ~~A failure to maintain physical qualifications in accordance with 49 CFR as adopted in R17-4-435 and R17-4-435.02 shall be deemed to cause such a danger to the public health, safety, and welfare that it is imperatively required that the Division take emergency action. Therefore, the Division shall summarily suspend and revoke the licensee’s Class A, B, or C license by 5:00 p.m. on the next business day after notification of the condition.~~
- 4. ~~If the written medical examination report fails to establish whether or not physical qualifications, in accordance with 49 CFR as adopted in R17-4-435 and R17-4-435.02, have been met, the incomplete report shall be returned to the applicant or licensee by mail to the address provided to the Division. The applicant or commercial licensee shall be notified in writing by 5:00 p.m. the next business day from the date of determination that additional information is required. If the requested information is not received within 30 days from the date of the notice, the Division shall summarily suspend and revoke by 5:00 p.m. the next business day the Class A, B, or C license issued to the licensee or deny issuance to the applicant.~~
- 5. ~~Upon summarily suspending the Class A, B, or C license for failure to maintain physical qualifications in accordance with 49 CFR as adopted in R17-4-435 and R17-4-435.02 or failure to submit a complete medical examination report, the Division shall notify the person by mail of the licensing action, within 3 business days from the date of action to the person’s address of record.~~

**C. Noncompliance actions.**

- 1. Initial application denial. If an applicant’s initial medical examination form required under subsection (A)(1) shows that the applicant is not in compliance with the CDL physical qualifications, the Division shall immediately mail CDL denial notification to the applicant’s address of record.
- 2. 24-month-renewal suspension and revocation. If a renewing CDL licensee submits:



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- a. No medical examination form required under subsection (A)(1) or a form indicating noncompliance with CDL physical qualifications, the Division shall follow the suspension and revocation notification procedure prescribed under subsection (B).
  - b. An incomplete medical examination form required under subsection (A)(1), the Division shall immediately return the incomplete form with a letter requesting that the licensee provide missing information to the Division within 45 days after the date of the Division's letter. The Division shall follow the suspension and revocation notification procedure prescribed under subsection (B) if the licensee fails to return requested information in the time-frame prescribed in this subsection.
  - c. A medical examination form required under subsection (A)(1) that indicates the licensee's blood pressure is greater than 140 systolic or 90 diastolic, the Division shall mail notice to the licensee requiring three additional blood pressure evaluations:
    - i. Made on three different days.
    - ii. Performed by a qualified professional as prescribed under subsection (A)(1)(a), and
    - iii. Returned to the Division within 90 days after the Division's written notification.The Division shall follow the suspension and revocation notification procedure prescribed under subsection (B) if the licensee fails to return requested information prescribed under subsection (C)(2)(c)(iii).
  - d. A medical examination form required under subsection (A)(1) that indicates the licensee's blood pressure is greater than 180 systolic or 104 diastolic, the Division shall follow the suspension and revocation notification procedure prescribed under subsection (B).
- D. Hearings and appeals:**
- 1. Where licensing actions have been taken adverse to the licensee or applicant pursuant to this rule, the licensee or applicant may request a hearing with the Executive Hearing Office within 15 days from the date of the notice of the licensing action.
  - 2. All hearings and appeal procedures shall be in accordance with Article 9 of this Chapter.
- D. A CDL that remains revoked for longer than 12 months expires. The holder of an expired CDL may obtain a new CDL by successfully completing all CDL original-application written, vision, and demonstration-skill testing and submitting the medical examination form prescribed under subsection (A)(1).**
- E. Administrative hearing. A person who is denied a CDL or whose CDL is suspended or revoked under this Section may request a hearing according to the procedure prescribed under 17 A.A.C., Chapter 1, Article 5.**

**NOTICE OF FINAL RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR POLLUTION CONTROL**

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b>1. <u>Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R18-2-309                          | Amend                           |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. §§ 49-104(A)(1) and (A)(11); 49-425  
Implementing statute: A.R.S. § 49-426
- 3. The effective date of the rules:**  
June 17, 2004  
Immediately upon filing with the Secretary of State. The Administrator specified a 12-month deadline for submittal of program revisions, or June 28, 2004. ADEQ is therefore requesting that this rule be effective immediately upon filing of the Notice of Final Rulemaking with the Secretary of State, under A.R.S. § 41-1032(A).
- 4. A list of all previous notices appearing in the Register addressing the final rules:**  
Notice of Rulemaking Docket Opening: 10 A.A.R. 508, February 13, 2004  
Notice of Proposed Rulemaking: 10 A.A.R. 770, March 5, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Kevin Force  
Address: Department of Environmental Quality  
1110 W. Washington Ave.

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Phoenix, AZ 85007

Telephone: (602) 771-4480  
(This number may be reached in-state by dialing 1-800-234-5677 and requesting the seven digit number.)

Fax: (602) 771-2366

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

Summary. ADEQ has revised compliance certification requirements under the state's operating permits program, as required by recent revisions to 40 CFR Part 70. EPA has specified a deadline of June 28, 2004 for submittal of program revisions.

Background. State Operating Permits Programs, under Part 70 regulations published in 1992, require responsible officials (ROs) of major sources of air pollutants to certify compliance with the Clean Air Act. Specifically, ROs needed to identify in their certification whether the status of compliance with the Act was continuous or intermittent during the period covered by the ongoing certification.

In its 1997 Compliance Assurance Monitoring (CAM) rule, EPA amended the compliance certification provisions for the State Operating Permits Program, 40 CFR Part 70 (62 FR 54900, October 22, 1997). The 1997 amendments replaced the existing certification requirement with a requirement to indicate whether the certification was based on *methods* that provide continuous or intermittent *data* and whether deviations, excursions, or exceedances occurred (emphasis added). In 2000, ADEQ amended R18-2-309, making the language of the rule mirror the 1997 changes made to Part 70 by EPA (6 A.A.R. 343, January 14, 2000).

In 1999, Natural Resources Defense Council, Inc. (NRDC) filed a petition with the U.S. Court of Appeals for the D.C. Circuit challenging this and other aspects of the 1997 amendments. NRDC claimed that the 1997 amendments were directly inconsistent with the explicit requirement of the Act that compliance certifications identify whether *compliance* is continuous or intermittent (emphasis added). The Court agreed with NRDC that the 1997 amendments were contrary to the statute, which requires that certification include whether compliance, not just data, is continuous or intermittent, and remanded the regulations to EPA for revision in accordance with the Court's opinion (194 F.3d 130, October 29, 1999).

On June 27, 2003, EPA published final amendments to the compliance certification provisions for the State Operating Permits Programs (Part 70) (68 FR 38518). Specifically, the regulations now require, as ordered by the Court, that the compliance certification include whether the facility or source has been in continuous or intermittent compliance. EPA removed the language of the 1997 amendments that referred to continuous or intermittent data. State, local, and tribal governments that implement Part 70 operating permits programs were directed to revise their existing compliance certification requirements to make them consistent with the 2003 amendments.

In light of the narrow scope of revisions necessary to bring State programs into compliance with the amendments, the Administrator specified a 12-month deadline for submittal of program revisions, or June 28, 2004. ADEQ is therefore requesting that this rule be effective immediately upon filing of the Notice of Final Rulemaking with the Secretary of State, under A.R.S. § 41-1032(A).

The revisions to R18-2-309 would put the rule back in compliance with 40 CFR Part 70, by again making the language of R18-2-309 mirror that of the revisions EPA made to the regulation in accordance with the Court's remand; Class I sources would be required to certify that compliance with their permit provisions was continuous. Additionally, R18-2-309 applies to both Class I and Class II sources; Class II sources will also be required to certify continuous compliance with the terms and conditions of their permits.

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

None

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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:**

**Rule Identification**

Arizona Administrative Code Title 18, Chapter 2, Article 3; Section R18-2-309.

**Costs**

Under the former rule, sources were required to specify whether their compliance certifications were based on continuous or intermittent *data*. In the new rule, sources are required to certify continuous or intermittent *compliance*. In this way, the rule change affects the compliance certification *statement* of the source. The rule change does not affect compliance time periods, which are usually based on emission standards. This rule change does not affect any emis-

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sion standards, nor does it require increased monitoring or testing requirements. As there were no changes in emission standards, or monitoring or testing requirements, it is expected that the rule change will not result in increased expenditure for permitted sources, whether Class I or Class II.

Costs to ADEQ are those that may accrue for implementation and enforcement of the new requirements. Even though some minor incremental costs may accrue from this rulemaking, ADEQ does not intend to hire any additional employees to implement or enforce these rules.

**Benefits**

This rulemaking allows ADEQ to retain Title V permitting authority. If the rulemaking is not approved and submitted to EPA by June 28, 2004, ADEQ could lose that permitting authority. ADEQ issues Title V permits to approximately 65 sources.

Benefits accrue to the regulated community when a state agency incorporates a federal regulation in order to become the primary implementer of the regulation, because the state agency is closer to those being regulated and, therefore, is generally easier to contact and to work with to resolve differences, compared with the U.S. EPA, whose regional office for Arizona is in San Francisco. Local implementation also reduces travel and communication costs.

Health benefits accrue to the general public whenever enforcement of environmental laws takes place. Adverse health effects from air pollution result in a number of economic and social consequences, including:

1. Medical costs. These include personal out-of-pocket expenses of the affected individual (or family), plus costs paid by insurance or Medicare, for example.
2. Work loss. This includes lost personal income, plus lost productivity whether the individual is compensated for the time or not. For example, some individuals may perceive no income loss because they receive sick pay, but sick pay is a cost of business and reflects lost productivity.
3. Increased costs for chores and care giving. These include special care giving and services that are not reflected in medical costs. These costs may occur because some health effects reduce the affected individual's ability to undertake some or all normal chores, and he or she may require care giving.
4. Other social and economic costs. These include restrictions on or reduced enjoyment of leisure activities, discomfort or inconvenience, pain and suffering, anxiety about the future, and concern and inconvenience to family members and others.

**Conclusion**

In conclusion, the incremental costs associated with this rule are generally low, and apply solely to ADEQ, while the air quality benefits are generally high. In addition, there are benefits to industry from being regulated by a geographically nearer government entity. As a result, ADEQ expects probable benefits to outweigh probable costs.

ADEQ anticipates no adverse economic impacts on political subdivisions. Additionally, there are no expected adverse economic impacts on private businesses, their revenues or expenditures. The fact that no new employment is expected to occur has been discussed above, in the context of the impact on state agencies. There are no adverse economic impacts on small businesses, although some regulatory benefits will accrue to them. There are no economic impacts for consumers; benefits to private persons as members of the general public are discussed above in terms of enforcement. There will be no direct impact on state revenues. There are no other, less costly alternatives for achieving the goals of this rulemaking.

**Rule impact reduction on small businesses.**

A.R.S. § 41-1035 requires ADEQ to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives (see below) for the rulemaking. The five listed methods are:

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

**The statutory objectives which are the basis of the rulemaking.**

The general statutory objectives that are the basis of this rulemaking are contained in the statutory authority cited in item number 2 of this preamble. The specific objective is to implement compliance certification requirements for Class I and Class II sources.

ADEQ has determined that there is a beneficial impact on small businesses in transferring implementation of these rules to ADEQ. In addition, ADEQ is required by EPA to mirror the federal rules without reducing stringency.

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ADEQ, therefore, has found that it is not legal or feasible to adopt any of the five listed methods in ways that reduce the impact of these rules on small businesses. ADEQ is not aware of any Class I source in Arizona that is a small business. Even if such a source did exist, ADEQ has concluded that each of the listed methods would be illegal in such a case, as federal law requires that this rule change apply to major sources. Further, as was discussed above, ADEQ has determined that the new rule imposes no changes in emission standards, monitoring or testing requirements. Therefore, ADEQ expects that the rule change will not result in increased costs for permitted sources, whether or not they are small businesses. Exempting small businesses from the rule, or creating a different regulatory scheme for small businesses, however, would result in increased administrative costs to the agency. Finally, where federal rules impact small businesses, EPA is required by both the Regulatory Flexibility Act and the Small Business Regulatory Enforcement and Fairness Act to make certain adjustments in its own rulemakings.

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

Minor technical and grammatical changes were made.

**11. A summary of the comments made regarding the rule and the agency response to them:**

None

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

Not applicable

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

None

**14. Was this rule previously made as an emergency rule?**

No

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

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR POLLUTION CONTROL

ARTICLE 3. PERMITS AND PERMIT REVISIONS

Section

R18-2-309. Compliance Plan; Certification

ARTICLE 3. PERMITS AND PERMIT REVISIONS

**R18-2-309. Compliance Plan; Certification**

All permits shall contain the following elements with respect to compliance:

1. The elements required by R18-2-306(A)(3), (4), and (5).
2. Requirements for ~~compliance certification~~ certifications of compliance with terms and conditions contained in the permit, including ~~emission~~ emissions limitations, standards, ~~or~~ and work practices. Permits shall include each of the following:
  - a. The frequency ~~for~~ of submissions of compliance certifications, which shall not be less than annually;
  - b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices;
  - c. A requirement that the compliance certification include all of the following (the identification of applicable information may cross-reference the permit or previous reports, as applicable):
    - i. The identification of each term or condition of the permit that is the basis of the certification;
    - ii. The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period, ~~and whether the methods or other means provide continuous or intermittent data.~~ The methods and other means shall include, at a minimum, the methods and means required under R18-2-306(A)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;
    - iii. The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the methods or means designated in subsection (2)(c)(ii). The certification shall identify each deviation and take it into account ~~for consideration~~ in the compliance certification. For emission units subject to 40 CFR 64, the certification shall also identify as possible exceptions to compliance any period during which compliance is required and in which an excursion or exceedance defined under 40 CFR 64

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- occurred; and
- iv. Other facts the Director may require to determine the compliance status of the source.
- d. A requirement that permittees submit all compliance certifications ~~be submitted~~ to the Director. Class I ~~permit~~ permittees shall also submit compliance certifications ~~shall also be submitted~~ to the Administrator.
- e. Additional requirements specified in sections 114(a)(3) and 504(b) of the Act or pursuant to R18-2-306.01.
3. A requirement for any document required to be submitted by a ~~permit~~ permittee, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this ~~part~~ Section shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
4. Inspection and entry provisions ~~which that~~ require that upon presentation of proper credentials, the permittee shall allow the Director to:
- a. Enter upon the permittee's premises where a source is located, ~~or~~ emissions-related activity is conducted, or ~~where~~ records are required to be kept under the conditions of the permit;
- b. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
- c. Inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
- d. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
- e. Record any inspection by use of written, electronic, magnetic, ~~and~~ or photographic media.
5. A compliance plan that contains all the following:
- a. A description of the compliance status of the source with respect to all applicable requirements-;
- b. A description as follows:
- i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with ~~such the~~ requirements-;
- ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet ~~such the~~ requirements on a timely basis-; and
- iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements-;
- c. A compliance schedule as follows:
- i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with ~~such the~~ requirements-;
- ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement-;
- iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. ~~Such a~~ The schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirement for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. ~~Any such~~ The schedule of compliance shall be ~~supplemental to~~ supplement, and shall not sanction noncompliance with, the applicable requirements on which it is based.
- d. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation. ~~Such The schedule~~ progress reports shall contain:
- i. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and
- ii. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- ~~e-6.~~ The compliance plan content requirements specified in ~~this~~ subsection (5) shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, and incorporated ~~pursuant to~~ under R18-2-333 with regard to the schedule and ~~method(s)~~ each method the source will use to achieve compliance with the acid rain emissions limitations.
- ~~6-7.~~ If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.