

# 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 3. AGRICULTURE

#### CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

[R07-28]

#### PREAMBLE

**1. Sections Affected**

Table 1  
R3-11-902  
R3-11-903  
Article 10  
R3-11-1001  
R3-11-1002  
R3-11-1003  
R3-11-1004  
R3-11-1005  
R3-11-1006  
R3-11-1007  
R3-11-1008  
R3-11-1009  
R3-11-1010

**Rulemaking Action**

Amend  
Amend  
Amend  
New Article  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section  
New Section

**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. §§ 32-2207(8) and 32-2295

Implementing statutes: A.R.S. §§ 32-2291, 32-2292, 32-2293, and 32-2294

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

April 7, 2007

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 2156, June 16, 2006

Notice of Proposed Rulemaking: 12 A.A.R. 2542, July 21, 2006

Notice of Rulemaking Docket Opening: 12 A.A.R. 3422, September 22, 2006

Notice of Supplemental Proposed Rulemaking: 12 A.A.R. 4174, November 13, 2006

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

Name: Jenna Jones  
Address: Veterinary Medical Examining Board  
1400 W. Washington, Ste. 240  
Phoenix, AZ 85007  
Telephone: (602) 542-8150  
Fax: (602) 364-1039  
E-mail: Jenna.jones@vetbd.state.az.us

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

Notices of Final Rulemaking

In 2004, the Legislature amended the Board's statutes to require that an animal crematory be licensed. The Board was authorized to make rules establishing qualifications and minimum standards for an animal crematory, prescribing a license application form, and establishing fees for a license. The Board is making the rules authorized.

**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:**

The primary economic impact results from the legislation requiring that an animal crematory be licensed. The minimal economic impact from the rules results from prescribing an application form, establishing minimum standards, and establishing a licensing fee. These are costs of doing business that may be passed to consumers of animal crematory services.

The cost incurred by the Board to make these rules, develop an application form and procedure, and train staff to conduct an inspection of an animal crematory result from the legislation requiring that the Board license animal crematories. These costs, which will be significant initially but diminish with time, will be offset by the licensing fees collected.

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

Only minor, non-substantial, changes were made between the rules as published in the Notice of Supplemental Proposed Rulemaking and the final rules.

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

No comments were received regarding the rules as published in the Notice of Supplemental Proposed Rulemaking.

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

None

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

None

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

No

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

TITLE 3. AGRICULTURE

CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

ARTICLE 1. GENERAL PROVISIONS

Section

Table 1. Time-frames (in days)

ARTICLE 9. INVESTIGATIONS AND HEARINGS

Section

R3-11-902. Informal Interview

R3-11-903. Formal Hearing

**ARTICLE 10. ANIMAL CREMATORY MINIMUM STANDARDS**

R3-11-1001. Definitions

R3-11-1002. Obtaining an Animal Crematory License

R3-11-1003. Renewing an Animal Crematory License

R3-11-1004. Fees

R3-11-1005. Minimum Standards for an Animal Crematory

R3-11-1006. Minimum Operating Standards for an Animal Crematory

**Notices of Final Rulemaking**

- R3-11-1007. Written Procedures Required
- R3-11-1008. Recordkeeping Requirements
- R3-11-1009. Change in a Responsible Owner
- R3-11-1010. Change in Operator

**ARTICLE 1. GENERAL PROVISIONS**

**Table 1. Time-frames (in days)**

Type of Applicant	Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Veterinary Medical License by Examination (R3-11-201)	Approval to Take the North American Veterinary Licensing Examination	A.R.S. § 32-2214	60	15	45
Veterinary Medical License by Examination, Endorsement, or for a Specialty License (R3-11-201)	Approval to Take a State Examination	A.R.S. § 32-2214	60	15	45
Temporary Permittee (R3-11-301)	Temporary Permit	A.R.S. § 32-2216	30	15	15
Veterinary License by Examination, Endorsement, for a Specialty License, or Temporary Permittee (R3-11-201 & R3-11-301)	Veterinary License	A.R.S. § 32-2212 A.R.S. § 32-2213	60	15	45
Veterinary Technician (R3-11-606)	Approval to Take a National Veterinary Technician Examination or State Examination	A.R.S. § 32-2243	60	15	45
Veterinary Technician (R3-11-606)	Veterinary Technician Certificate	A.R.S. § 32-2242 A.R.S. § 32-2244	60	30	30
Veterinary Medical Premises (R3-11-707)	Veterinary Medical Premises License	A.R.S. § 32-2271 A.R.S. § 32-2272	90	30	60
<u>Animal Crematory (R3-11-1002)</u>	<u>Animal Crematory License and Renewal</u>	<u>A.R.S. § 32-2292</u>	<u>90</u>	<u>30</u>	<u>60</u>
Licensee (R3-11-405)	Approval for a Continuing Education Waiver	A.R.S. § 32-2207(8)	60	30	30

**ARTICLE 9. INVESTIGATIONS AND HEARINGS**

**R3-11-902. Informal Interview**

- A. The Board shall conduct an informal interview under A.R.S. § 32-2234, 32-2274, or 32-2294 as follows:
1. The Board shall send a written notice of the informal interview to all parties by personal service or certified mail, return receipt requested, at least 20 days before the informal interview. The Board shall ensure that the notice shall contain contains:
    - a. No change
    - b. No change
    - c. No change

Notices of Final Rulemaking

- d. No change
- e. No change
- f. The licensee's right to a formal hearing held according to A.R.S. § 32-2234, 32-2274, or 32-2294.
- 2. No change
  - a. No change
    - i. No change
    - ii. No change
    - iii. No change
  - b. No change
- 3. No change
  - a. No change
  - b. No change
  - c. No change
  - d. Impose disciplinary sanctions authorized by A.R.S. § 32-2234, 32-2274, or 32-2294 if a violation is found; or
  - e. No change
- B. No change
- C. No change

**R3-11-903. Formal Hearing**

- A. If a formal hearing under A.R.S. § 32-2234, 32-2249, 32-2274, or 32-2294 is to be held before an administrative law judge, the requirements in A.R.S. § 41-1092 through 41-1092.11 apply.
- B. If a formal hearing under A.R.S. § 32-2234, 32-2249, 32-2274, or 32-2294 is to be held directly before the Board, the requirements in A.R.S. § 41-1092 through 41-1092.11 and the following apply:
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
  - 5. No change
  - 6. No change

**ARTICLE 10. ANIMAL CREMATORY MINIMUM STANDARDS**

**R3-11-1001. Definitions**

The definitions in A.R.S. § 32-2201 apply to this Article. Additionally, in this Article:

- "Animal remains" means the body or part of the body of a dead animal in any stage of decomposition.
- "Authorizing agent" means an individual legally entitled to authorize the cremation of animal remains.
- "Cremated remains" means the residual of animal remains recovered after completion of the cremation process.
- "Cremation chamber" means the enclosed space within which the cremation process takes place.
- "Major changes in the scope of animal crematory services," as used in A.R.S. § 32-2292(C), means an increase or decrease in the number or capacity of cremation chambers at an animal crematory licensed under this Article.
- "Operator" means the individual who is responsible to the Board for the day-to-day operation of an animal crematory licensed under this Article.
- "Owner" means the person named under A.R.S. § 32-2292(B)(2).
- "Process" means to reduce identifiable bone fragments remaining after cremation to unidentifiable bone fragments.
- "Renewal period" means the two years between January 1 of an odd-number year and December 31 of an even-numbered year.
- "Responsible owner" means the owner and any individual or entity with legal title to at least 10 percent of a licensed animal crematory.

**R3-11-1002. Obtaining an Animal Crematory License**

- A. A person shall not provide or represent to provide animal cremation services before submitting to the Board an application and the fee required under subsection (B).
- B. To obtain an animal crematory license, the owner of an animal crematory shall:
  - 1. Submit an application, using a form obtained from the Board, that provides the following information:
    - a. Name of the animal crematory;
    - b. Address of the fixed location of the animal crematory;
    - c. Name of the person owning the animal crematory;
    - d. Name of each responsible owner of the animal crematory;

Notices of Final Rulemaking

- i. If the owner is an individual, that individual's name;
  - ii. If the owner is a partnership, the names of all partners; and
  - iii. If the owner is corporation or another business form, the names of all individuals owning at least 10 percent of the business;
  - e. Addresses of all individuals identified under subsection (B)(1)(d);
  - f. Social Security numbers of all individuals identified under subsection (B)(1)(d);
  - g. Name of the operator;
  - h. A description of the services that will be provided at the animal crematory;
  - i. A description of the animal crematory;
  - j. A description of the cremation equipment; and
  - k. Signature of the operator;
2. Submit the fee required under R3-11-1004(1).
  3. Submit evidence that the operator received training in the safe and proper operation of the cremation chamber;
  4. Submit a copy of every application for or license or permit issued for the animal crematory to operate in this state; and
  5. Schedule an inspection of the animal crematory by a Board designee.

**R3-11-1003. Renewing an Animal Crematory License**

- A. An animal crematory license expires on December 31 of every even-numbered year.
- B. An owner that fails to submit a renewal application to the Board on or before December 31 of an even-numbered year shall cease providing animal cremation services until a renewal application is submitted.
- C. To renew an animal crematory license, the owner shall submit to the Board, between October 1 and December 31 of an even-numbered year:
  1. A renewal application that provides the following information:
    - a. Name of the animal crematory;
    - b. Address of the fixed location of the animal crematory;
    - c. Name of the person owning the animal crematory;
    - d. Name of each responsible owner of the animal crematory:
      - i. If the owner is an individual, that individual's name;
      - ii. If the owner is a partnership, the names of all partners; and
      - iii. If the owner is corporation or another business form, the names of all individuals owning at least 10 percent of the business;
    - e. Addresses of all individuals identified under subsection (C)(1)(d);
    - f. Social Security numbers of all individuals identified under subsection (C)(1)(d);
    - g. Name of the operator;
    - h. A description of the services provided at the animal crematory;
    - i. A statement regarding how the services provided at the animal crematory have changed during the renewal period; and
    - j. Signature of the operator; and
  2. The fee required under R3-11-1004(2)
- D. If a renewal application is not submitted as required under subsection (C) but is submitted before February 1 following expiration on the previous December 31, the owner shall include with the renewal application an affirmation that animal cremation services were not provided at the animal crematory after the animal crematory license expired on the previous December 31.
- E. If a renewal application is not submitted under either subsection (C) or (D), the owner may have the animal crematory re-licensed within one year following expiration only by:
  1. Submitting the renewal application and fee required under subsection (C);
  2. Submitting the affirmation required under subsection (D); and
  3. Submitting the penalty required under R3-11-1004(3).
- F. If a renewal application is not submitted under subsection (C), (D), or (E), the owner may have the animal crematory re-licensed only by complying with R3-11-1002.

**R3-11-1004. Fees**

Under the authority provided by A.R.S. § 32-2207(9), the Board establishes and shall collect the following fees:

1. Animal crematory license: \$400;
2. Renewal of an animal crematory license: \$400;
3. Penalty for license renewal after January 31 following expiration: \$100; and
4. Duplicate license: \$10.

**R3-11-1005. Minimum Standards for an Animal Crematory**

The owner shall ensure that:

Notices of Final Rulemaking

1. The animal crematory complies with all federal, state, and local laws;
2. The animal crematory is at a fixed location;
3. The cremation chamber is constructed to withstand temperatures high enough to reduce animal remains to bone fragments yet protect persons and property from damage from excessive heat or harmful emissions;
4. The cremation chamber is shielded from public view;
5. The cremation chamber is competently installed. If the cremation chamber is installed in Arizona after the effective date of this Article, the cremation chamber shall be installed according to the manufacturer's recommendations;
6. If the cremation chamber is inside a building:
  - a. It is vented to the outside of the building; and
  - b. There is adequate exhaust to prevent heat buildup;
7. The cremation chamber receives fresh air to aid in combustion;
8. The animal crematory has a storage facility that:
  - a. Chills animal remains to at least 40 degrees Fahrenheit;
  - b. Is secure from access by unauthorized individuals; and
  - c. Preserves the dignity of the animal remains; and
9. The animal crematory has the equipment and supplies necessary to conduct cremations in a manner that protects the health and safety of crematory employees and the public.

**R3-11-1006. Minimum Operating Standards for an Animal Crematory**

The owner shall ensure that:

1. The animal crematory accepts delivery of animal remains only from:
  - a. The owner of the animal remains,
  - b. An animal shelter or humane society,
  - c. A veterinarian licensed under this Chapter,
  - d. An individual or entity with whom the animal crematory has a written contract regarding collection, pick-up, or delivery services; or
  - e. An authorized agent of a person described under subsections (1)(a) through (1)(d);
2. Animal remains that cannot be cremated immediately upon receipt are placed in the storage facility described in R3-11-1005(8);
3. If animal remains are submitted for individual cremation:
  - a. The animal remains are cremated separate from other animal remains;
  - b. The cremated remains are not commingled with other cremated remains;
  - c. The cremated remains are removed from the cremation chamber to the extent feasible and placed in an appropriately sized and securely closed container;
  - d. A label containing the following information is permanently affixed to the container in which the cremated remains are placed:
    - i. Name of the crematory,
    - ii. Name of the animal cremated, and
    - iii. Date of cremation; and
  - e. The cremated remains are disposed according to instructions from the authorizing person or agent;
4. All animal remains submitted for cremation are cremated;
5. Animal remains that are communally cremated are disposed of in a legal manner;
6. The cremation chamber is:
  - a. Operated in a safe and sanitary manner and maintained so the cremation chamber functions in an effective and efficient manner; or
  - b. Operated and maintained according to the manufacturer's recommendations if the cremation chamber is installed in Arizona after the effective date of this Article;
7. Employees of the animal crematory who handle animal remains use universal precautions and exercise reasonable care to minimize the risk of injury or transmitting communicable disease; and
8. Instructions for operation of the cremation chamber, including emergency shut-down procedures, are located at the animal crematory and easily accessible.

**R3-11-1007. Written Procedures Required**

**A.** The owner shall ensure that the animal crematory has written procedures regarding the manner in which:

1. Animal remains are identified from the time the animal crematory accepts delivery of the animal remains until the cremated remains are released according to instructions from the authorizing person or agent;
2. Authorization to cremate is obtained and documented;
3. The cremation chamber is loaded and unloaded;
4. Cremated remains are processed;
5. Cremated remains, including unclaimed cremated remains, are disposed; and

Notices of Final Rulemaking

6. Records are to be completed and maintained.
- B.** The owner shall ensure that all employees involved in providing animal cremation services are familiar with the required procedures.
- C.** The owner shall make these written procedures available for inspection by the Board upon request.

**R3-11-1008. Recordkeeping Requirements**

- A.** The owner shall ensure that records containing the following information are maintained for three years:
  1. For the cremation of individual animal remains:
    - a. Name of the owner of the animal;
    - b. Name of the animal;
    - c. Description of the animal, including its weight;
    - d. Name of the individual, facility, or location from which the animal was received;
    - e. Authorization to cremate;
    - f. Date of cremation; and
    - g. Date and manner of disposition of cremated remains;
  2. For a communal cremation of animal remains:
    - a. Name of the individual, facility, or location from which the animal remains were received;
    - b. Number of animals and estimated total weight;
    - c. Authorization to cremate;
    - d. Date of cremation; and
    - e. Date and manner of disposition of cremated remains.
- B.** If an animal crematory uses a service to collect, pick up, or deliver animal remains for cremation, the owner shall enter into a written contract with the service that requires the service to inform the authorizing person or agent, in writing, of the name of the animal crematory that will do the cremation. The owner shall maintain a copy of any contract for two years after expiration of the contract term.
- C.** The owner shall maintain for two years records of all maintenance performed on the cremation chamber.
- D.** The owner shall make the records required under this Section available for inspection by the Board upon request.
- E.** Under A.R.S. § 32-2294(A)(3), the owner shall make records required under subsection (A) available on request to the authorizing person or agent.

**R3-11-1009. Change in a Responsible Owner**

- A.** A responsible owner shall not sell, assign, or transfer the license for an animal crematory.
- B.** If a responsible owner sells, assigns, or transfers all or part of a licensed animal crematory, the license is automatically cancelled and:
  1. The owner shall submit the cancelled license to the Board within 20 days after the licensed animal crematory is sold, assigned, or transferred; and
  2. The owner shall ensure that animal cremation services are not provided until an application and fee are submitted under R3-11-1002.

**R3-11-1010. Change in Operator**

Within 20 days after a change in operator, the owner shall provide a written notice to the Board that includes:

1. Name of the licensed animal crematory.
2. Animal crematory license number.
3. Name of the former operator.
4. Name of the new operator.
5. Date on which the new operator assumed responsibility for the animal crematory, and
6. An affirmation, signed by the owner, that the new operator received training in the safe and proper operation of the cremation chamber and the written procedures required under R3-11-1007.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

[R07-37]

PREAMBLE

**1. Sections Affected**

R4-23-110  
R4-23-607  
R4-23-621

**Rulemaking Action**

Amend  
Amend  
New Section

**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. § 32-1904(A)(1)

Implementing statutes: A.R.S. §§ 32-1904(B)(3), 32-1929, and 32-1930

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

April 7, 2007

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

Notice of Rulemaking Docket Opening: 11 A.A.R. 3127, August 12, 2005

Notice of Proposed Rulemaking: 12 A.A.R. 626, March 3, 2006

Notice of Supplemental Proposed Rulemaking: 12 A.A.R. 3179, September 1, 2006

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

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy  
4425 W. Olive Ave., Ste. 140  
Glendale, AZ 85302

Telephone: (623) 463-2727 ext. 131

Fax: (623) 934-0583

E-mail: rxcop@cox.net

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

The Board has approved at least two pharmacies in Arizona to provide central filling for other pharmacies. There is at least one pharmacy in Arizona that is providing prescription order processing for other pharmacies, and there are other pharmacies from outside Arizona who are providing prescription order processing for Arizona pharmacies. The Board has no rules defining the practice of providing prescription order filling or processing by one pharmacy for another pharmacy. It has been the Board's practice to take each case individually. The rules define the practice of providing prescription order filling and processing by one pharmacy for another pharmacy. The rules include definitions added to R4-23-110 for: "order," "shared order filling," "shared order processing," and "shared services." The rules include a new Section R4-23-621 (Shared Services) that details the requirements for participating in shared services (order filling and order processing or both), including notifications to patients, labeling, recordkeeping, confidentiality, and policies and procedures. The Board feels that the public, pharmacists, and pharmacies benefit from rules that establish the standards for pharmacies that provide or utilize shared services.

Since many of the pharmacies involved in shared services are nonresident pharmacies, the Board determined that changes to R4-23-607 (Nonresident Permits) are required. R4-23-607(A)(3) will include changes specifying that a nonresident pharmacy shall employ a pharmacist-in-charge who has a current Board-issued pharmacist license. A new subsection R4-23-607(A)(4) includes language specifying that existing nonresident pharmacy permittees have until November 1, 2007 to comply with subsection R4-23-607(A)(3). R4-23-607(C)(1)(d) is amended to add language to require that the permit application contain the pharmacist-in-charge's current Arizona Board-issued pharmacist license number. Other changes to R4-23-607(E)(3) and (4) will specify that nonresident drug wholesalers like resident drug wholesalers shall not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona, except in the original container packaged and labeled by the manufacturer or repackager, or not package, repackage, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona. This change to R4-23-607(E)(3) and (4) will make the rules for resident and nonresident drug wholesalers equal and consistent. The

Notices of Final Rulemaking

rules will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the standards for pharmacies that provide or utilize shared services.

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

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:**

The rules will impact the Board, pharmacies, and the public. The rules' impact on the Board will be the usual rule-making-related costs, which are minimal. The Board estimates the rules will have minimal economic impact on pharmacies. Several pharmacies are already using or providing shared services. The Board's rules will not require a pharmacy to use or provide shared services, but will establish the minimum standards for using or providing shared services. The rules have no economic impact on the public.

The public, Board, and pharmacies benefit from rules that are clear, concise, and understandable. The rules benefit the public and the pharmacy community by clearly establishing the standards for pharmacies that provide or utilize shared services.

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

After fielding a few verbal and e-mail questions from nonresident pharmacies about how long they would have after the rules became effective to get their pharmacist-in-charge licensed in Arizona, the Board determined that language to specify a specific time for compliance with the requirement in R4-23-607(A)(3) that a nonresident pharmacy shall employ a pharmacist designated as the pharmacist-in-charge who possesses a current Arizona Board-issued pharmacist license is necessary. The words "on and after February 1, 2007" are added to R4-23-607(A)(3) and a new subsection (A)(4) is added that states: "for a nonresident pharmacy permit issued before February 1, 2007, complying with the requirement of subsection (A)(3) and submitting to the Board the pharmacist-in-charge's name, current Arizona Board-issued pharmacist license number, and telephone number by November 1, 2007." The changes specify that on or after February 1, 2007 a nonresident pharmacy shall employ a pharmacist-in-charge who has a current Arizona Board-issued pharmacist license. The changes further specify that any nonresident pharmacy permit issued before February 1, 2007 is allowed nine months to employ a pharmacist-in-charge who has a current Arizona Board-issued pharmacist license and submit that pharmacist-in-charge's name, current Board-issued pharmacist license number, and telephone number to the Board.

After receiving a comment during the public hearing regarding the Notice of Supplemental Rulemaking, the Board decided to remove the words "prescription" and "prescriptions" where they appear with the word "order" or "orders" within R4-23-621(C). The word "prescription" is removed from R4-23-621(C)(1)(a) and (b) and R4-23-621(C)(2) and the word "prescriptions" is removed from R4-23-621(C)(3). As stated by the comment, the word "order" is defined as either a "prescription order" or a "medication order," so it should be used alone in R4-23-621(C). It was the Board's intent to have the rule be effective on February 1, 2007 and this date was specified in the rule under R4-23-607(A)(3) and (4). Because of the necessity from public comments received during the public hearing on the Notice of Proposed Rulemaking on April 3, 2006, a Notice of Supplemental Proposed Rulemaking, the subsequent public hearing, and the time necessary to bring the public comments and final rule language to the Board for approval at a public meeting, the Board's intended effective date of February 1, 2007, as specified in the rule, is not possible. The actual effective date of the rule will be approximately March 10, 2007. In the final rule, the February 1, 2007 date in R4-23-607(A)(3) is removed to allow the subsection to become effective 60 days after the rulemaking is filed with the Secretary of State. Subsection R4-23-607(A)(4) is also changed by removing the February 1, 2007 date to read: "For a nonresident pharmacy permit issued before the effective date of this subsection, complying with subsection (A)(3) and submitting to the Board the pharmacist-in-charge's name, current Arizona Board-issued pharmacist license number, and telephone number by November 1, 2007." The Board feels these changes are necessary to prevent confusion between the February 1, 2007 date specified in the supplemental proposed rulemaking and the actual effective date of the final rule. To improve clarity, the words "manual or electronic" and "initials, or identification code" were added to R4-23-621(D)(1) and (2) and the words "electronic or manual" were added to R4-23-621(E)(3)(d). There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

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

A public hearing was held on April 3, 2006. Janet Elliott of the Arizona Community Pharmacy Committee and Matt Cook and Dan Luce from Walgreens attended the public hearing. Ms. Elliott provided written comment requesting the Board to make a change to the proposed rules. Ms. Elliott is requesting that R4-23-621(E)(3)(f) be changed to read: "... operating a continuous quality improvement program for shared services designed to resolve identified

problems.” Mr. Cook and Mr. Luce spoke in favor of the rule, but agreed with the change requested by Ms. Elliott. The Board received a written comment from the National Association of Chain Drug Stores (NACDS). The NACDS expressed concern with language in R4-23-621(D)(1) and (2) that requires a record of the name of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who participates in the filling, dispensing, counseling, drug use review, refill authorization, or therapeutic intervention functions. The NACDS feels that most pharmacy computer systems may not have the capability to capture each of these names in the prescription filling process. The NACDS asks the Board to reconsider this requirement and only require that the verifying pharmacist’s identity be required. The NACDS feels that if the Board insists on this requirement for shared services pharmacies, then it make the requirement apply to all pharmacies. The NACDS also asked that the Board clarify in the rule that records may be maintained electronically. The oral and written comments received were presented to the Board at a public Board meeting held on May 24 and 25, 2006. A copy of the written comments and the Board meeting minutes from May 24 and 25, 2006 are attached to this rulemaking and are available at the Board office. The Board members disagreed with the comments presented by Ms. Elliott and NACDS and voted to continue the rulemaking as proposed in the Notice of Proposed Rulemaking dated March 3, 2006. The Board feels it is necessary to identify all personnel involved in prescription order filling or processing and operate a continuous quality assurance program that objectively and systematically monitors and evaluates the quality and appropriateness of patient care, pursues opportunities to improve patient care, and resolves identified problems.

A public hearing was held on October 2, 2006. Janet Elliott representing the Arizona Community Pharmacy Committee, Karen Nishi representing Cardinal Health, and Tim Koch representing Wal-Mart Pharmacies attended the public hearing. Ms. Elliott presented written comment showing the Arizona Community Pharmacy Committee’s support for the rules as proposed in the Notice of Supplemental Proposed Rulemaking. Mr. Koch provided verbal comment that indicated Wal-Mart Corporation’s support for the rules as proposed. Ms. Nishi provided verbal comment indicating support for the proposed rules with a minor change in R4-23-621(C) involving the use of the words “prescription order” and “prescription orders.” Ms. Nishi stated that they would like the reference to “prescription order” and “prescription orders” changed to read “order” and “orders,” respectively. It was Ms. Nishi’s understanding that “order” is defined in R4-23-110 as either a prescription order or medication order or both, so the use of the limiting term “prescription order” in the rule is not necessary. The Board agrees with this assessment and has made the change to remove the words “prescription” and “prescriptions” from R4-23-621(C).

**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 rules:**

None

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

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 23. BOARD OF PHARMACY**

**ARTICLE 1. ADMINISTRATION**

Section  
R4-23-110. Definitions

**ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS**

Section  
R4-23-607. Nonresident Permits  
R4-23-621. ~~Reserved~~ Shared Services

**ARTICLE 1. ADMINISTRATION**

**R4-23-110. Definitions**

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to 4 A.A.C. 23:

- “Active ingredient” No change
- “Alternate physician” No change
- “Approved course in pharmacy law” No change
- “Approved Provider” No change

“Authentication of product history” No change  
“Batch” No change  
“Beyond-use date” No change  
“Biological safety cabinet” No change  
“Care-giver” No change  
“Community pharmacy” No change  
“Component” No change  
“Compounding and dispensing counter” No change  
“Computer system audit” No change  
“Contact hour” No change  
“Container” No change  
“Continuing education” No change  
“Continuing education activity” No change  
“Continuing education unit” or “CEU” No change  
“Correctional facility” No change  
“CRT” No change  
“Current good compounding practices” No change  
“Current good manufacturing practice” No change  
“Cytotoxic” No change  
“Day” No change  
“DEA” No change  
“Delinquent license” No change  
“Dietary supplement” No change  
“Dispensing pharmacist” No change  
“Drug sample” No change  
“Drug therapy management” No change  
“Drug therapy management agreement” No change  
“Eligible patient” No change  
“Extreme emergency” No change  
“FDA” No change  
“Immediate notice” No change  
“Inactive ingredient” No change  
“Internal test assessment” No change  
“ISO Class 5 environment” No change  
“ISO Class 7 environment” No change  
“Limited-service correctional pharmacy” No change  
“Limited-service long-term care pharmacy” No change  
“Limited-service mail-order pharmacy” No change  
“Limited-service nuclear pharmacy” No change  
“Limited-service pharmacy permittee” No change  
“Limited-service sterile pharmaceutical products pharmacy” No change  
“Long-term care consultant pharmacist” No change  
“Long-term care facility” or “LTCF” No change  
“Lot” No change  
“Lot number” or “control number” No change  
“Materials approval unit” No change  
“Mediated instruction” No change

“MPJE” No change

“NABP” No change

“NABPLEX” No change

“NAPLEX” No change

“Order” means either of the following:

A prescription order as defined in A.R.S. § 32-1901; or

A medication order as defined in A.A.C. R4-23-651.

“Other designated personnel” No change

“Outpatient” No change

“Outpatient setting” No change

“Patient profile” No change

“Pharmaceutical patient care services” No change

“Pharmaceutical product” No change

“Pharmacist-administered immunizations training program” No change

“Pharmacy counter working area” No change

“Pharmacy law continuing education” No change

“Pharmacy permittee” No change

“Prepackaged drug” No change

“Prep area” No change

“Proprietor” No change

“Provider pharmacy” No change

“Radiopharmaceutical” No change

“Radiopharmaceutical quality assurance” No change

“Radiopharmaceutical services” No change

“Red C stamp” No change

“Refill” No change

“Remodel” No change

“Remote drug storage area” No change

“Resident” No change

“Responsible person” No change

“Score transfer” No change

“Shared order filling” means the following:

Preparing, packaging, compounding, or labeling an order, or any combination of these functions, that are performed by:

A person with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy; or

A person, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

Returning the filled order to the requesting pharmacy for delivery to the patient or patient’s care-giver or, at the request of this pharmacy, directly delivering the filled order to the patient.

“Shared order processing” means the following:

Interpreting the order, performing order entry verification, drug utilization review, drug compatibility and drug allergy review, final order verification, and when necessary, therapeutic intervention, or any combination of these order processing functions, that are performed by:

A pharmacist or intern, under pharmacist supervision, with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy; or

A pharmacist or intern, under pharmacist supervision, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

After order processing is completed, returning the processed order to the requesting pharmacy for order filling.

Notices of Final Rulemaking

and delivery to the patient or patient's care-giver or, at the request of this pharmacy, returning the processed order to another pharmacy for order filling and delivery to the patient or patient's care-giver.

"Shared services" means shared order filling or shared order processing, or both.

"Sight-readable" No change

"Single-drug audit" No change

"Single-drug usage report" No change

"Standard-risk sterile pharmaceutical product" No change

"Sterile pharmaceutical product" No change

"Strength" No change

"Substantial-risk sterile pharmaceutical product" No change

"Supervision" No change

"Supervisory physician" No change

"Supplying" No change

"Support personnel" No change

"Transfill" No change

"Verified signature" or "signature verifying" No change

"Wholesale distribution" No change

"Wholesale distributor" No change

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

**R4-23-607. Nonresident Permits**

- A. Permit. A person, who is not a resident of Arizona, shall not sell or distribute any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona without:
1. ~~A Possessing a~~ current Board-issued nonresident pharmacy permit, nonresident manufacturer permit, nonresident full-service or nonprescription drug wholesale permit, or nonresident nonprescription drug permit; ~~and~~
  2. ~~A Possessing a~~ current equivalent license or permit issued by the licensing authority in the jurisdiction where the person or firm resides;
  3. Employing a pharmacist, designated as the pharmacist-in-charge, who possesses a current Arizona Board-issued pharmacist license; and
  4. For a nonresident pharmacy permit issued before the effective date of subsection (A)(3), complying with subsection (A)(3) and submitting to the Board the pharmacist-in-charge's name, current Arizona Board-issued pharmacist license number, and telephone number by November 1, 2007.
- B. No change
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. In addition to the requirements of subsection (B), the following information is required:
1. No change
    - a. No change
    - b. No change
    - c. No change
    - d. Pharmacist-in-charge's name, current Arizona Board-issued pharmacist license number, and telephone number;  
and
    - e. No change
  2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  3. No change

Notices of Final Rulemaking

- a. No change
- b. No change
- c. No change
- d. No change
- 4. No change
  - a. No change
  - b. No change
  - c. No change
- D. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- E. No change
  - 1. No change
    - a. No change
      - i. No change
      - ii. No change
      - iii. No change
    - b. No change
      - i. No change
      - ii. No change
      - iii. No change
    - c. No change
    - d. No change
  - 2. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
  - 3. Nonresident full-service drug wholesaler. A nonresident full-service drug wholesale permittee shall:
    - a. Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona, except in the original container, packaged and labeled by the manufacturer or repackager;
    - b. Not package, repackage, label, or relabel any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona;
    - ~~a-c.~~ Not sell, distribute, give away, or dispose of, any narcotic or other controlled substance, ~~or~~ prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona except a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
    - ~~b-d.~~ No change
    - ~~e-e.~~ No change
    - ~~d-f.~~ No change
  - 4. Nonresident nonprescription drug wholesaler. A nonresident nonprescription drug wholesale permittee shall:
    - a. Not sell, distribute, give away, or dispose of, any nonprescription drug, precursor chemical, or regulated chemical to anyone in Arizona, except in the original container, packaged and labeled by the manufacturer or repackager;
    - b. Not package, repackage, label, or relabel any nonprescription drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona;
    - ~~a-c.~~ No change
    - ~~b-d.~~ No change
    - ~~e-e.~~ No change
  - 5. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall not:
    - a. No change
    - b. Package, repackage, label, or relabel any drug, precursor chemical, or regulated chemical for shipment or delivery to anyone in Arizona; or
    - c. No change
- F. No change

Notices of Final Rulemaking

**R4-23-621. Reserved Shared Services**

- A.** Before participating in shared services, a pharmacy shall have either a current resident or non-resident pharmacy permit issued by the Board.
- B.** A pharmacy may provide or utilize shared services functions only if the pharmacies involved:
1. Have the same owner; or
  2. Have a written contract or agreement that outlines the services provided and the shared responsibilities of each party in complying with federal and state pharmacy statutes and rules; and
  3. Share a common electronic file or technology that allows access to information necessary or required to perform shared services in conformance with the pharmacy act and the Board's rules.
- C.** Notifications to patients.
1. Before using shared services provided by another pharmacy, a pharmacy permittee shall:
    - a. Notify patients that their orders may be processed or filled by another pharmacy; and
    - b. Provide the name of that pharmacy or, if the pharmacy is part of a network of pharmacies under common ownership and any of the network pharmacies may process or fill the order, notify the patient of this fact. The notification may be provided through a one-time written notice to the patient or through use of a sign in the pharmacy.
  2. If an order is delivered directly to the patient by a filling pharmacy and not returned to the requesting pharmacy, the filling pharmacy permittee shall ensure that the following is placed on the prescription container or on a separate sheet delivered with the prescription container:
    - a. The local, and if applicable, the toll-free telephone number of the filling pharmacy; and
    - b. A statement that conveys to the patient or patient's care-giver the following information: "Written information about this prescription has been provided for you. Please read this information before you take the medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions at (insert the filling pharmacy's local and toll-free telephone numbers)."
  3. The provisions of subsection (C) do not apply to orders delivered to patients in facilities where a licensed health care professional is responsible for administering the prescription medication to the patient.
- D.** A pharmacy permittee engaged in shared services shall:
1. Maintain manual or electronic records that identify, individually for each order processed, the name, initials, or identification code of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who took part in the order interpretation, order entry verification, drug utilization review, drug compatibility and drug allergy review, final order verification, therapeutic intervention, or refill authorization functions performed at that pharmacy;
  2. Maintain manual or electronic records that identify, individually for each order filled or dispensed, the name, initials, or identification code of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, and pharmacy technician trainee who took part in the filling, dispensing, and counseling functions performed at that pharmacy;
  3. Report to the Board as soon as practical the results of any disciplinary action taken by another state's pharmacy regulatory agency involving shared services;
  4. Maintain a mechanism for tracking the order during each step of the processing and filling procedures performed at the pharmacy;
  5. Provide for adequate security to protect the confidentiality and integrity of patient information; and
  6. Provide for inspection of any required record or information within 72 hours of any request by the Board or its designee.
- E.** Each pharmacy permittee provides or utilizes shared services shall develop, implement, review, revise, and comply with joint policies and procedures for shared services in the manner described in R4-23-610(A)(2). Each pharmacy permittee is required to maintain only those portions of the joint policies and procedures that relate to that pharmacy's operations. The policies and procedures shall:
1. Outline the responsibilities of each of the pharmacies;
  2. Include a list of the name, address, telephone numbers, and all license and permit numbers of the pharmacies involved in shared services; and
  3. Include policies and procedures for:
    - a. Notifying patients that their orders may be processed or filled by another pharmacy and providing the name of that pharmacy;
    - b. Protecting the confidentiality and integrity of patient information;
    - c. Dispensing orders when the filled order is not received or the patient comes in before the order is received;
    - d. Maintaining required manual or electronic records to identify the name, initials, or identification code and specific activity or activities of each pharmacist, graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee who performed any shared services;
    - e. Complying with federal and state laws; and
    - f. Operating a continuous quality improvement program for shared services, designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve

patient care, and resolve identified problems.

**F.** Nothing in this Section shall prohibit an individual pharmacist licensed in Arizona, who is an employee of or under contract with a pharmacy, or an Arizona-licensed graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee, working under the supervision of the pharmacist, from accessing that pharmacy's electronic database from inside or outside the pharmacy and performing the order processing functions permitted by the pharmacy act, if both of the following conditions are met:

1. The pharmacy establishes controls to protect the confidentiality and integrity of patient information; and
2. None of the database is duplicated, downloaded, or removed from the pharmacy's electronic database.

## NOTICE OF FINAL RULEMAKING

### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 29. STRUCTURAL PEST CONTROL COMMISSION

[R07-43]

#### PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R4-29-101	Repeal
R4-29-102	Repeal
R4-29-104	Repeal
R4-29-107	Repeal
R4-29-108	Repeal
Table 1	Repeal
Article 2	Repeal
R4-29-201	Repeal
R4-29-202	Repeal
R4-29-203	Repeal
R4-29-204	Repeal
R4-29-205	Repeal
R4-29-206	Repeal
R4-29-207	Repeal
R4-29-208	Repeal
R4-29-209	Repeal
R4-29-211	Repeal
R4-29-212	Repeal
R4-29-213	Repeal
Article 3	Repeal
R4-29-301	Repeal
R4-29-302	Repeal
R4-29-303	Repeal
R4-29-304	Repeal
R4-29-305	Repeal
R4-29-306	Repeal
R4-29-307	Repeal
R4-29-308	Repeal
R4-29-309	Repeal
R4-29-310	Repeal
R4-29-311	Repeal
R4-29-312	Repeal
R4-29-313	Repeal
R4-29-314	Repeal
R4-29-315	Repeal
Article 4	Repeal
R4-29-401	Repeal
R4-29-402	Repeal
R4-29-407	Repeal
R4-29-408	Repeal
R4-29-409	Repeal
R4-29-410	Repeal

Notices of Final Rulemaking

R4-29-412	Repeal
R4-29-413	Repeal
R4-29-414	Repeal
R4-29-415	Repeal
R4-29-417	Repeal
R4-29-418	Repeal
Article 5	Repeal
R4-29-501	Repeal
R4-29-502	Repeal
R4-29-503	Repeal
R4-29-504	Repeal
Appendix A	Repeal

- 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. § 32-2304(A)(1)  
Implementing statute: A.R.S. § § 32-2301 through 32-2329
- 3. The effective date for the rules:**  
April 7, 2007
- 4. List of all previous notices appearing in the Register addressing the final rules:**  
Notice of Rulemaking Docket Opening: 12 A.A.R. 3381, September 15, 2006  
Notice of Proposed Rulemaking: 12 A.A.R. 3616, October 6, 2006
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Lisa Gervase, Executive Director  
Address: Structural Pest Control Commission  
9535 E. Doubletree Ranch Rd.  
Scottsdale, AZ 85258-5514  
Telephone: (602) 255-3664  
Fax: (602) 255-1281  
E-mail: Lisagervase@sb.state.az.us
- 6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**  
The Commission is repealing all of its rules, which were made in 1992, because they are inconsistent with statute and industry and agency practice. In another rulemaking, the Commission is making new rules. This rulemaking is partially in response to a five-year-review report approved by the Council on June 6, 2006.
- 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 rules or did not, 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 Commission does not intend to review or rely on any studies.
- 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 preliminary summary of the economic, small business, and consumer impact:**  
Under A.R.S. § 41-1055(D)(3), an economic, small business, and consumer impact statement is not required because repealing the Commission's rules decreases monitoring of and recordkeeping and reporting by licensees.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
No changes were made between the proposed and final rules.
- 11. A summary of the comments made regarding the rules and the agency response to them:**  
No comments were received regarding the rules as published in the Notice of Supplemental Proposed Rulemaking.
- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of**

Notices of Final Rulemaking

**rules:**

Under A.R.S. § 32-2304(A)(4), the Commission is required to provide each business licensee a written copy of a rule that is approved by the Governor's Regulatory Review Council within 30 days after the approval.

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

None

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

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 29. STRUCTURAL PEST CONTROL COMMISSION**

**ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS**

Section

- R4-29-101. ~~Definitions~~ Repealed
- R4-29-102. ~~Classification of Structural Pest Control~~ Repealed
- R4-29-104. ~~Joint Responsibility~~ Repealed
- R4-29-107. ~~Complaints~~ Repealed
- R4-29-108. ~~Licensing Time frames~~ Repealed
- Table 1. ~~Time frames~~ Repealed

**ARTICLE 2. LICENSURE, QUALIFICATION, CERTIFICATION, AND REGISTRATION REPEALED**

Section

- R4-29-201. ~~General Provisions~~ Repealed
- R4-29-202. ~~Renewals of Licenses, Qualifications, Certifications and Registrations~~ Repealed
- R4-29-203. ~~Structural Commercial Applicator Certification~~ Repealed
- R4-29-204. ~~Qualifying Party Qualification and Pest Control Advisor License~~ Repealed
- R4-29-205. ~~Inactive Qualifying Party Status~~ Repealed
- R4-29-206. ~~Business License, General Provisions~~ Repealed
- R4-29-207. ~~Display and Use of License Name and Number~~ Repealed
- R4-29-208. ~~Qualifying Party or Pest Control Advisor Required for Each Business~~ Repealed
- R4-29-209. ~~Branch Office~~ Repealed
- R4-29-211. ~~Schedule of Fees, Payments and Exemption~~ Repealed
- R4-29-212. ~~Continuing Education Required for Qualifying Parties, Pest Control Advisors and Applicators~~ Repealed
- R4-29-213. ~~Requirements for Providers of Continuing Education Programs~~ Repealed

**ARTICLE 3. PESTICIDE USAGE REPEALED**

Section

- R4-29-301. ~~Misuse of Any Pesticide; Falsification of Any Pesticide Record~~ Repealed
- R4-29-302. ~~Certified Applicator Required~~ Repealed
- R4-29-303. ~~Direct Supervision of Noncertified Persons Required~~ Repealed
- R4-29-304. ~~Protect Against Contamination~~ Repealed
- R4-29-305. ~~Written Notification of Treatment Required~~ Repealed
- R4-29-306. ~~Notice of Intent to Apply Pesticides~~ Repealed
- R4-29-307. ~~Make and Preserve Treatment Records~~ Repealed
- R4-29-308. ~~Restricted Use Records Required~~ Repealed
- R4-29-309. ~~Records Required Within 24 Hours~~ Repealed
- R4-29-310. ~~General Provisions for Pesticide Usage~~ Repealed
- R4-29-311. ~~Provisions for Pesticide Storage~~ Repealed
- R4-29-312. ~~Pesticide Containers; Storage and Disposal~~ Repealed
- R4-29-313. ~~Pesticide Storage Facility~~ Repealed
- R4-29-314. ~~Pesticide Storage on Service Vehicles~~ Repealed
- R4-29-315. ~~Required on Service Vehicles~~ Repealed

**ARTICLE 4. TERMITES AND OTHER WOOD DESTROYING ORGANISMS REPEALED**

Section

Notices of Final Rulemaking

- R4-29-401. ~~Definitions~~ Repealed
- R4-29-402. ~~Chemicals~~ Repealed
- R4-29-407. ~~Preconstruction Treatments; Establishment of Barriers; Soil Disturbed; Concrete Poured Prior to Treatment; Effective Date~~ Repealed
- R4-29-408. ~~Pretreatment Tagging and Records Required~~ Repealed
- R4-29-409. ~~Occurrence of Termites After a Pretreatment~~ Repealed
- R4-29-410. ~~Post-construction Treatments for Subterranean Termites~~ Repealed
- R4-29-412. ~~Wood Infestation Reports; General Provisions~~ Repealed
- R4-29-413. ~~Wood Infestation Reports; Information Required~~ Repealed
- R4-29-414. ~~Wood Infestation Reports; Conditions Conducive~~ Repealed
- R4-29-415. ~~Supplemental Wood Infestation Reports~~ Repealed
- R4-29-417. ~~Termite Action Registration Report~~ Repealed
- R4-29-418. ~~Termite Action Registration Report Fee~~ Repealed

**ARTICLE 5. HEARINGS, SETTLEMENT CONFERENCES, AND CONSENT ORDERS REPEALED**

Section

- R4-29-501. ~~Hearings and Hearing Procedures~~ Repealed
- R4-29-502. ~~Review or Rehearing of Commission Decisions~~ Repealed
- R4-29-503. ~~Settlement Conferences~~ Repealed
- R4-29-504. ~~Settlement Conference Consent Orders~~ Repealed
- Appendix A. ~~Wood infestation report form~~ Repealed

**ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS**

**R4-29-101. ~~Definitions~~ Repealed**

~~Words defined in A.R.S. § 32-2301 or 32-2331 have the same meaning when used in this Chapter, and unless the context requires otherwise:~~

- ~~1. "Advertisement" means a written or oral publication, dissemination, solicitation or circulation, including business cards and telephone directory display advertisements, which is intended to directly or indirectly induce a person to enter into an agreement for pest control services.~~
- ~~2. "Advisor" means pest control advisor.~~
- ~~3. "Certified applicator" means a "structural commercial applicator", "commercial applicator", or "applicator".~~
- ~~4. "Commercial applicator" means a "structural commercial applicator", "certified applicator", or "applicator".~~
- ~~5. "Commercial establishment" means an area or site, other than an institutional establishment, where business activities occur.~~
- ~~6. "Company" means the person or company who holds a business license as defined in A.R.S. § 32-2301.~~
- ~~7. "Contract" means an agreement with a customer, including a warranty or guarantee concerning service or the results thereof, pertaining to the application of a pesticide or pest management procedure to the customer's property.~~
- ~~8. "Control" means exterminating, eradicating, injuring, destroying, killing, repelling, sterilizing, or removing, or a combination of these activities.~~
- ~~9. "Crack and crevice treatment" means the application of pesticide directly into a crack, crevice, expansion joint, between different elements of construction, between equipment and floors, or into an opening that leads into voids such as hollow walls, equipment legs and bases, conduits, motor housings, or junction or switch boxes, where pests may be present.~~
- ~~10. "Entire structure" means all critical areas as defined in R4-29-410 and as specified on product labeling for both the interior and exterior of the structure.~~
- ~~11. "Fog or fogging" means aerosolized particles of a pesticide dispersed by means of a flammable, aerosolizing thermal or other generator capable of producing particles of less than ten microns in diameter.~~
- ~~12. "Food handling establishment" means a place, other than a private residence, in which food is held, processed, prepared, or served.
  - ~~a. Food areas of food handling establishments include areas of receiving, serving, storage, packaging, preparing, edible waste storage, and closed processing systems.~~
  - ~~b. Nonfood areas of food handling establishments include garbage rooms, lavatories, floor drains, entrances and vestibules, offices, locker rooms, machine rooms, boiler rooms, garages, mop closets, and storage after canning or bottling.~~~~
- ~~13. "Fumigant" means a chemical substance having a vapor pressure of greater than five millimeters of mercury at 25 degrees Centigrade which is used for the destruction of plant or animal life.~~
- ~~14. "Fumigation" means the use of fumigants for the control of pests.~~
- ~~15. "Incidental" means the limited application of pesticides in conjunction with projects involving a contractual relationship for the development or maintenance of a property. When a commercial application of pesticides on a property is~~

- the only or predominant maintenance service performed throughout the contract period, such application is not considered incidental.
16. "Institutional establishment" means a property or facility that functions to provide a service to the general public or private organizations.
  17. "Label" means the written, printed or graphic matter approved by the United States Environmental Protection Agency on, or attached to, a pesticide container or its wrappers or on or attached to a device.
  18. "Labeling" means all labels and all other written, printed, or graphic matter authorized by the manufacturer or a state or federal agency that accompanies a pesticide or device, or is referred to on the label or in literature accompanying the pesticide or device, except where that reference is to current official publications of federal or state agencies, institutions, or agencies authorized by law to conduct research in the field of pesticides.
  19. "Manner inconsistent with the label" means the use of a pesticide in a manner not permitted by the labeling. Uses of a pesticide as listed in paragraphs (a), (b), and (c) below are exempt from this definition unless the U.S. Environmental Protection Agency or the pesticide manufacturer has indicated, by means of written statements issued prior to treatment, that such use would not be permitted, or advisable, or would be deleterious to persons, animals or the environment. Exempted uses are the use of a pesticide that will eliminate or control a pest:
    - a. At a dosage, concentration, or frequency less than specified on the labeling;
    - b. For a target pest not identified on the labeling as long as the application site is specified and the labeling does not prohibit the use; or
    - c. By a method of application not prohibited by the labeling.
  20. "Post-treatment" means the application of chemicals for the control of termites and other wood-destroying organisms in existing structures.
  21. "Pretreatment" means the application of a termiticide for subterranean termite control prior to the establishment of a permanent slab foundation construction or in conjunction with the establishment of footings and supports for a raised foundation construction.
  22. "Structural commercial applicator" means a "commercial applicator", "certified applicator", or "applicator".

**R4-29-102. Classification of Structural Pest Control Repealed**

For the purpose of this Chapter, the practice of structural pest control shall be classified as follows:

1. Class A shall include the classifications B, C, D, E, and F.
2. Class B shall be limited to the control of general terrestrial vertebrate and invertebrate pests which live in or about households and other structures but shall not include the control of wood-destroying organisms and pests of turf and ornamental horticulture.
3. Class C shall be limited to the control of wood-destroying pests or organisms which occur in, on or about structures.
4. Class D shall be limited to the use of fumigants as a method of structural pest control.
5. Class E shall be limited to the control of terrestrial weeds around structures or in connection with an area used by persons for purposes other than as an agricultural area.
6. Class F shall be limited to the control of vertebrate and invertebrate pests and diseases of plants, and the use of plant growth regulators on general ornamental horticultural plantings including turf intended for use by persons for purposes other than as an agricultural area.
7. Class G shall limit the scope of an established classification to advising or making recommendations or inspection reports concerning the control of pests or control methods. The holder of a class G license shall not perform treatments.
8. Class H shall be limited to the application of pesticides directly to structural components of wood or wood products, which are not then part of an existing structure normally habitable by persons, to prevent or control wood degradation by wood-destroying organisms which shall include fungi and bacteria.
9. Class I shall be limited to the use of pesticides and plant growth regulators in golf course management.
10. Class J shall be limited to the use of pesticides in an aquatic area which is used or is intended for use by persons for purposes other than as an agricultural area. Subclassifications may include control of vertebrate pests, invertebrate pests, and weeds in the aquatic environment.

**R4-29-104. Joint Responsibility Repealed**

Each company, qualifying party, advisor, applicator and registered employee is responsible for the acts or omissions of, and for compliance with the law, this Chapter and other lawful orders of the Commission by, persons under their supervision.

**R4-29-107. Complaints Repealed**

- A. The qualifying party, pest control advisor or designated agent of a licensed company or other person against whom a complaint is logged, by or with the Commission, shall respond in writing and within 20 days of the date of notification by the Commission.
- B. Health-related complaints received by the Commission, or Commission investigations that reveal a potential health concern, shall be referred to the Department of Health Services or other appropriate health related agency and, as required, to the United States Environmental Protection Agency.

**Notices of Final Rulemaking**

**R4-29-108. Licensing Time-frames Repealed**

- A.** Overall time-frame. The Commission shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of an application. The overall time frame is the total of the number of days provided in the administrative completeness review and the substantive review.
- B.** Administrative completeness review.
  - 1. The applicable administrative completeness review time frame established in Table 1 begins on the date the Commission receives an application. The Commission shall notify the applicant in writing within the administrative completeness review time frame whether the application is incomplete. The notice shall specify what information is missing. If the Commission does not provide notice to the applicant within the administrative completeness review time frame, the Commission shall deem the application complete.
  - 2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time frame is suspended from the postmark date of the notice of missing information to the applicant until the date the Commission receives the information.
  - 3. If an applicant fails to submit the missing information before expiration of the completion request period, the Commission shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may apply for a license by submitting a new application.
- C.** Substantive review. The substantive review time frame established in Table 1 begins after the application is administratively complete or at the end of the administrative completeness review period in Table 1, whichever occurs first.
  - 1. If the Commission makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time frame is suspended from the postmark date of the request until the Commission receives the information. If the applicant fails to provide the information identified in the written request within the additional information time period in Table 1, the Commission shall consider the application withdrawn unless the applicant requests in writing the application be denied.
  - 2. The Commission shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Commission shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

**Table 1. Time-frames (Calendar Days) Repealed**

<b>License</b>	<b>Authorities</b>	<b>Administrative Completeness Review</b>	<b>Response to Completion Request</b>	<b>Substantive Completeness Review</b>	<b>Response to Additional Information</b>	<b>Overall Time-frame</b>
Applicator Certificate New/Renewal/Temporary	A.R.S. § 32-2332 A.R.S. § 32-2312 R4-29-203 R4-29-202	7	6 mos.	60	14	67
Business License New Renewal	A.R.S. § 32-2313 R4-29-206 R4-29-202	7 7	7 14	60 5	14 14	67 12
Qualifying Party New Renewal Temporary	A.R.S. § 32-2332 A.R.S. § 32-2314 R4-29-208 R4-29-202	7 7 7	6 mos. 6 mos. 7	60 14 60	14 14 14	67 21 67
Registered Employee	A.R.S. § 32-2315	14	14	60	14	74

**ARTICLE 2. LICENSURE, QUALIFICATION, CERTIFICATION, AND REGISTRATION REPEALED**

**R4-29-201. General Provisions Repealed**

Notices of Final Rulemaking

- ~~A.~~ Persons who merely furnish information concerning general labeling and usage of a registered pesticide and do not make onsite recommendations for pest control shall not be deemed as holding themselves out as licensees or advisors for the purpose of this Chapter.
- ~~B.~~ Lack of good moral character and reputation may be established by showing that a person has committed an act which, if committed by a licensee, qualifying party, applicator or registered employee of a pest control company, would be grounds for taking disciplinary action against the license, qualification, certification or registration of that individual.
- ~~C.~~ Person who, while holding a valid license, qualification, or certification of this Commission, entered the active military service of the United States of America and who, within 100 days of honorable separation from such service, make application to the Commission for renewal of license, qualification, or certification, shall have their application processed as a timely renewal of such license, qualification, or certification.
- ~~D.~~ A business license, qualifying party qualification, pest control advisor license, applicator certificate or employee registration shall not be assigned or transferred and shall be used only by the person or business to whom it was issued. A change in partnership, either by withdrawal or addition of partners, requires a new license and registrations.
- ~~E.~~ Applications for licensure, qualification, certification and registration and renewals thereof and applications for all examinations shall be made on forms furnished by the Commission, completed in accordance with the instructions printed thereon, and accompanied by the fee set forth in R4-29-211.
- ~~F.~~ Examinees shall be notified by letter from the Commission of the results of their examination.
- ~~G.~~ Application forms provided by the Commission for licensure, qualification, certification and registration and renewals thereof shall require at least:
  1. For an original business license: The proposed name of the business, whether the business is a sole proprietorship, partnership or corporation; the full names and home addresses of the owner if a sole proprietorship, of all partners if a partnership, and of the president, secretary and statutory agent if a corporation; the full name and address of the qualifying party who will be responsible for the business license, the classification or classifications for which the license is applied, and proof of financial responsibility pursuant to A.R.S. § 32-2312 et seq.
  2. For an original qualifying party or pest control advisor license: The full name, home address, date of birth and social security of the applicant; whether or not a license or permit to practice pest control has ever been refused, revoked or suspended; whether or not the applicant has ever been convicted of a felony, the nature of the felony, the jurisdiction where the offense occurred and final disposition of the conviction.
  3. For certification: The full name, home address, and date of birth of the applicant, the categories for which certification is applied, the name of the applicant's present employer, whether or not the applicant has ever been convicted of a felony, the nature of the felony, the jurisdiction where the offense occurred, and final disposition of the conviction.
  4. For renewal of a business, qualifying party, or advisor license: Notice of any change of address, name of qualifying party if a business license applicant, verification of continuing education if a qualifying party or advisor.
  5. For an original registration: Full name and home address of the registering employee, name of business registering the employee, whether or not the employee has ever been convicted of a felony, the nature of the felony, the jurisdiction where the offense occurred, and final disposition of the conviction.

**R4-29-202. Renewals of Licenses, Qualifications, Certifications and Registrations Repealed**

- ~~A.~~ The Commission shall mail renewal forms to a licensee or qualifying party at the place of business and to a certified applicator or inactive qualifying party at the location listed on the application or on the most recent address change form. Renewals shall not be considered complete until all prescribed requirements are met. Renewal fees paid by check shall not be considered paid until cleared for payment by the bank.
- ~~B.~~ Licensees shall be responsible for timely renewal of their license and employee and office registrations. Qualifying parties shall be responsible for timely renewal of their qualification. Applicators shall be responsible for the timely renewal of their certification. Incomplete and inaccurately completed forms shall be rejected. Neither the need for additional time to accurately complete renewal forms nor failure to receive renewal forms shall be a justifiable excuse for late renewal of a license, qualification, certification, or registration without a late fee or other penalty.
- ~~C.~~ Between the expiration date of a license, qualification, certification, or registration and the date of renewal, all rights under that license, qualification, certification, or registration shall terminate. Until renewed, the licensee, qualifying party, applicator, or registered employee shall not act in a manner included in the definition of a business licensee, qualifying party, pest control advisor, structural commercial applicator, or registered employee.
- ~~D.~~ A late payment fee of double the prescribed renewal fee shall be assessed for a license, qualification, certification or registration renewal which is not renewed pursuant to A.R.S. § 32-2312(D), 32-2313(H), or 32-2318(E), or is postmarked later than the date of expiration of such credential.
- ~~E.~~ In addition to all other renewal requirements, the Commission shall require a qualifying party, pest control advisor or applicator who applies to renew later than 60 days past the expiration date of his license, qualification, or certificate, first to pass examinations currently applicable to an applicant for qualifying party, advisor or applicator in the classifications or categories of the renewed credential.

**R4-29-203. Structural Commercial Applicator Certification Repealed**

Notices of Final Rulemaking

- ~~A.~~ Except as permitted by A.R.S. § 32-2315, a person shall act as a structural commercial applicator only after completing all certification requirements and receiving a valid commercial applicator certificate issued by the Commission.
- ~~B.~~ The Commission may notify the employer of a registered employee failing to satisfy certification requirements.
- ~~C.~~ For purposes of this Chapter, certifications for commercial applicators, structural commercial applicators, or applicators shall be considered synonymous with commercial certifications for applicators of restricted-use pesticides as prescribed by the U.S. Environmental Protection Agency.
- ~~D.~~ In order to qualify for certification, an applicant shall demonstrate knowledge of the principles and practices of pest control and safe use of pesticides. An applicator shall attain a minimum score of 70 percent on each section of the general standards examination and a minimum of 70 percent on each section in each specific category or subcategory in which the applicator seeks certification. All examinations shall be administered in writing and in English. A certification card shall be issued after an applicant passes all sections of the general standards examination and all sections of at least one category or subcategory examination.
  - ~~1.~~ The general standards examination shall test the knowledge and understanding of:
    - ~~a.~~ Pesticide label and labeling and pesticide types and formulations.
    - ~~b.~~ Safety factors relating to the use and handling of pesticides.
    - ~~c.~~ Environmental factors including the potential consequences of use and misuse of a pesticide.
    - ~~d.~~ Equipment types and their use and maintenance.
    - ~~e.~~ Application techniques, including calibration and dilution calculations.
    - ~~f.~~ Laws and regulations relating to the application and use of pesticides.
    - ~~g.~~ Identification of pests.
  - ~~2.~~ The categories and subcategories offered for structural commercial applicator certification shall be:
    - ~~a.~~ Turf and ornamental pest control, including the use of plant growth regulators, necessary for the maintenance and production of ornamental and horticultural plants and turf.
    - ~~b.~~ Aquatic pest control including the application of pesticides to standing or running water, but excluding applicators who must be certified in the category of public health pest control.
    - ~~c.~~ Industrial, institutional, structural, and health-related pest control, including the use of pesticides in or around structures and adjacent areas, both public and private, and for the protection of stored, processed or manufactured products. Certification in this category shall be attained by satisfying the requirements of one or more subcategories:
      - ~~i.~~ General pest control in and about structures, including control of vertebrate pests, but excluding wood-destroying pests and organisms and control of plants or plant pests and use of plant growth regulators.
      - ~~ii.~~ Control of termites and other wood-destroying pests and organisms.
      - ~~iii.~~ Wood products preservation, including the use of pesticides to directly treat wood and wood products, to control or prevent wood degradation by wood-destroying organisms.
      - ~~iv.~~ Control of pests using fumigation as a method of structural pest control.
      - ~~v.~~ Weed control.
  - ~~3.~~ Four or more examination sections shall be required for each category. The category examination shall test the knowledge and understanding of the following applicable category-specific information:
    - ~~a.~~ General information concerning pests in the category.
    - ~~b.~~ Pest identification.
    - ~~c.~~ Pesticide usage and application techniques including calibration and dilution calculations.
    - ~~d.~~ Safety and environmental considerations.
    - ~~e.~~ Laws and regulations.
- ~~E.~~ Applications for certification shall be submitted to the Commission at least five working days before a scheduled examination in order to be processed for that examination.
- ~~F.~~ Certifications shall expire on May 30 of each year. Application for renewal of certification shall be submitted to the Commission on or before May 1 of each year and shall be accompanied by a fee as set forth in R4-29-211.
- ~~G.~~ Applicants may retake failed examination sections without charge as soon as the next scheduled examination if at least one week has passed from the date of taking the failed exam.
- ~~H.~~ An applicant shall pass all sections of the general standards examination and all sections of at least one category or subcategory examination within six months of the date of their application. The file of an applicant who does not satisfy these requirements shall be considered incomplete and shall be closed. No refunds shall be made for closed files. An applicant whose file has been closed shall reapply as a new applicant.
- ~~I.~~ An applicator who chooses to broaden the scope of their certification may do so by passing with a score of 70 percent or better all examination sections for the intended category. The fee to broaden the scope of a certification is set forth in R4-29-211. An applicator shall submit to the Commission a notice of intent to test at least five days prior to testing.

**R4-29-204. Qualifying Party Qualification and Pest Control Advisor License Repealed**

- ~~A.~~ Except as permitted by A.R.S. § 32-2314(G), each qualifying party shall be qualified in the classification for which they intend to do business before they can qualify a business of structural pest control. Each pest control advisor shall be

Notices of Final Rulemaking

licensed in the classification for which they intend to do business before they can engage in a business of structural pest control advisor.

- ~~B.~~ Each qualifying party and pest control advisor applicant shall hold a valid applicator's certification for each category in which a qualification or pest control advisor license is sought before admission to the qualification or advisor examination.
- ~~C.~~ Each applicant for the qualifying party qualification shall demonstrate to the Commission, before admission to the qualification examination, evidence of practical experience in the specific classification for which they apply. Practical experience may be demonstrated by actual compensated field work and shall not include sales work. Nonecompensated volunteer or research related field work may be evaluated by the Commission. An applicant who intends to use coursework pursuant to A.R.S. § 32-2314(C)(2)(b) for part of the practical experience requirement shall submit a certified transcript of such work.
- ~~D.~~ No application for qualifying party qualification or pest control advisor license shall be considered complete and no qualification or license shall be issued until the applicant passes, with a score of 70 percent or better, each section of the core examination and all sections of each category-specific examination required for a classification.
  - ~~1.~~ The core examination shall test the applicant's knowledge of:
    - ~~a.~~ Arizona and federal laws, rules and regulations governing the business of structural pest control and use and application of pesticides; and
    - ~~b.~~ Safety factors including practical first aid as it applies to the use, application and storage of pesticides.
  - ~~2.~~ Category examinations shall test, as applicable, the applicant's category-specific knowledge of:
    - ~~a.~~ Identification of pests and recognition of their damage;
    - ~~b.~~ General knowledge of life cycles and habits as they apply to the control of pests;
    - ~~c.~~ Practical methods of application and control including calibration and dilution calculation;
    - ~~d.~~ Pesticides;
    - ~~e.~~ Laws and regulations.
  - ~~3.~~ The Commission may offer examinations for qualification or licensure in the following categories:
    - ~~a.~~ General pest control;
    - ~~b.~~ Vertebrate pest control;
    - ~~c.~~ Wood-destroying pest control;
    - ~~d.~~ Wood products preservation and pest control;
    - ~~e.~~ Ornamental horticultural pest control;
    - ~~f.~~ Golf course pest management;
    - ~~g.~~ Weed control;
    - ~~h.~~ Aquatic vertebrate pest control;
    - ~~i.~~ Aquatic invertebrate pest control;
    - ~~j.~~ Aquatic weed control;
    - ~~k.~~ Use of fumigants for pest control.
- ~~E.~~ An applicant who fails one or more sections of a core or category examination may apply to retake the failed sections. An applicant shall request in writing to retake the failed examination sections and submit a fee as prescribed in R4-29-211 for each examination section requested at least five working days prior to a scheduled examination. An applicant may retake the same failed section only twice. If the applicant does not pass on the third attempt, the applicant's file shall be closed. Applicants whose files have been closed shall reapply as new applicants. An applicant who reapplies within one year of previous Commission approval shall not be required again to receive Commission approval for the same previously approved categories. An applicant shall not reapply sooner than 90 days from the date of file closure.
- ~~F.~~ An applicant shall pass all sections of the core examination and all sections of each category-specific examination required for a classification within six months of the date of notification of Commission approval for examination. The file of an applicant who does not satisfy these requirements shall be considered incomplete and shall be closed. No refunds shall be made for closed files.
- ~~G.~~ The file of an applicant whose examination is rejected because of cheating shall be closed and no refund shall be made.
- ~~H.~~ A person who holds a qualifying party qualification or pest control advisor license may broaden the scope of that qualification or license by submitting the requested information on a new application form, prescribed in R4-29-201(G), provided by the Commission and fees as prescribed by R4-29-211, receiving approval from the Commission to test, and passing all sections of the category examination. An applicant for qualifying party qualification shall also furnish satisfactory proof of category-specific practical experience.
- ~~I.~~ Licenses and qualifications shall be valid for one year, or portion thereof, and expire on December 31 of each year. Application for renewal shall be submitted to the Commission on or before December 1 of each year and shall be accompanied by a fee as set forth in R4-29-211.

**R4-29-205. Inactive Qualifying Party Status Repealed**

- ~~A.~~ A person who has qualified under A.R.S. § 32-2314 and is currently qualified and not then acting as the qualifying party for a business licensee may apply to the Commission for inactive qualifying party status. An inactive qualifying party

Notices of Final Rulemaking

shall not act as a qualifying party in the business of structural pest control without first reactivating his qualification.

- ~~B.~~ A fee shall not be charged for change of status from active to inactive qualifying party provided that the prescribed renewal fees have been paid for the current year. No refund shall be made for current fees already paid. A qualifying party who is registered as an inactive qualifying party and desires to remain inactive shall be charged the qualifying party inactive fee at renewal.
- ~~C.~~ An inactive qualifying party shall complete an application on a form provided by the Commission, which shall require at least the full name, home address and mailing address of the applicant, the name of the company for which the applicant is qualifying, the classification for which the license is applied and whether the applicant is certified in the same categories as the license, and submit such application for review and receive Commission approval before reactivating an inactive qualifying party qualification. The full fee for an active qualifying party qualification renewal shall be assessed at the time of application for reactivation of the qualifying party qualification.
- ~~D.~~ An inactive qualifying party shall present evidence of current certification and continuing education credits prior to reactivation. A qualifying party who cannot present evidence of current certification and continuing education credits before reactivation shall pass, with a score of 70 percent or better, all sections of all applicable examinations currently in use.

**R4-29-206. Business License, General Provisions Repealed**

- ~~A.~~ Commission approval shall be required for a pest control business license. At least ten days prior to the Commission meeting at which the application will be voted upon, a business license applicant shall submit to the Commission, upon forms provided by the Commission and prescribed in R4-29-201(G), the completed application for the business of structural pest control or the business of pest control advisor, application for the designated qualifying party or pest control advisor, certificate of insurance, and proposed company name.
- ~~B.~~ Insurance coverage in the name of the business as registered with the Commission shall be in effect at all times during the licensing period. During an interruption in insurance coverage, a company shall terminate all pest control-related activities. A certificate of insurance submitted to the Commission shall include a statement that the insurance company shall notify the Commission in writing at least 30 days prior to cancellation of the insurance and that the policy conforms to the standards set forth in A.R.S. § 32-2313(D) and (E).
- ~~C.~~ The business license and office and employee registrations shall be renewed annually. Each shall be valid for one year, or portion thereof, and shall expire on December 31 of each year. Application for renewal shall be submitted to the Commission on or before December 1 of each year and shall be accompanied by a fee as set forth in R4-29-211.

**R4-29-207. Display and Use of License Name and Number Repealed**

- ~~A.~~ Business and branch office licenses issued by the Commission shall be prominently displayed in the place of business. All written proposals and written contracts used by the company shall be printed with the company's name and business license number as registered by the Commission. All treatment receipts and inspection reports shall include the registered business license name and number.
- ~~B.~~ A licensee shall do business under the name in which the license was issued. In addition to the actual name of the licensed business, a company may use slogans, marks and other names in its business. However, the actual name as registered with the Commission shall be prominently displayed on all written material used in the business and on all advertising, whether written or oral.
- ~~C.~~ Either the motor vehicle or trailer, when used in conjunction with one another, and on behalf of or by a licensee or licensee's employees in the conduct of pest control, shall be marked on both sides for easy identification, with the company name and business license number as registered with the Commission. The company name and business license number shall be in bold lettering at least two inches high, in distinctly contrasting color with the background, and shall be in plain view of the public. The vehicle or trailer shall be properly marked as described within 30 days after the issuance of the original business license, a change of business license, or acquisition of vehicle or trailer. Vehicles which are not regularly used for pest control services shall be exempt from this rule. Vehicles which are used for sales or solicitations shall be exempt from this rule.

**R4-29-208. Qualifying Party or Pest Control Advisor Required for Each Business Repealed**

- ~~A.~~ A person shall not engage in the business of structural pest control unless that business has a designated qualifying party with a valid and active qualification for all classifications in which that business operates, or that business has designated to the Commission a temporary qualifying party. A person shall not engage in the business of pest control advisor unless that business has a designated pest control advisor with a valid pest control advisor license for all classifications in which that business operates.
- ~~B.~~ The qualifying party or pest control advisor shall supervise the pest control-related business of the company and shall be available to supervise and assist the company's registered employees.
- ~~C.~~ A qualifying party or pest control advisor shall qualify only one business license at one time.

**R4-29-209. Branch Office Repealed**

- ~~A.~~ A business licensee shall register each branch office with the Commission by completing a form provided by the Commission and submitting a fee for each branch as prescribed in R4-29-211 before the branch office opens for business. The

Notices of Final Rulemaking

branch office registration form shall require at least the complete address of the primary office, the business license number, the full name of the qualifying party, the business license and qualifying party license numbers and the complete physical address of the registering branch office.

- ~~B.~~ Each branch office shall be registered only in the name style as that shown on the license of the registered business, or shall obtain a separate business license and operate as a separate company. A company which wishes to conduct additional business in a name style different from that which is shown on the business license shall obtain a separate business license for each such company.
- ~~C.~~ All oral and written representations relating to any branch office shall prominently bear the registered business name. Representations shall include, but not be limited to, service vehicle markings, statements, receipts, inspection reports, bids, contracts, and written or oral advertisement.

**R4-29-211. ~~Schedule of Fees, Payments and Exemption Repealed~~**

- ~~A.~~ For the purpose of licensure, qualification, certification and registration the following schedule of fees shall apply:

- ~~Qualifying party initial application and examination: \$150.00~~
- ~~Qualifying party or pest control advisor examination retake, each section: \$30.00~~
- ~~Qualifying party or pest control advisor broaden scope, each category: \$50.00~~
- ~~Qualifying party renewal fee: \$125.00~~
- ~~Qualifying party change of status, active to inactive: None~~
- ~~Qualifying party change of status, inactive to active: \$125.00~~
- ~~Qualifying party inactive renewal: \$25.00~~
- ~~Temporary qualifying party qualification: \$25.00~~
- ~~Pest control advisor initial application, examination, and pest control advisor license: \$150.00~~
- ~~Pest control advisor license renewal: \$125.00~~
- ~~Business license, initial: \$75.00~~
- ~~Business license, renewal: \$75.00~~
- ~~Branch office registration, initial: \$35.00~~
- ~~Branch office registration, renewal: \$35.00~~
- ~~Certification application and examination: \$30.00~~
- ~~Certification, renewal: \$20.00~~
- ~~Certification, broaden scope of: \$10.00~~
- ~~Employee registration, initial: \$5.00~~
- ~~Employee registration, renewal: \$3.00~~
- ~~Duplicate wall license: \$20.00~~
- ~~Duplicate qualifying party or pest control advisor identification card: \$10.00~~
- ~~Duplicate certification card: \$10.00~~
- ~~Duplicate registration card: \$3.00~~
- ~~Late filing fee, termite action registration form, double the prescribed registration fee.~~

- ~~B.~~ Payment for all fees shall be made to the order of the Structural Pest Control Commission and may be made by money order, cashier's check, certified check, business check or personal check. Fees paid by business or personal checks shall not be considered paid until cleared for payment by banks. Fees shall not be prorated.
- ~~C.~~ Arizona state pesticide inspectors who only commercially apply pesticides as required by the state agency for whom they are employed shall not be required to pay the qualification, advisor or certification fee. Annual renewal fees shall be waived during the time they serve as state inspectors.

**R4-29-212. ~~Continuing Education Required for Qualifying Parties, Pest Control Advisors and Applicators Repealed~~**

- ~~A.~~ Each qualifying party, pest control advisor or applicator shall submit proof of 12 continuing education credits earned during the preceding two years at the time of their annual renewal. Credits may be reported each year. Credits used to satisfy the requirements of the applicator certification may be used to satisfy the requirements for a qualifying party or pest control advisor. Persons who do not meet the continuing education requirements shall complete current testing requirements prior to renewal of their credential.
- ~~B.~~ Coursework, classes and other forms of instruction shall be reviewed by the advisory accreditation committee and approved by the Commission before qualifying for continuing education credit. To receive approval, instruction shall be substantially related to the license or certificate classification, category or subcategory for which credit is applied.
- ~~C.~~ A qualifying party, pest control advisor or applicator may earn up to one hour of continuing education credit each year for attending regularly scheduled meetings of the Commission.
- ~~D.~~ A qualifying party or pest control advisor may earn up to one hour of credit each year in a business management course which has been approved by the Commission.
- ~~E.~~ Documentation evidencing completed continuing education instruction shall be submitted to the Commission with the application for credential renewal. The qualifying party, pest control advisor, or certified applicator shall be responsible

Notices of Final Rulemaking

for maintaining their own records for continuing education credits.

- F. An attendee may request credit for instruction which he has taken and which was not previously approved for accreditation. Each request shall be submitted to the advisory accreditation committee and shall include the information as required in R4-29-213(A)(1) and (2).

**R4-29-213. Requirements for Providers of Continuing Education Programs Repealed**

- A. Providers of continuing education programs shall apply for accreditation on a form provided by the Commission, which shall contain at least the name and address of the provider, the number of continuing education hours requested, the type of instruction to be provided, and the method for evaluating attendees. Each provider shall:
  1. Include the topic of the program in abstract or outline form. Except for a business management program, each program shall be directly related to pest control, management, or pesticide usage, and to the classification, category or subcategory in which credit is sought.
  2. Provide the name and qualifications of the person directly presenting the instruction.
  3. Provide an attendance list.
  4. Issue a certificate of completion to each attendee who successfully completes the program.
- B. The program provider shall notify the Commission of course content or instructor changes for a previously approved continuing education program.
- C. The Commission may accept, modify or reject the recommendation of the advisory accreditation committee. The Commission shall notify the applicant of its decision in writing.
- D. Unless otherwise indicated on the written notice of approval, each in-house training program shall be accredited for two years and all other courses shall be accredited for one year. The program provider shall request renewal in writing prior to the expiration of an accreditation period.
- E. The Commission may evaluate an approved program of instruction to determine its level of effectiveness. The Commission may withdraw approval of a course which fails to meet the requirements outlined in subsection (A) of this rule.

**ARTICLE 3. PESTICIDE USAGE REPEALED**

**R4-29-301. Misuse of Any Pesticide; Falsification of Any Pesticide Record Repealed**

- A. No person shall misuse any pesticide. No person shall use, supervise, or direct the use, including application, storage and disposal of any pesticide in a manner inconsistent with its product label or labeling as registered by the United States Environmental Protection Agency and the Arizona Department of Agriculture unless otherwise prescribed by Commission rule or written order. No person shall apply, cause to apply or cause the direct release of a pesticide spray, dust or granule in such a manner that the pesticide comes into contact with persons (other than those involved in the application and who are wearing proper protective equipment), animals, or property other than the site and target being treated, unless such release is caused by accident beyond the control of the operator. No person shall use any pesticide in a manner prohibited by A.R.S. Title 32, Chapter 22, and rules adopted pursuant to this Chapter, or a written order of the Commission.
- B. No person shall falsify a record used or maintained in connection with the use, including application, storage and disposal, of pesticides.

**R4-29-302. Certified Applicator Required Repealed**

- A. Except as permitted by A.R.S. § 32-2315, each company shall apply or cause to have applied pesticides only by an applicator who has a valid applicator certification or by a qualifying party licensed in the classification of the pesticide being used.
- B. Restricted-use pesticides shall be applied, stored or disposed of only by a person who holds a valid certification in the category or subcategory applicable to the restricted-use pesticide being used, or under the direct supervision of an applicator holding a valid certification in the category or subcategory applicable to the restricted-use pesticide being used.

**R4-29-303. Direct Supervision of Noncertified Persons Required Repealed**

- A. Persons who apply pesticides and who are not certified shall work under the direct supervision of a registered and certified applicator or qualifying party who shall be responsible for their pest control activities. The establishment of direct supervision shall not provide relief from the requirement of certification as set forth in A.R.S. § 32-2315(A). An applicator providing supervision for restricted-use pesticides shall be certified in the category or subcategory for which supervision is provided.
- B. The availability of the certified applicator or qualifying party shall be directly related to the hazard of the situation. In situations where the certified applicator is not required to be physically present, direct supervision shall include verifiable instructions to the noncertified person as follows:
  1. Detailed guidance for proper loading, mixing, applying, storing, and disposing of the pesticide;
  2. Detailed guidance for the use of all required safety equipment; and
  3. Provisions for contacting the certified applicator by means of telephone, radio or other immediate communication method in the event that he is needed.
- C. When directed by label or other provision of this Chapter, the actual physical presence of a certified applicator shall be required when application is made by a noncertified person.

**R4-29-304. Protect Against Contamination Repealed**

- ~~A.~~ Each company shall protect food, feed and drug commodities and equipment used in the preparation of food, feed and drugs against pesticide contamination. Only pesticides labeled for use in food areas shall be applied to the food areas of food handling establishments. For applications other than at a food handling establishment and prior to treatment, exposed food, feed, drugs, and equipment including utensils, household dishes, table service and the like shall be effectively protected against pesticide contamination. Additional safety precautions or directions as required on the pesticide label or labeling shall be accomplished prior to treatment.
- ~~B.~~ Each person while mixing pesticides with water shall protect the water supply from back-siphonage of pesticide mixture. Spray tanks in which pesticides are mixed or from which pesticides are dispensed and to which water is added shall not be filled through direct fill-pipe or hose connections protruding into the spray tank. Fill-pipes or hoses shall terminate at least two inches above spray tank intake and fill opening or be equipped with an effective anti-siphonage device. When there is a conflict between this rule and local ordinance or labeling directions, the more specific language shall apply.
- ~~C.~~ No person shall operate equipment for the mixing or application of pesticides, including such auxiliary equipment as hoses and metering devices, in such condition or in such a manner as to create a hazard or nontarget contamination.
- ~~D.~~ Except as specifically provided by label instructions, no person shall apply a pesticide which is formulated as granules and which bears the statement "Keep out of reach of children" in a manner which leaves exposed granules on patios, steps, sidewalks, walkways or floors.
- ~~E.~~ Cleanup of chemical spillage shall be made in accordance with product labeling and manufacturer's recommendations and in a manner which minimizes exposure to humans and other nontarget organisms. Recommendations of health and medical personnel and local authorities shall be followed for cleanup in which human endangerment is possible.
- ~~F.~~ The business licensee or their representative shall notify the Commission within one business day of becoming aware of any of the following incidents allegedly caused by the use of pesticides:
  - 1. Medically confirmed illness or death of humans, pets, or nontarget wildlife.
  - 2. Confirmed contamination of food, feed, drugs or water supply.
  - 3. Health-threatening contamination of a structure which has resulted in the hospitalization of an occupant or a requirement by medical personnel or local authorities for evacuation of the structure, or contamination of the environment which has resulted in a requirement by local authorities for evacuation of an area.

**R4-29-305. Written Notification of Treatment Required Repealed**

- ~~A.~~ Business licensees or their representatives shall provide written notification immediately following an application of pesticide. Such notice shall include the chemical by trade name and any other information as required by the pesticide label or local ordinance and shall be made to the person requesting the treatment or to his designated agent.
- ~~B.~~ A statement of precaution shall accompany each notification of treatment. Each statement of precaution shall be printed conspicuously, in not less than eight point font, and shall include the words:

~~"Warning—Pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated or aerated.~~

~~For more information contact [business license name and business license number] at [telephone number]."~~

**R4-29-306. Notice of Intent to Apply Pesticides Repealed**

- ~~A.~~ For the purpose of monitoring pesticide applications, the Commission, its executive director, their designee, or a Commission inspector may make written request for advanced notification of scheduled pesticide treatments. The Commission, its executive director, their designee, or a Commission inspector shall identify the date of the requested schedule of treatments and shall allow at least 24 hours for compliance with its request.
- ~~B.~~ The business licensee, commercial applicator or their agent shall provide for review, at the office of the business licensee or applicator or at another mutually agreeable location, a listing of treatments and the locations of such treatments scheduled to be accomplished by at least one applicator within the next 24 hours.
- ~~C.~~ If a person cannot timely comply with a request for a schedule of treatments, the person shall set forth the reasons for non-compliance in writing and immediately notify the Commission, its executive director, their designee, or a Commission inspector. Upon a showing of good cause, the request may be modified or excused.

**R4-29-307. Make and Preserve Treatment Records Repealed**

- ~~A.~~ Each company shall make and preserve true and accurate records of treatments performed, including those performed under warranty or guarantee, for a period of not less than three years from the date of a treatment.
- ~~B.~~ Treatment records shall include:
  - 1. Name and address of the customer and site of application.
  - 2. Date of service.
  - 3. Target pest or purpose of service.
  - 4. Trade name or common name of the materials used.
  - 5. Percent active ingredient in the finished product.
  - 6. Amount of finished product used.
  - 7. Name and certification number of the applicator.

Notices of Final Rulemaking

8. Contract, if applicable.

- ~~C. In the event of an emergency endangering the health or safety of a person, treatment records shall be provided immediately to the Commission, its executive director, their designee, or a Commission inspector, upon their request. In other situations, treatment records shall be made available for inspection and copying by the Commission, its executive director, their designee, or a Commission inspector, with the consent of the qualifying party or applicator or as provided for in R4-29-309.~~

**R4-29-308. ~~Restricted-use Records Required~~ Repealed**

- ~~A. All applications and disposals of restricted-use pesticides by or under the direct supervision of applicators who are certified by the Commission shall be recorded and retained for a period of at least three years whether or not that application or disposal is made while a person is engaged in the business of structural pest control. If these records are maintained by a business licensee, separate records shall not be required from the applicator. Application and disposal records shall be made available for inspection and copying by a representative of the Commission.~~
- ~~B. Restricted-use pesticide application records shall include all information required by R4-29-307 and:~~
- ~~1. If different than the customer, the name and address of the person for whom pesticide was applied.~~
  - ~~2. Specific site treated.~~
  - ~~3. Environmental Protection Agency registration number of material used.~~
- ~~C. If unused portions of restricted-use pesticides are disposed, records of such disposal shall include the trade or common name and Environmental Protection Agency registration number of the pesticide, percent active ingredient of the pesticide in the material disposed, amount of material disposed, method of disposal, date of disposal, and location and type of disposal site or disposal service, and the name and certification number of the applicator in charge of the disposal.~~

**R4-29-309. ~~Records Required Within 24 Hours~~ Repealed**

- ~~A. The Commission, its executive director, their designee, or a Commission inspector may request in writing and within 24 hours of notification, specific records from a business licensee, pest control advisor, qualifying party or applicator at his place of business during normal business hours. The qualifying party, pest control advisor or applicator in charge of an office shall comply with the request and provide such records by the same time of the next business day. The qualifying party, advisor, applicator or qualified designee shall be available to interpret requested records. Business licensees or their representatives may deliver the requested records to the Commission in person, by mail or by facsimile.~~
- ~~B. "Records" means all records directly related to the business of structural pest control and shall include records of:~~
- ~~1. Pesticide inventory including quantities of pesticides purchased or otherwise acquired, sold, disposed of, and lost; and quantities of pesticides as classified by general or restricted-use, canceled or suspended products, and noncommercial use.~~
  - ~~2. Pesticide application.~~
  - ~~3. Written inspection reports.~~
  - ~~4. Proposals for treatment or alteration.~~
  - ~~5. Contractual agreements for treatments or inspections.~~
  - ~~6. Personnel actions for employees whose duties include the application of pesticides, including dates of hire, registrations, certifications, training and continuing education, and disassociations.~~
  - ~~7. Dates of acquisition of vehicles which are used in the conduct of pest control service.~~
  - ~~8. Insurance as required by A.R.S. § 32-2313.~~
- ~~C. If a person cannot timely comply with a records request, they shall set forth their reasons for noncompliance in writing and immediately notify the Commission, its executive director, their designee, or a Commission inspector. Upon a showing of good cause, the time to provide such records may be extended or the request for records may be excused.~~

**R4-29-310. ~~General Provisions for Pesticide Usage~~ Repealed**

- ~~A. Only those pesticides registered by both the U. S. Environmental Protection Agency and the Arizona Department of Agriculture shall be used.~~
- ~~B. An applicator may use application rates as provided by Special Local Need registration and labeling only if such labeling is in the possession of the user at the time of the application.~~
- ~~C. Licensees and certified applicators shall maintain at the registered business locations specimen copies of labels and material safety data sheets for currently registered pesticides used in their pest control operations. These shall be made available for inspection at the request of the Commission.~~
- ~~D. Business licensees shall assure that their employees have the protective equipment specified by the pesticide label of the product used. The licensee shall instruct employees to use protective clothing and equipment while engaged in the application of pesticides and how to maintain, clean and store such when not in use.~~

**R4-29-311. ~~Provisions for Pesticide Storage~~ Repeal**

- ~~A. All pesticides utilized by a business licensee or applicator shall be stored according to labeling instructions.~~
- ~~B. All pesticides shall be stored in closed containers free from corrosion, leakage and pesticide contamination. Lost or damaged labels shall be replaced with approved specimen labels and fastened to the container. Damaged containers, other than~~

Notices of Final Rulemaking

fumigants, shall be replaced with identically labeled containers or, if not available, properly labeled service containers for temporary storage or transport.

- ~~C.~~ A service container shall be considered to be any container used to hold, store or transport a pesticide concentrate or use-dilution preparation other than the original labeled container, measuring device or application device. Service containers shall be closed when not in use, clean and nonleaking. When service containers are used to temporarily store or transport a pesticide concentrate or registered ready-to-use product, each service container shall bear a durable and legible label or tag which shall include the following information:
  - 1. The name, address and telephone number of the commercial or noncommercial location using the product.
  - 2. The common chemical or trade name of the principal active ingredients.
  - 3. The U. S. Environmental Protection Agency registration number.
  - 4. The strength of the concentrate or dilution expressed as a percentage of active ingredients.
  - 5. The signal word for the registered label.
  - 6. The phrase "KEEP OUT OF REACH OF CHILDREN".
  - 7. Any other information required by Environmental Protection Agency regulations.A service container shall not bear other legible wording or markings which are not related to the pesticide product contained therein.
- ~~D.~~ Application equipment from which pesticide preparations are directly discharged and in which pesticides are not stored shall not be subject to labeling requirements.
- ~~E.~~ No pesticide shall be stored in the same room where food, feed, drugs, eating utensils, beverages, or tobacco products are stored. No pesticide shall be stored in containers which have been used for food, feed, beverages, drugs or cosmetics or which are in a significant way, as by shape, size or markings, identified with food, feed beverages, drugs, or cosmetics. No fumigant shall be stored within a human dwelling.

**R4-29-312. Pesticide Containers; Storage and Disposal Repealed**

- ~~A.~~ The storage and disposal of pesticide containers shall be in strict accordance with label directions or, in the absence thereof, in a manner recommended by the chemical manufacturer or by local ordinances. When a conflict exists between label and other regulation, the more restrictive language shall apply.
- ~~B.~~ An empty pesticide container which has not been prepared for disposal in accordance with label directions and this rule or a returnable or reusable pesticide container held for shipment shall be stored until disposed or recycled as though it contained pesticide.

**R4-29-313. Pesticide Storage Facility Repealed**

- ~~A.~~ Each company shall provide a facility for safe storage of pesticides and devices, and the use of such facility shall not violate laws, ordinances or regulations relating to pesticide storage of the political subdivision where it is located. A designated pesticide storage place on a service vehicle may be included within the meaning of pesticide storage facility.
- ~~B.~~ The facility shall be secure from unauthorized entry and equipped with an entrance or access which shall be locked when unattended. A sign shall be conspicuously posted in the entrance or access area which warns individuals that pesticides are stored inside.
- ~~C.~~ The facility shall provide ventilation to the outside so as to prevent build-up of chemical odors and to preclude chemical injury to persons, domestic animals or wildlife.
- ~~D.~~ In or about the pesticide storage facility, including a location where all pesticides are stored on a service vehicle, the business licensee shall provide:
  - 1. Adequate lighting to read pesticide labels.
  - 2. Operational fire extinguisher which is appropriate for the pesticides stored.
  - 3. First-aid kit.
  - 4. Emergency medical information including telephone numbers for poison control centers.
  - 5. Absorbent materials capable of absorbing spills of at least one gallon and leaks.
  - 6. A specimen label and material safety data sheet for each pesticide stored therein.
  - 7. Washing facilities which shall include soap, fresh water, and toweling.

**R4-29-314. Pesticide Storage on Service Vehicles Repealed**

- ~~A.~~ A locking storage space designed to prevent pesticide containers from becoming damaged while in transit shall be used whenever a pesticide is stored on a service vehicle.
- ~~B.~~ No pesticide product, including a pesticide in portable application equipment such as a spray tank in a truck bed, shall be left in an unattended and accessible manner.
- ~~C.~~ All pesticide products in original containers or service containers and all empty pesticide containers not yet prepared for disposal in accordance with label directions shall be kept locked when in unattended service vehicles or shall be kept within view and under the direct and personal supervision of the employee responsible for that service vehicle. Cases of unopened pesticide products which are sealed in the manufacturer's or distributor's outer coverings and which are transported but are not stored upon a service vehicle are exempt from the requirements of this subsection.

**R4-29-315. ~~Required on Service Vehicles~~ Repealed**

The business licensee shall assure that each service vehicle used in the conduct of pest control applications is provided with:

1. Measuring and pouring devices compatible with the pesticides carried thereon.
2. Protective clothing and equipment suitable for the pesticides stored, transported or used on that service vehicle.
3. Absorbent materials capable of absorbing or containing spills of at least one gallon and leaks and equipment to collect and store contaminated absorbent materials.
4. A basic first aid kit which shall contain information regarding the practical treatment for pesticide poisonings and emergency medical information including telephone numbers for poison control centers.
5. A specimen label and material safety data sheet for each pesticide transported or stored on the vehicle.
6. A change of clothing for use in the event that the applicator's garments are contaminated while using a pesticide.
7. Potable water for emergency washing of hands, face or body.

**ARTICLE 4. ~~TERMITES AND OTHER WOOD-DESTROYING ORGANISMS~~ REPEALED**

**R4-29-401. ~~Definitions~~ Repealed**

For the purpose of this Article:

1. "Bulletin 64" means the United States Department of Agriculture Forest Service, Home and Garden Bulletin 64 as revised February 1989 and incorporated herein by reference and on file with the Office of the Secretary of State.
2. "Calibration or calibrated" means a method of determining the amount of pesticide that will be applied.
3. "Drywood termites" means the several species of termites which can attack dry, sound wood and do not require contact with the soil. These may include representatives of the families Kalotermitidae and Hodotermitidae.
4. "Pretreatment and preconstruction treatment" are considered synonymous and are used interchangeably.
5. "Project" means an individual address or a privately owned or individually owned dwelling.
6. "Post-treatment and post-construction treatment" are considered synonymous and are used interchangeably.
7. "Subterranean termites" means the several species of termites which usually maintain contact with the soil. These may include representatives of the families Rhino-termitidae and Termitidae.
8. "Termiticide" means a chemical registered and used for the control of termites.

**R4-29-402. ~~Chemicals~~ Repealed**

Chemicals used for either preconstruction treatments or post-construction treatments shall be currently registered for such use by both the Environmental Protection Agency and the Arizona Department of Agriculture. Applications of termiticide shall be made only in the specific quantities, strengths and dosages as recommended on the product label unless otherwise prescribed by Commission rule or order.

**R4-29-407. ~~Preconstruction Treatments; Establishment of Barriers; Soil Disturbed; Concrete Poured Prior to Treatment; Effective Date~~ Repealed**

- A.** Horizontal barriers shall be established prior to pouring of all slab construction under roof, slab supported or constructed porches, patios, garages, carports, and entrance and utility platforms.
- B.** Vertical barriers shall be established in critical areas visible at the time of treatment. For the purpose of pretreatment, critical areas shall include critical areas identified by the label and soil in the immediate vicinity of:
  1. Penetrations or protrusions through the slab.
  2. Observable presets for controlled cracks or joints.
  3. Formed up changes of grade.
  4. Abutting slabs.
  5. Bathtraps and tear-outs.
  6. Interior of foundation or stem walls.
  7. Piers, pillars, pipes or other objects that extend from the soil to the structure.
- C.** Unless specifically precluded by label, critical areas shall be treated at a rate of four gallons of chemical preparation per ten linear feet for each foot of depth from the top of the grade to the footer. In the absence of an adjacent footer, depth shall be considered to be one foot.
- D.** Vertical barriers at the exterior of foundation walls in stem-wall construction or exterior of grade beam in monolithic construction shall be established after grading and other construction related soil disturbance has been completed. This treatment shall be a required preventative treatment which may be completed post construction. A record of this treatment shall be conspicuously posted or left with the property agent. The business licensee shall be responsible for the establishment of this barrier.
- E.** If a licensee or their agent is advised that soil or fill which has been treated is disturbed and the continuous chemical barrier is broken before the concrete is poured, the soil shall be retreated to establish a continuous horizontal and vertical chemical barrier. Retreatment shall include all areas of soil disturbance.
- F.** A business licensee shall not issue a termite soil treatment guarantee for a site where a cement slab was poured and the soil thereunder was not pretreated until a complete post-construction treatment in accordance with R4-29-410 is rendered.
- G.** The effective date of treatment as recorded on a termite soil treatment guarantee issued for residential slab on grade con-

Notices of Final Rulemaking

struction of one or two units shall be the date of the application of termiticide to the soil beneath the primary slab. In the case of multi-slab construction in which no primary slab is identified, the effective date of treatment is the date of the last application of termiticide prior to pouring the final slab at the project.

**R4-29-408. Pretreatment Tagging and Records Required Repealed**

- A.** A tag shall be prominently placed and securely affixed at the site of each pretreatment project immediately after completion of the termiticide application. In the event that a pretreatment site must be abandoned before a treatment is complete, a tag representing work accomplished and including all information required in subsection (B) shall be posted and marked "TREATMENT INCOMPLETE". The tag shall be in sight and readily available for inspection after the treatment has been made and, if applicable, the slab has been poured. The tag may be placed upon an onsite contractor's permit or inspection board. If a customer file tag is required by the contractor, a duplicate tag marked "DUPLICATE" may be prepared and posted or delivered to the requestor.
- B.** Tags shall contain at a minimum the following information:
1. Name of business.
  2. Address of business.
  3. Telephone number of business.
  4. Business license number.
  5. Location of project.
  6. Date of application.
  7. Time application was begun.
  8. Time application was completed.
  9. Trade name of chemical used.
  10. Strength of chemical preparation used, written as a percentage of active ingredient.
  11. Number of gallons of chemical preparation applied.
  12. Square footage treated.
  13. Linear footage treated.
  14. Type of slab construction.
  15. Signature of applicator.
  16. Certification number of applicator or written "NONE" if not certified.
- C.** The information written on the pretreatment tag shall be an accurate representation of the treatment performed.
- D.** Information described in subsection (B)(5) through (16) shall be made part of a company's treatment records. The name of the applicator may be recorded in lieu of the applicator's signature.

**R4-29-409. Occurrence of Termites After a Pretreatment Repealed**

- A.** If, within five years of the date of the original pretreatment, subterranean termites occur in or on a structure that has been pretreated, retreatment shall be applied in accordance with the specifications on the label of a termiticide available for use.
- B.** For residential structures of one or two units, complete treatment of the entire exterior perimeter of the structure shall be rendered upon the third occurrence of subterranean termites on the exterior of a structure in a five year period from the date of the original pretreatment.
- C.** For residential structures of one or two units, complete post-construction treatment as specified in R4-29-410 of the entire structure shall be rendered upon the third occurrence of subterranean termites within the interior of a structure in a five-year period from the date of the original pretreatment.

**R4-29-410. Post construction Treatments for Subterranean Termites Repealed**

- A.** Applications of pesticides for post construction control of subterranean termites shall be made in accordance with specifications of the label of the termiticide used and in a manner to provide an unbroken chemical barrier between the termites in the soil and the cellulose products in the structure. Critical areas shall be treated. Treatment holes shall be spaced to provide a continuous chemical barrier. When drilling and injection is used as a method of application, treatment holes shall be spaced no greater than 24 inches apart except when such application is precluded by label, unique structural feature or application technique.
- B.** For the purpose of post construction treatments, critical areas shall include critical areas identified by the label and soil in accessible or visible areas of:
1. Penetrations or protrusions through the slab including all plumbing, utility services, and other openings.
  2. Controlled cracks and expansion joints.
  3. Other visible cracks greater than 1/16 inch wide.
  4. Abutments of slabs and of slabs and foundation walls.
  5. Changes of grade including sunken or elevated slab construction.
  6. Interior and exterior of foundation walls except in monolithic slab construction where only the exterior is treated.
  7. Perimeter of interior areas where concrete is not poured.
  8. For raised foundation construction, around piers, pillars, pipes or other objects that extend from the soil to the structure.

Notices of Final Rulemaking

- ~~C.~~ In the event that a particular aspect of post-construction termite control is not specifically covered on the chemical labeling, the minimum standards of good and workmanlike post-construction termite control shall be determined by evidence of compliance with these rules and use in accordance with pesticide manufacturers' recommendations, established usage, procedure and acceptable industry practice prevailing in the state when such work was performed.
- ~~D.~~ Holes drilled in construction elements of commonly occupied areas of the structure including unfinished basements, enclosed porches, garages and workshops shall be securely plugged with a nonporous and noncellulose material.

**R4-29-412. ~~Wood Infestation Reports; General Provisions Repealed~~**

- ~~A.~~ When used in conjunction with a sale or refinancing of a structure, the terms "termite report", "termite inspection" or "wood destroying organism report" shall be considered synonymous with a wood infestation report.
- ~~B.~~ Wood infestation reports shall be made on the form specified in Appendix A. When required by other state or federal agencies, other wood infestation reports may be completed in addition to, but not in lieu of, the form specified in Appendix A. Within 180 days of the effective date of this rule, each business licensee who prepares wood infestation reports shall adopt and use the form specified in Appendix A.
- ~~C.~~ Wood infestation reports shall be completed and signed by the employee who made the inspection and who is certified in the category of wood destroying organisms.
- ~~D.~~ Location of evidence of infestation and damage shall be represented on the wood infestation report by a graph or diagram.
- ~~E.~~ The final office copy of a wood infestation report shall be completed and filed at the registered office within seven working days.
- ~~F.~~ The number of the termite action registration reports prepared subsequent to a wood infestation report shall be placed on the office copy of the wood infestation report.
- ~~G.~~ Each wood infestation report prepared shall be consecutively numbered and retained by the company for at least three years. Each wood infestation report shall be filed in consecutive order except that a licensee who chooses to file wood infestation reports other than in consecutive order may do so only if a master list is maintained which shall be sorted by consecutive number and which shall include the date of action and file heading under which the wood infestation report is maintained.
- ~~H.~~ Logos and other statements of advertisement shall not be placed upon the report.

**R4-29-413. ~~Wood Infestation Reports; Information Required Repealed~~**

- ~~A.~~ A wood infestation report shall accurately list or report:
  - ~~1.~~ Name, address, phone number and business license number of the inspecting company. This information may be pre-printed.
  - ~~2.~~ Date of inspection.
  - ~~3.~~ Name of owner, seller or buyer.
  - ~~4.~~ Address of inspected property.
  - ~~5.~~ Areas of the property which were obstructed or inaccessible at the time of inspection.
  - ~~6.~~ Inspected and uninspected structures at a site.
  - ~~7.~~ Purpose of the report.
  - ~~8.~~ Visible and accessible evidence of past or present infestation from wood destroying pests or organisms.
  - ~~9.~~ Visible and accessible evidence of damage from wood destroying organisms.
  - ~~10.~~ When treatment is indicated, the organisms to be treated, chemicals to be used, and warranty to be issued.
  - ~~11.~~ Visible and accessible evidence of previous treatment
  - ~~12.~~ Visible conditions conducive including those listed in R4-29-414.
  - ~~13.~~ Signature and certification number of person making the inspection.
- ~~B.~~ Inspection may be limited to only those areas which are visible and accessible by probing or sounding at the time of inspection. For the purposes of this rule, visible and accessible shall include that which can be seen or is accessible to physical sounding or probing with inspection instruments such as screwdrivers, ice picks and knife blades. Inspection shall include attics and crawl spaces which permit entry by the person making the inspection. Inspection may exclude areas concealed or obstructed by floor coverings, wall coverings, paneling, built-in structures such as bookcases, cabinets, appliances, equipment or furniture or portions of the structure to which access would require the removing or marring of finish work or moving of furniture, appliances or equipment.

**R4-29-414. ~~Wood Infestation Reports; Conditions Conducive Repealed~~**

- ~~A.~~ Conditions conducive shall be considered to be those conditions deemed likely to lead to infestation from wood destroying pests or organisms.
- ~~B.~~ For purposes of a wood infestation report, these conditions shall include but not be limited to:
  - ~~1.~~ Faulty grade level. For construction where slab or floor is on or near grade, the existing earth level shall be considered grade. A faulty grade level shall exist when:
    - ~~a.~~ Top of foundation is even with or below the adjacent earth;
    - ~~b.~~ Bottom of stucco or siding is even with or below outside grade;
    - ~~c.~~ Bottom of joists or stringers is less than 12 inches above grade; or,

Notices of Final Rulemaking

- d. Slope is such that surface water drains toward the structure.
- 2. Inaccessible subareas or portions thereof. This shall include areas where there is less than 18 inches clear space between the bottom of the floor joists and the unimproved ground area.
- 3. Excessive cellulose debris. This shall include cellulose debris of a size that can be raked, or larger, and forms an aggregate of one cubic foot or more, stumps and wood imbedded in footings and in contact with earth, and firewood and lumber piles within six inches of a structure.
- 4. Earth to wood contact. Wood, whether it is internal or external in relation to the structure, and which is attached, affixed or securely abuts the structure and is in contact with the ground shall be considered earth to wood contact.
- 5. Excessive moisture. Conditions of excessive moisture shall be considered to exist when there is evidence of present or past moisture conditions which would foster the growth of fungus or visible moisture occurs on structural timbers.
- 6. Insufficient ventilation. Conditions of insufficient ventilation shall be considered to exist when there is less than one square foot of ventilation opening per 150 square feet of crawl space area, less than one square foot of ventilation opening for every 1,500 square feet of ground area covered by a vapor barrier, less than two areas permitting cross ventilation, or excessive moisture in an area because ventilation through the prescribed openings is not effective.

**R4-29-415. Supplemental Wood Infestation Reports Repealed**

- A. A supplemental wood infestation report may be completed when an inspection is required from the original inspecting company to verify that either a corrective treatment has been performed or conditions previously listed as conducive have been corrected.
- B. Each supplemental inspection shall be reported on a form of the same style as the original inspection and shall include the original inspection number clearly marked to show that it is now supplemental.
- C. A business licensee may choose to perform a complete inspection and issue an original wood infestation report if the licensee cannot otherwise verify that all corrections have been made.
- D. An inspection made over 30 days after an original inspection date shall require a complete inspection and not a supplemental inspection.

**R4-29-417. Termite Action Registration Report Repealed**

- A. A termite action registration report shall be submitted to the Commission on a form or in a format provided by the Commission for each termite action performed at a project.
- B. A termite action shall mean a completed preventative or initial corrective control method or treatment for any termite species, or a wood infestation report. Post-construction treatments performed under a previously existing warranty and supplemental wood infestation reports shall not be reported.
- C. For the purpose of reporting, a pretreatment shall be considered complete on the date of the application of termiticide to the substrate beneath the primary slab at a project. In the event of multiple-slab establishment at a single project, the completion date may be the date of the last treatment prior to final concrete pour.
- D. For each action involving a pretreatment, the registration form shall be marked to indicate if the exterior barrier has been established.
- E. A separate termite action registration report form shall be filed for the post-construction preventative treatment performed to establish the exterior barrier except as required in R4-29-409(B) or an existing warranty.
- F. Data submitted on the termite action registration report shall include all items listed in A.R.S. § 32-2304(A)(13) and:
  - 1. The business license number of the company which performed the work;
  - 2. The qualifying party or advisor number; and
  - 3. For a wood infestation report: an indication of evidence of infestation, treatment performed, damage present, conditions conducive, and corrective actions taken; or
  - 4. For a post-construction termite treatment: an indication of type of treatment, target organism, chemical used, strength of chemical used as represented by the percentage of active ingredient, and amount of chemical used; or
  - 5. For a preconstruction termite treatment or a post-construction preventative treatment to establish the exterior vertical barrier: the chemical used, strength of chemical used as represented by the percentage of active ingredient, amount of chemical used, and, as applicable, square and linear footage treated.

**R4-29-418. Termite Action Registration Report Fee Repealed**

- A. A filing fee as set forth in A.R.S. § 32-2304(D) shall accompany each completed form for any termite action as described in R4-29-417(B) except as exempted in subsection (B) of this rule.
- B. Actions which are supplemental to a completed project shall be exempt from a filing fee. A fee shall not be paid for preventative treatments performed by the original pretreating company after a pretreatment for the purpose of establishing an exterior barrier.
- C. Each termite action registration report or fee submitted to the Commission later than 30 days from a completed termite action shall be subject to the late filing fee set forth in R4-29-211.

**ARTICLE 5. HEARINGS AND CONSENT ORDERS REPEALED**

**R4-29-501. Hearings, Settlement Conferences and Consent Orders Repealed**

Notices of Final Rulemaking

- ~~A.~~ These rules of practice shall be applicable to hearings before the Commission and its duly appointed hearing officers.
- ~~B.~~ A person may appear on the person's own behalf or be represented by counsel.
- ~~C.~~ Hearings shall be judicial but not formal. The hearing officer shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure, and directs the order of proof, and may question the parties and witnesses. Witnesses shall testify under oath or affirmation, and a record of the proceedings shall be made and kept. Each party has the right to cross-examine the witnesses who testify, to inspect documents, and to submit rebuttal evidence.
- ~~D.~~ Attendance at hearings may be compelled. The affixing of the seal of the Commission and the signature of a member of the Commission or executive director or their agent shall be attestation of a subpoena compelling the appearance of a witness or the production of documentary evidence. A party desiring the Commission to issue a subpoena to compel the appearance of a witness at a hearing shall make written application to the executive director. Service of such subpoena shall be made by the party applying for same. Service shall be deemed to be complete at the time actually made.
- ~~E.~~ Service by the Commission of a decision, order, subpoena, notice of hearing, other notice or other process may be made by enclosing the same or a copy thereof in a sealed envelope, addressed to the party served at the last address shown in the Commission records, and mailed by certified mail in the United States Mail, and such service shall be deemed complete when so deposited in the mail.
- ~~F.~~ Service upon an attorney who has appeared on behalf of a party shall constitute service upon such party.
- ~~G.~~ In the event of the failure of a party to appear when requested at a proceeding before the Commission, the Commission or its hearing officer shall be free to conduct the proceeding and to act upon the evidence presented in that party's absence.
- ~~H.~~ Upon the completion of a hearing, the hearing officer shall submit to the Commission the hearing officer's recommended findings of fact, conclusions of law and order. The recommendations of the hearing officer shall be mailed to parties and the Office of the Attorney General. The Commission may adopt, modify, or reject the recommended findings, conclusions or order of the hearing officer. The Commission's decision shall be reduced to writing. A copy of the Commission's findings of fact, conclusions of law and order shall be mailed to the parties and the Office of the Attorney General.

**R4-29-502. Review or Rehearing of Commission Decisions Repealed**

- ~~A.~~ Except as provided in subsection (G), a party in a contested case before the Commission who is aggrieved by a decision rendered in such case may file with the Commission, not later than 20 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. 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 the person's last known residence or place of business when personal service or delivery cannot otherwise be accomplished.
- ~~B.~~ A motion for rehearing or review under this rule may be amended at any time before it is ruled upon by the Commission. A response may be filed within ten days after service of such motion by any other party. The Commission 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 a 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 Commission or of its hearing officer or the prevailing party, or an order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
  - ~~2.~~ Misconduct of the Commission 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 Commission may affirm or modify the decision or grant a rehearing or review 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 or review shall specify with particularity the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters so specified.
- ~~E.~~ Not later than 20 days after a decision is rendered, the Commission may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on this matter, the Commission may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting such a rehearing or review shall specify the grounds therefor.
- ~~F.~~ When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within ten days after such service, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days by the Commission for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- ~~G.~~ If in a particular decision the Commission makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health or 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

*Arizona Administrative Register / Secretary of State*

**Notices of Final Rulemaking**

an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Commission's final decisions.

- H:** For purposes of this Section, the terms "contested case" and "party" are 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 or review of decisions of the Commission, such statutory provisions govern.

**R4-29-503. Settlement Conferences Repealed**

- A:** The Commission may designate one or more staff members to conduct an informal settlement conference, negotiate resolutions between parties, and make recommendations of resolution to the Commission.
- B:** Written notice of settlement conference shall be served on the complainant and, as applicable, on the business licensee, pest control advisor, qualifying party, applicator or registered employee. Notice shall be served personally or by mail to the last address known to the Commission and shall include time and place of the conference and issues to be discussed.
- C:** Parties may be represented by legal counsel.
- D:** Conferences shall be conducted informally. Witnesses shall not be placed under oath. Subpoenas shall not be issued.
- E:** Proceedings of a settlement conference shall not be recorded by recording or stenographic device. A general written record of the proceeding may be made.
- F:** Statements made at a settlement conference shall not be introduced in evidence at a formal hearing unless all parties have consented to such.

**R4-29-504. Settlement Conference Consent Orders Repealed**

- A:** After a settlement conference the Commission may impose a disciplinary sanction, requirement for remedial action, or penalty by means of a consent order.
- B:** The Commission may choose to accept or reject the agreement reached between agency staff and licensee, advisor, qualifying party, applicator or registered employee.
- C:** After review and approval by the Commission, a consent order shall be prepared in writing and signed by the chairman of the Commission or a designated agent. Each consent order shall include:
  1. The general nature of complaint;
  2. The specific action to be taken by the licensee, advisor, qualifying party, applicator or registered employee;
  3. The penalty, if any; and
  4. The time for compliance, if any, for corrective action.
- D:** The consent order shall be executed only upon written acceptance of, as applicable, the business licensee, advisor, qualifying party, applicator or registered employee.

**Appendix A. Wood Infestation Report Form Repealed**

STATE OF ARIZONA STRUCTURAL PEST CONTROL COMMISSION <b>WOOD DESTROYING ORGANISM INFORMATION                  FOR EXISTING INFORMATION</b>	1A. VA CASE NUMBER	2. DATE
	1B. HUD/VA CASE NUMBER	1E. WIR #
	1C. <input type="checkbox"/> ORIGINAL REPORT <input type="checkbox"/> SUPPLEMENTAL REPORT	1F. TARE #
	4D. PURPOSE OF REPORT <input type="checkbox"/> REAL ESTATE: <input type="checkbox"/> Sale of Property <input type="checkbox"/> Refinancing <input type="checkbox"/> TREATMENT ONLY: <input type="checkbox"/> Preventative <input type="checkbox"/> Corrective	
IT IS NOT ALWAYS POSSIBLE TO DETECT EVIDENCE OF WOOD DESTROYING ORGANISM INFESTATION. READ THIS INSPECTION REPORT IN ITS ENTIRETY.		
READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM		
1. The VA case number or HUD/FHA case number shall be inserted in item 1 by the lender or pest control company. 2. When treatment is indicated in Item 9C, the organisms treated will be named, the data on application method and chemicals shall be entered in Item 10. Proper control measures may include issuance of warranty. Warranty information should also be entered on this form. Proper control measures are those which follow good acceptable industry practices. 3. If visible evidence is found, organisms causing such evidence will be listed in Item 8A and visible damage resulting from such infestation will be noted in Item 8D. 4. Areas that were inaccessible or obstructed (Item 7) may include, but are not limited to, wall covering, fixed ceiling, floor coverings, furniture or stored articles. The Pest Control Operator (PCO) should list in Item 7, these obstructions or areas which inhibit the inspection. 5. Item 8A may be checked when the PCO is not authorized to perform control measures by the owner/seller or control measures cannot be performed due to conditions beyond control, e.g. obstructions, weather, etc. 6. Visible evidence of conditions conducive to infestation from subterranean termites shall be reported on the second page of this form (earth wood contact, faulty grades, insufficient ventilation, etc.).		
3A. NAME OF INSPECTION COMPANY	5A. NAME OF PROPERTY OWNER/SELLER	
3B. ADDRESS OF INSPECTION COMPANY (Include ZIP Code)	5B. ADDRESS OF PROPERTY (Street, City, ZIP)	
3C. TELEPHONE NUMBER (Include Area Code)	4. PEST CONTROL BUSINESS LICENSE NUMBER	6C. STRUCTURE(S) INSPECTED
5D. UNINSPECTED STRUCTURES		
FINDINGS		
6. WERE ANY AREAS OF THE PROPERTY OBSTRUCTED OR INACCESSIBLE? <input type="checkbox"/> YES <input type="checkbox"/> NO (If yes, complete Item 7)	7. OBSTRUCTIONS OR INACCESSIBLE AREAS This inspection did not include areas which were obstructed or inaccessible at the time of the inspection. ALSO SEE PAGE 2.	

**Arizona Administrative Register / Secretary of State**

**Notices of Final Rulemaking**

8. BASED ON CAREFUL VISUAL INSPECTION OF THE READILY ACCESSIBLE AREAS OF THE PROPERTY (See item 11A before completing): <input type="checkbox"/> A. Visible evidence of wood destroying organisms was observed. No control measures were performed. Evidence and organisms observed _____ _____ <input type="checkbox"/> B. No visible evidence of infestation from wood destroying organisms was observed. <input type="checkbox"/> C. Visible evidence of infestation was noted; proper control measures were performed. <input type="checkbox"/> D. Visible damage due to: _____ has been observed in the following areas: _____ _____ <input type="checkbox"/> E. Visible evidence of previously treated infestation, which is now inactive, was observed. (Explain in Item 10.) <input type="checkbox"/> F. Visible evidence of previous treatment was observed. List evidence: _____ _____		
9. DAMAGE OBSERVED ABOVE, IF ANY (Check One) <input type="checkbox"/> A. Will be/has been corrected by this company. <input type="checkbox"/> B. Will be corrected by another company (see attached contract). <input type="checkbox"/> C. Will not be corrected by this company. Recommend that damage be evaluated by qualified building expert and that needed repairs be made. <input type="checkbox"/> D. Will not be corrected by this company.		10. ADDITIONAL COMMENTS (ALSO SEE PAGE 2.) _____ _____ _____
<b>11. STATEMENT OF PEST CONTROL OPERATOR</b>		
A. The inspection covered the readily accessible areas of the property, including attics and crawl spaces which permit entry. Special attention was given to those areas which experience has shown to be particularly susceptible to attack by wood destroying organisms. Probing and/or sounding of these areas and other visible accessible wood members showing evidence of infestation was performed. B. The inspection did not include areas which were obstructed or inaccessible at the time of inspection. (See instruction number 4 and item 7 above.) C. This is not a structural damage report. Neither is this a warranty as to the absence of wood destroying organisms. D. Neither I nor the company for which I am acting have had, presently have, or contemplate having any interest in the property. I do further state that neither I nor the company for which I am acting is associated in any way with any party to this transaction. E. There is always important information on the second page of this form.		
12A. SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE	12 B. TITLE AND CERTIFICATION NUMBER	13. DATE OF INSPECTION
<b>STATEMENT OF PURCHASER</b>		
<b>I HAVE RECEIVED THE ORIGINAL OR LEGIBLE COPY OF THIS FORM. I HAVE READ PAGE TWO OF THIS FORM.</b>		
14. SIGNATURE OF PURCHASER		15. DATE
(PAGE 1 OF _____)		

PROPERTY NAME/ADDRESS		DATE OF INSPECTION																																								
<b>CONDITIONS CONDUCTIVE TO INFESTATION</b>		<b>INACCESSIBLE AREAS</b>																																								
<b>Wood to Earth Contact</b> ..... <input type="checkbox"/> YES <input type="checkbox"/> NO (If YES, check appropriate conditions): <input type="checkbox"/> Fence Abutting Structure <input type="checkbox"/> Pier Posts in Crawl <input type="checkbox"/> Concrete Form Boards in Crawl <input type="checkbox"/> Porch Stairs <input type="checkbox"/> Porch Post <input type="checkbox"/> Trellis(es) Other: _____ _____ <b>Excessive Cellulose Debris</b> ..... <input type="checkbox"/> YES <input type="checkbox"/> NO <b>Faulty Grades</b> ..... <input type="checkbox"/> YES <input type="checkbox"/> NO (If YES, check appropriate conditions): <input type="checkbox"/> Slope: surface water tends to drain toward house <input type="checkbox"/> Floor level at or below grade <input type="checkbox"/> Wood siding or stucco at or below grade <input type="checkbox"/> Joists in crawl space less than 12" above grade Other: _____ _____ <b>Excessive Moisture</b> ..... <input type="checkbox"/> YES <input type="checkbox"/> NO (If YES, check appropriate conditions): <input type="checkbox"/> Water Leak - Shower <input type="checkbox"/> Insufficient Ventilation Attic <input type="checkbox"/> Water Leak - Roof <input type="checkbox"/> Insufficient Ventilation Crawl <input type="checkbox"/> Water Leak - Crawl Space Other: _____ _____		<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">AREA</th> <th style="text-align: left;">REASON</th> </tr> </thead> <tbody> <tr><td><input type="checkbox"/> Attic - All</td><td>_____</td></tr> <tr><td><input type="checkbox"/> Attic - Joints</td><td>_____</td></tr> <tr><td><input type="checkbox"/> Plumbing Trap</td><td>_____</td></tr> <tr><td><input type="checkbox"/> Attic - Partial</td><td>_____</td></tr> <tr><td><input type="checkbox"/> Floors</td><td>_____</td></tr> <tr><td><input type="checkbox"/> Wall Interiors</td><td>_____</td></tr> <tr><td><input type="checkbox"/> Enclosed Stairwell</td><td>_____</td></tr> <tr><td><input type="checkbox"/> Dropped Ceiling</td><td>_____</td></tr> <tr><td><input type="checkbox"/> Sub Area - Clearance</td><td>_____</td></tr> <tr><td><input type="checkbox"/> Sub Area - Access</td><td>_____</td></tr> <tr><td colspan="2"><input type="checkbox"/> Other (Specify where and why): _____</td></tr> <tr><td colspan="2">_____</td></tr> <tr><td colspan="2">_____</td></tr> <tr><td colspan="2"><input type="checkbox"/> Areas obstructed by furniture and/or stored articles: _____</td></tr> <tr><td colspan="2">_____</td></tr> <tr><td colspan="2">_____</td></tr> <tr><td colspan="2"><input type="checkbox"/> Other: _____</td></tr> <tr><td colspan="2">_____</td></tr> <tr><td colspan="2">_____</td></tr> </tbody> </table>	AREA	REASON	<input type="checkbox"/> Attic - All	_____	<input type="checkbox"/> Attic - Joints	_____	<input type="checkbox"/> Plumbing Trap	_____	<input type="checkbox"/> Attic - Partial	_____	<input type="checkbox"/> Floors	_____	<input type="checkbox"/> Wall Interiors	_____	<input type="checkbox"/> Enclosed Stairwell	_____	<input type="checkbox"/> Dropped Ceiling	_____	<input type="checkbox"/> Sub Area - Clearance	_____	<input type="checkbox"/> Sub Area - Access	_____	<input type="checkbox"/> Other (Specify where and why): _____		_____		_____		<input type="checkbox"/> Areas obstructed by furniture and/or stored articles: _____		_____		_____		<input type="checkbox"/> Other: _____		_____		_____	
AREA	REASON																																									
<input type="checkbox"/> Attic - All	_____																																									
<input type="checkbox"/> Attic - Joints	_____																																									
<input type="checkbox"/> Plumbing Trap	_____																																									
<input type="checkbox"/> Attic - Partial	_____																																									
<input type="checkbox"/> Floors	_____																																									
<input type="checkbox"/> Wall Interiors	_____																																									
<input type="checkbox"/> Enclosed Stairwell	_____																																									
<input type="checkbox"/> Dropped Ceiling	_____																																									
<input type="checkbox"/> Sub Area - Clearance	_____																																									
<input type="checkbox"/> Sub Area - Access	_____																																									
<input type="checkbox"/> Other (Specify where and why): _____																																										
_____																																										
_____																																										
<input type="checkbox"/> Areas obstructed by furniture and/or stored articles: _____																																										
_____																																										
_____																																										
<input type="checkbox"/> Other: _____																																										
_____																																										
_____																																										



Notices of Final Rulemaking

R13-9-403	New Section
R13-9-404	New Section
R13-9-405	New Section
Article 5	New Article
R13-9-501	New Section
R13-9-502	New Section
Article 6	Renumber
R13-9-601	Renumber
R13-9-601	Amend
R13-9-602	New Section
R13-9-603	Renumber
R13-9-603	Repeal
R13-9-603	New Section

**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. § 13-3112(T)

Implementing statute: A.R.S. § 13-3112

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

April 7, 2007

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 2848, August 11, 2006

Notice of Proposed Rulemaking: 12 A.A.R. 4145, November 13, 2006

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

Name: Lieutenant Laurence Burns, Licensing and Regulatory Bureau Commander

Address: P. O. Box 6638  
Mail drop 1160  
Phoenix, AZ 85005-6638

Telephone: (602) 223-2387

Fax: (602) 223-2928

E-mail: lburns@azdps.gov

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

The Department is amending the rules regarding a concealed-weapons permit to make them consistent with recent statutory changes and agency practice. Specifically, the Department is removing the requirement that two hours of refresher training be completed before a concealed-weapons permit is renewed and establishing standards to implement the federal Law Enforcement Officers Safety Act of 2004. The Department is also making the rules more clear, concise, and understandable.

**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:**

Because this rule package simply makes the rules consistent with recent statutory changes and updates language, the economic impact of the rulemaking will be minimal.

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

Throughout the rules, the phrase "Department-developed" was changed to "Department-approved" when referring to a firearms-safety training program required of applicants. This language is more consistent with A.R.S. § 13-3112(O) and provides flexibility to the Department.

In R13-9-202(B)(2)(a), the allowable date on a certificate of completion was extended from six to 12 months before the date on an application for a concealed-weapons permit. Under the standards at A.R.S. § 41-1025(B), the change in effect is not substantial. Although it could be argued that skill in using a weapon is degradable with time, this change

is consistent with the legislature's willingness not to require a permit holder to provide evidence of current skill with a weapon. Before recent legislative changes, a permit holder was required to renew skill with a weapon every four years. This year, the legislature changed this to eliminate the requirement that a permit holder obtain skill-renewal training. Additionally, extending the time between completing weapons-skill training to submitting an application for a concealed-weapons permit provides greater flexibility to an applicant and reduces the possibility that an applicant has to take the same training an additional time. The public remains protected because an applicant still has to disclose disqualifying behavior and submit fingerprints for a criminal history background check.

In R13-9-204, the Department clarified that a former permit holder is not allowed to unlawfully carry a concealed weapon. There are circumstances, such as when on personal property, under which a former permit holder is allowed to carry a concealed weapon. In R13-9-204, the Department also deleted the renewal requirement that a former permit holder certify that the former permit holder did not unlawfully carry a concealed weapon while the permit was expired. The Department decided that this requirement provided no protection to the public and because of recent statutory changes and case law<sup>1</sup>, which have created numerous, potentially confusing, exceptions to the requirement to have a permit before carrying a concealed weapon, was unduly burdensome on permit holders.

In R13-9-307 through R13-9-309, the requirement that a firearms-safety training instructor take the Department's firearms-safety instructor training course was deleted because the Department determined that the requirement was duplicative and burdensome. A firearms-safety training instructor is required to have current documentation of completing a firearms-safety training instructor program provided by Arizona POST, the NRA, or a federal law enforcement agency. The Department concluded that any benefit from requiring that a firearms-safety training instructor take the Department's firearms-safety instructor training course did not outweigh the burden of duplicative training. Eliminating the requirement for duplicative training reduces the burden on firearms-safety training instructors, does not compromise public safety, and frees the Department's resources for more productive purposes. The change is not substantial under the standards at A.R.S. § 41-1025.

[1. See A.R.S. § 13-3102(F); *State v. Adams*, 189 Ariz. 235, 941 P.2d 908 (1997); and *State v. Moerman*, 182 Ariz. 255, 895 P.2d 1018 (1994).]

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

The Department received no comments regarding the rules.

**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 rule:**

Form FD-258 (5-11-99), published by the U.S. Government Printing Office and available from the FBI (Attn: Logistical Support Unit, CJIS Division, 1000 Custer Hollow Rd., Clarksburg, WV 26306) or online at [www.bookstore.gpo.gov](http://www.bookstore.gpo.gov) is incorporated by reference in R13-9-101.

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

No

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

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 9. DEPARTMENT OF PUBLIC SAFETY  
CONCEALED-~~WEAPON~~ WEAPONS PERMITS**

**ARTICLE 1. GENERAL PROVISIONS**

Section

- R13-9-101. Definitions
- R13-9-102. Application and Processing Fees
- R13-9-103. Application Forms
- R13-9-104. Time-frames for ~~Making Permit and Instructor approval Determinations~~ Department Action on Applications
- Table 1. Time-frames for Department Action on Applications (in days)

**ARTICLE 2. CONCEALED-~~WEAPON~~ WEAPONS PERMIT; APPLICATION; RENEWAL; RESPONSIBILITIES**

Section

- R13-9-201. Concealed ~~Weapons -weapons~~ Permit Eligibility
- R13-9-202. Application for a Concealed ~~Weapon -weapons~~ Permit
- R13-9-203. ~~Permit~~ Issuance of a Concealed-weapons Permit
- R13-9-204. Renewal of Concealed ~~Weapon -weapons~~ Permit
- R13-9-205. ~~Permittee Obligations~~ Permit Holder Responsibilities

Notices of Final Rulemaking

- R13-9-206. ~~Lost, Stolen, or Damaged Concealed Weapon -weapons Permit~~
- R13-9-207. ~~Change of Address Repealed~~
- R13-9-208. ~~Change in Name of Permittee Permit Holder~~

**ARTICLE 3. FIREARMS-SAFETY TRAINING ~~PROGRAM~~: ORGANIZATIONS AND INSTRUCTORS**

Section

- R13-9-301. ~~General Requirements for Firearms-safety Training Program Repealed~~
- R13-9-302. Application for Approval of a Firearms-safety Training Program Approval Organization
- R13-9-303. ~~Time frames for Firearms-safety Training Program Approval Repealed~~
- R13-9-304. ~~Requesting Department Assistance with Program Development Repealed~~
- R13-9-305. Responsibilities of the Responsible Party of an Approved Firearms-safety Training Organization Obligations
- R13-9-306. ~~Refresher Firearms-safety Training Program Repealed~~
- R13-9-307. Eligibility for Approval as a Firearms-safety Instructors Instructor
- R13-9-308. Application for Registration of Approval as a Firearms-safety Instructor
- R13-9-309. Renewal of Approval as a Firearms-safety Instructor Registration Renewal
- R13-9-310. Firearms-safety Instructor Responsibilities

**ARTICLE 4. ~~HEARINGS AND DISCIPLINARY PROCEEDINGS~~ CERTIFICATE OF FIREARMS PROFICIENCY**

Section

- R13-9-401. ~~Suspension and Revocation Certificate of Firearms Proficiency Eligibility~~
- R13-9-402. Reconsideration, Request for Hearing Application for a Certificate of Firearms Proficiency
- R13-9-403. Issuance of a Certificate of Firearms Proficiency
- R13-9-404. Renewal of a Certificate of Firearms Proficiency
- R13-9-405. Certificate Holder Responsibilities

**ARTICLE 5. LEOSA-RECOGNIZED INSTRUCTORS**

Section

- R13-9-501. Application for Recognition as a LEOSA Instructor
- R13-9-502. LEOSA Instructor Responsibilities

**ARTICLE ~~4.6~~ HEARINGS AND DISCIPLINARY PROCEEDINGS**

Section

- ~~R13-9-401~~-R13-9-601. Suspension and Revocation
- R13-9-602. Hearing Procedures
- ~~R13-9-402~~-R13-9-603. Reconsideration, Request for Hearing, Rehearing or Review of Decision

**ARTICLE 1. GENERAL PROVISIONS**

**R13-9-101. Definitions**

In this ~~Article~~ Chapter, unless otherwise specified:

1. "Administrative completeness review time-frame" has the same meaning as prescribed in A.R.S. § 41-1072.
2. "Applicant" means an individual or organization ~~who~~ that submits a ~~completed~~ an application form and the required fee to the Department for:
  - a. A concealed-weapons permit,
  - b. Renewal of a concealed-weapons permit,
  - c. Firearms-safety instructor ~~registration~~ approval,
  - d. Renewal of firearms-safety instructor ~~registration~~ approval, or
  - e. Firearms-safety training ~~program~~ organization approval,
  - f. A certificate of firearms proficiency, or
  - g. Recognition as a firearms-proficiency instructor.
3. "Certificate of completion" means a document showing that the holder completed an eight-hour, Department-approved, firearms-safety training program.
4. "Certificate of firearms proficiency" means a document issued by the Department to an individual who meets the requirements of LEOSA.
- 3-5. "Classifiable fingerprints" means fingerprint impressions that meet the criteria of the Federal Bureau of Investigation (FBI), as contained in Form FD-258 (Rev. 5-11-99), published by the U.S. Government Printing Office: 2004 304-373-80029. This form is incorporated by reference, and available from the Department and the FBI (Attention Attn: Logistical Support Unit (LSU), CJIS Division, 1000 Custer Hollow Road Rd., Clarksburg, WV 26306) or online at www.bookstore.gpo.gov. This incorporation The material incorporated by reference contains no future editions or amendments.

Notices of Final Rulemaking

4. ~~“Completion certification” means the firearms safety training program completion certification on the Arizona concealed weapon application form.~~
- 5-6. ~~“Department” means the Department of Public Safety.~~
- 6-7. ~~“Director” means the Director of the Arizona Department of Public Safety.~~
- 7-8. ~~“Firearm” has the same meaning as prescribed in A.R.S. § 13-3101.~~
- 8-9. ~~“Firearms-safety instructor” means a person an individual who is registered approved under this Chapter to conduct initial and refresher firearms-safety training programs in this state.~~
9. ~~“Firearms-safety instructor training program” means a required course of instruction provided by the Department that is intended to prepare a person to conduct a refresher firearms safety training program.~~
10. ~~“Firearms-safety training program” means an initial a course of instruction in the safe and lawful use of a firearm that is approved by the Department and meets the requirements of A.R.S. § 13-3112(N Q) and is taught in this state.~~
11. ~~“Honorably retired peace officer” means a person an individual who separates from a law enforcement agency after at least 10 or more years of service, receives a medical, disability, or regular retirement pension or annuity as a result of qualifying years of service as a peace officer, and has a letter from the law enforcement agency confirming these facts.~~
12. ~~“LEOSA” means the federal Law Enforcement Officers Safety Act of 2004.~~
13. ~~“LEOSA instructor” means an individual who is certified by POST as a firearms instructor and authorized by the Department to provide training to individuals seeking a certificate of firearms proficiency.~~
- 12-14. ~~“Live ammunition” means a cartridge consisting of a cartridge case, primer, propellant powder, and a single metallic projectile, no less than 30 grain, and with a velocity more than 500 feet per second when fired. Live ammunition does not include simulated, frangible, marking, or rubber projectile ammunition.~~
15. ~~“NRA” means the National Rifle Association.~~
- 13-16. ~~“Organization” means a person or an entity legally established under federal, state, city, or county requirements and authorized to conduct business in Arizona and that seeks or has obtained is approved by the Department to teach the Department’s approval of a Department-approved firearms-safety training program to applicants.~~
- 14-17. ~~“Original application” means any of the forms a form referenced in this Chapter that are is not copies a copy and that contain contains an the original signature of the an applicant.~~
18. ~~“Party” has the same meaning as prescribed in A.R.S. § 41-1001.~~
- 15-19. ~~“Peace officer” has the same meaning as prescribed in A.R.S. § 13-105.~~
- 16-20. ~~“Permit” means an identification card issued by the Department that authorizes the named holder to carry a concealed weapon weapons subject to the requirements of A.R.S. § 13-3112 and this Chapter.~~
- 17-21. ~~“Permittee” “Permit holder” means an individual who has a Department-issued permit to carry a concealed weapon weapons.~~
22. ~~“POST” means the Arizona Peace Officer Standards and Training Board.~~
- 18-23. ~~“Prohibited possessor” means a person who is defined as a prohibited possessor under has the same meaning as prescribed in A.R.S. § 13-3101(6) and means any person individual to whom it would be is unlawful to sell or otherwise dispose of a firearm under 18 U.S.C. § 922(d) or (g).~~
24. ~~“Qualified retired officer” means a qualified retired law enforcement officer as defined by 18 U.S.C. 926C(c).~~
19. ~~“Refresher firearms safety training program” means a four-hour course of instruction in the safe and lawful use of a firearm under A.R.S. § 13-3112(L) that is taught in this state.~~
- 20-25. ~~“Resident” has the same meaning as prescribed in A.R.S. § 28-2001.~~
- 21-26. ~~“Responsible party” means a person an individual who is an approved firearms safety instructor and is responsible for administration of an organization’s firearms safety training program approved firearms-safety training organization and who serves as the contact between the organization and the Department.~~
22. ~~“Satisfactorily completed” means attending an approved firearms safety training program of at least 16 hours, an approved refresher firearms safety training program of at least four hours, or a firearms safety instructor training program of at least eight hours, and:
  - a. ~~Obtaining a score of 100 percent on the training program’s initial written test, or a score of 70 percent or greater on the initial written test with a score of 100 percent on a retest; and,~~
  - b. ~~A minimum score of 70 percent on the live ammunition qualification test. The live ammunition qualification test shall consist of a minimum of five shots at five yards and five shots at 10 yards that impact within the secondary scoring ring, using a National Rifle Association TQ15 target, or a target with an equivalent secondary scoring ring. Rounds impacting outside of the secondary scoring ring are not counted as hits.~~~~
- 23-27. ~~“Substantive review time-frame” has the same meaning as prescribed in A.R.S. § 41-1072.~~
- 24-28. ~~“Weapon” has the same meaning as deadly weapon as defined in A.R.S. § 13-3101.~~

**R13-9-102. Application and Processing Fees**

- A. ~~The~~ Under the authority provided by A.R.S. § 13-3112, the Department ~~establishes and~~ shall collect the following fees:
  1. New concealed-weapons permit - \$43;
  2. Renewal of a concealed-weapons permit - \$43;

Notices of Final Rulemaking

3. Certificate of firearms proficiency - \$20;
  - ~~3-4.~~ Replacing a lost, stolen, or damaged permit or certificate - \$10;
  - ~~4-5.~~ Name change on a permit or certificate - \$10.
- B. ~~In addition to the fees in subsections (A)(1) and (2), the~~ The Department shall collect a fee in an amount necessary to cover the cost of federal and state fingerprint processing for criminal history record information checks from all applicants required under this Chapter to submit fingerprints for a criminal history record check.
- C. ~~An applicant or permittee shall submit the required fees. All cashier's checks, certified checks, by a cashier's or certified check or money orders shall be order~~ made payable to the Arizona Department of Public Safety. The Department does not accept credit cards or personal checks. All fees are non-refundable except if unless A.R.S. § 41-1077 applies.

**R13-9-103. Application Forms**

- A. The Department shall provide and an applicant shall use an application forms form for:
1. ~~An initial concealed-weapon weapons permit and or~~ renewal of the permit,
  2. ~~A firearms-safety instructor registration approval and or~~ renewal of the registration approval, and
  3. ~~Approval of an organization's a firearms-safety training program. organization,~~
  4. A certificate of firearms proficiency, or
  5. Authorization as a LEOSA instructor.
- B. ~~Application forms may be obtained from the Department, Concealed Weapon -weapons Permit Unit of the Department or online at www.azdps.gov/ccw. Upon request, the Department the Concealed-weapons Permit Unit shall advise an individual or organizations individual or organization of other locations where application forms may be obtained.~~

**R13-9-104. Time-frames for Making Permit and Instructor approval Determinations Department Action on Applications**

- A. ~~For a concealed weapon permit and renewal or firearms-safety instructor registration and renewal, the overall time-frame required by A.R.S. § 41-1073 is 60 days, which includes:~~
1. ~~14 days for administrative completeness review; and~~
  2. ~~46 days for substantive review~~ the purpose of compliance with A.R.S. § 41-1072 et seq., the Department establishes the time-frames listed in Table 1. Under A.R.S. § 41-1073(E)(2), the Department is not establishing a time-frame for issuance of the following licenses because the Department shall grant or deny each license within seven days after receipt of an application:
    1. Approval of a firearms-safety training organization under R13-9-302,
    2. A certificate of firearms proficiency under R13-9-402, and
    3. Recognition as a LEOSA instructor under R13-9-501.
- B. ~~An administratively complete application is administratively complete if it contains~~ consists of all the information and documents listed in:
1. ~~R13-9-202 for application for a concealed-weapon weapons permit, or renewal~~
  2. ~~R13-9-204 for renewal of a concealed-weapon weapons permit,~~
  - ~~2-3.~~ R13-9-308 for application for a firearms-safety instructor registration approval, or
  - ~~3-4.~~ R13-9-309 for application for renewal of a firearms-safety instructor registration approval.
- C. ~~The administrative completeness review time-frame listed in Table 1 begins on the date the Department receives an application.~~
1. ~~If the application is not administratively complete when received, the Department shall send a notice of deficiency to the applicant. The Department shall include in the deficiency notice~~ shall state a list of the documents and information needed to complete the application.
  2. ~~Within 40 days from From the postmark date of the deficiency notice, the applicant shall submit to the Department, within the time for response to a deficiency notice provided in Table 1, the missing documents and information. The time-frame for the Department to finish the administrative completeness review is suspended from the postmark date of the deficiency notice until the date the Department receives the missing documents and information.~~
  3. The Department and applicant may agree in writing to extend the time in subsection (C)(2) upon written request by the applicant before the end of the time.
  - ~~3-4.~~ If the applicant fails to provide the missing documents and information within the time allowed, the Department shall deny the application and close the applicant's file. An applicant who is denied may follow the procedures in R13-9-402 If an individual whose file is closed wants to be considered further for a permit or approval, the individual shall submit a new application under R13-9-202, R13-9-204, R13-9-308, or R13-9-309.
  4. If the application is administratively complete, the Department shall begin the substantive review of the application.
- D. ~~The substantive review time-frame listed in Table 1 begins immediately after the administrative review on the date that the Department determines an application is administratively complete.~~
1. ~~During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The Department and applicant may agree in writing to allow the Department to make a supplemental request for additional information.~~

**Notices of Final Rulemaking**

2. ~~The~~ From the date of the comprehensive request for additional information, the applicant shall submit to the Department, within the time for response to a comprehensive request provided in Table 1, the additional information identified in the request for additional information within 20 days from the postmark date of the request. The time-frame for the Department to finish the substantive review of the application is suspended from the ~~postmark~~ date of the comprehensive request for additional information until the Department receives the additional information.
3. The Department and applicant may agree in writing to extend the time in subsection (D)(2) upon written request by the applicant before the end of the time.
- 3-4. ~~If the applicant fails to provide the additional information within the time allowed, the Department shall deny the application and close the applicant's file. An applicant who is denied may follow the procedures in R13-9-402. If an individual whose file is closed wants to be considered further for a permit or approval, the individual shall submit a new application under R13-9-202, R13-9-204, R13-9-308, or R13-9-309.~~
4. ~~When the substantive review is complete, the Department shall inform the applicant in writing of its decision.~~
  - a. ~~The Department shall deny instructor registration if the Department determines that the applicant does not meet all criteria for approval required by A.R.S. § 13-3112(E) and R13-9-307. An applicant who is denied registration as an instructor may appeal the Department's decision under A.R.S. § 41-1092 et seq.~~
  - b. ~~The Department shall deny the issuance of a permit if the Department determines that the applicant does not meet all criteria for issuance of the permit required by A.R.S. § 13-3112(E) and R13-9-201. An applicant who is denied a permit may appeal under A.R.S. § 41-1092 et seq.~~
  - e. ~~The Department shall grant instructor registration or issue a permit if it determines that the applicant meets all substantive criteria for instructor registration or issuance of a permit required by A.R.S. § 13-3112(E) and R13-9-201 or R13-9-307.~~
- E. ~~If a concealed weapon permit or a firearms safety instructor registration is issued under subsection (D), and the Department subsequently determines that the permittee fails to meet requirements under A.R.S. § 13-3112(E) or this Chapter, the Department shall suspend the permit or registration and under A.R.S. § 13-3112(M) provide a written explanation to the permittee stating the reasons why the permit or registration is suspended. When the substantive review is complete, the Department shall inform the applicant in writing of its decision whether to grant or deny a permit or approval to the applicant.~~
- E. The Department shall deny a permit, certificate, approval, or recognition if it determines that the applicant does not meet all criteria required by statute and rule.
  1. The Department shall include in its notice of denial the information required under A.R.S. § 41-1092.03(A).
  2. Under A.R.S. § 13-3112(H), an individual who is denied a concealed-weapons permit may submit additional documentation to the Department within 20 days of receipt of the notice of denial and the Department shall reconsider its denial.
  3. An applicant who is denied a permit, certificate, approval, or recognition may appeal the Department's decision under A.R.S. Title 41, Chapter 6, Article 10.
- G. The Department shall grant a permit, certificate, approval, or recognition if it determines that the applicant meets all criteria required by statute and rule.

**Table 1. Time-frames for Department Action on Applications (in days)**

<u>Application Type</u>	<u>Administrative Review Time-frame</u>	<u>Time for Response to Deficiency Notice</u>	<u>Substantive Review Time-frame</u>	<u>Time for Response to Comprehensive Request</u>	<u>Over-all Time-frame</u>
<u>Concealed-weapons Permit R13-9-202</u>	<u>14</u>	<u>40</u>	<u>46</u>	<u>20</u>	<u>60</u>
<u>Renewal of Concealed-weapons Permit R13-9-204</u>	<u>14</u>	<u>40</u>	<u>46</u>	<u>20</u>	<u>60</u>
<u>Approval of Firearms-safety Instructor R13-9-308</u>	<u>14</u>	<u>40</u>	<u>46</u>	<u>20</u>	<u>60</u>

**Notices of Final Rulemaking**

<u>Renewal of Approval of Firearms-safety Instructor R13-9-309</u>	14	40	46	20	60
--	----	----	----	----	----

**ARTICLE 2. CONCEALED-~~WEAPON~~ WEAPONS PERMIT; APPLICATION; RENEWAL; RESPONSIBILITIES**

**R13-9-201. ~~Concealed- Weapon~~ weapons Permit Eligibility**

- A.** ~~An~~ Except as provided in subsection (B), an applicant for a concealed-~~weapon~~ weapons permit shall meet all requirements under A.R.S. § 13-3112(E), and not be a prohibited possessor.
- B.** An applicant is exempt from the training requirement in A.R.S. § 13-3112(E)(6) if the applicant:
  - 1. Is an active federally credentialed law enforcement officer;
  - 2. Is an active POST-certified peace officer;
  - 3. Is an active county detention officer and weapons certified by the officer’s employing agency; or
  - 4. Is an honorably retired federal, state, or local peace officer with at least 10 years of active service.
- C.** The Department shall not issue a concealed-weapons permit to an individual who has been convicted of a felony even if the individual’s civil rights have been restored or the conviction has been expunged, set aside, or vacated.

**R13-9-202. Application for a Concealed ~~Weapon~~ weapons Permit**

- A.** ~~An applicant shall submit to the Department the original application form, a completed fingerprint card with classifiable fingerprints, and the fees specified in R13-9-102. To obtain a concealed-weapons permit, an applicant who is eligible under R13-9-201 shall:~~
- B.** 1. An applicant for a concealed weapon permit shall submit a complete legible application on an approved Department application form including: Submit to the Department an original application, using a form available from the Department, that includes the following information:
  - 1-a. Full legal name;
  - 2-b. County of residence and ~~residence~~ residential address, including zip code, or descriptive location of residence if an address is not assigned;
  - 3-c. Mailing address if different from ~~residence~~ residential address;
  - 4-d. Social Security number;
  - 5. ~~Driver’s license number or state identification card number and state of issuance;~~
  - 6-e. Home, business, and cell phone Contact telephone numbers;
  - 7-f. ~~National origin or~~ Descriptive information about the applicant including race, ~~sex~~ gender, height, weight, eye ~~color~~, and hair ~~color~~ colors, and date of birth, and place of birth; and
    - g. A statement of whether the applicant:
      - i. Is a citizen of the United States;
      - ii. Was born outside of the United States or one of its territories;
      - iii. Has satisfactorily completed the firearms-safety training program;
      - iv. Is currently under indictment for a felony offense or has ever been convicted of a felony offense;
      - v. Is currently under indictment for a misdemeanor domestic violence offense;
      - vi. Has ever been convicted for a misdemeanor domestic violence offense and if so, whether the conviction was expunged, set aside, or vacated;
      - vii. Has been discharged from the United States Armed Forces under dishonorable conditions;
      - viii. Suffers from a mental illness and has ever been adjudicated mentally incompetent or committed to a mental institution by court order; and
      - ix. Is an active-duty POST-certified Arizona peace officer, federally credentialed peace officer, weapons-certified county detention officer, or honorably retired federal, state, or local peace officer with at least 10 years of service; and
      - h. The applicant’s dated signature attesting that the information provided in the application is true to the best of the applicant’s knowledge.
  - 8. Whether the applicant suffers from mental illness, has been adjudicated mentally incompetent, or committed to a mental institution.
- C.** ~~An applicant shall attest under penalty of perjury to the truthfulness of the information and answers given on the application by placing the applicant’s original signature in the space provided on the form.~~
  - 2. In addition to the application form required under subsection (1), an applicant shall:
    - a. Submit a certificate of completion obtained within the last 12 months; or
    - b. If exempt from the training requirement under A.R.S. § 13-3112(E)(6), submit a letter on official letterhead of the agency employing or from which the applicant is honorably retired that:
      - i. States that the applicant’s duties are or were primarily the investigation and apprehension of individuals sus-



Notices of Final Rulemaking

after it is issued. If a concealed-weapons permit expires, the former permit holder shall not unlawfully carry a concealed weapon until the former permit holder applies for and is issued a new concealed-weapons permit.

- B.** The Department shall issue a renewed permit containing the information specified in R13-9-203(A) if:
1. A renewal application is timely received;
  2. The applicant provides a current certificate of completion of a four-hour refresher firearms safety training program approved by the Department under A.R.S. § 13-3112(L), or an eight-hour firearms safety instructor program provided by the Department that includes the four-hour firearms safety training program;
  3. The applicant completes an application form containing the information required under R13-9-202;
  4. The completion certification was accepted by the Department within six months after the applicant satisfactorily completed the training; and
  5. The applicant meets the requirements of A.R.S. § 13-3112 and this Chapter. To renew a concealed-weapons permit, the permit holder shall, no more than 90 days before or 60 days after the date of expiration:
    1. Submit to the Department the application required under R13-9-202(1);
    2. Submit the fee required under R13-9-102(A);
    3. If not a citizen of the United States, submit a copy of the front and back of the federally issued document that authorizes the permit holder to be in the United States; and
    4. For the permit holder's first renewal only, submit two full sets of classifiable fingerprints and the fee required under R13-9-102(B).
- C.** If a former permit holder fails to comply with subsection (B), the former permit holder may obtain a new concealed-weapons permit only by complying with all provisions of R13-9-202.
- D.** If a permit holder is a member of the United States armed forces, Arizona national guard, or reserves of any military establishment of the United States and is on federal active duty and deployed overseas at the time the permit holder's concealed-weapons permit expires, the permit holder may renew the permit by complying with subsection (B) within 90 days after the end of the overseas deployment. To renew a permit under this subsection, the permit holder shall include evidence of the deployment with the renewal application.

**R13-9-205. Permittee Obligations Permit Holder Responsibilities**

- A.** Upon request of any peace officer, a permittee permit holder who is in actual possession of a concealed weapon shall present the permit to the peace officer for inspection. If the permit does not include a photograph of the permittee permit holder, the permittee permit holder shall also present upon request of a peace officer, one of the following types of official photographic identification:
1. Driver's Driver license from issued by any state,
  2. Military identification card,
  3. Identification license issued under A.R.S. § 28-3165, or
  4. Passport.
- B.** A permittee permit holder shall not deface, alter, or mutilate a permit, or reproduce, lend, transfer, or sell a permit.
- C.** To ensure timely communication from the Department, a permit holder shall provide notice to the Department within 10 days after a change of address.
- D.** A permit holder shall inform the Department by telephone within 72 hours if the permit holder is arrested or indicted for an offense that would make the permit holder unqualified under A.R.S. § 13-3112 or if the permit holder becomes a prohibited possessor.

**R13-9-206. Lost, Stolen, or Damaged Concealed Weapon -weapons Permit**

- A.** A permittee permit holder whose concealed-weapons permit is lost, stolen, or damaged shall notify the Department in writing within 10 days of determining that the permit is lost, stolen, or damaged. When advised of a lost, stolen, or damaged permit, the Department shall invalidate the permit. The permittee permit holder shall not carry a concealed weapon until the Department issues a replacement permit.
- B.** The Department shall issue A permittee may obtain a replacement permit by to a permit holder who:
1. submitting Submits a written request; and the
  2. Submits the fee specified in R13-9-102(A)(3); and
  3. Returns the permit if it is damaged.
- If the applicant meets the requirements of A.R.S. § 13-3112(E), the Department shall issue a replacement permit within 15-working days of receiving the request.
- C.** The Department shall ensure that the replacement permit shall have has the same expiration date as the original lost, stolen, or damaged permit.
- C.** A permittee whose permit is damaged shall return the damaged permit to the Department with the permittee's written request for a replacement permit.

**R13-9-207. Change of Address Repealed**

A permittee shall notify the Department in writing within 10 days of any change of address. The Department shall process the notice and update the permittee's information on file with the Department.

**R13-9-208. Change in Name of ~~Permittee~~ Permit Holder**

- A. A ~~permittee~~ permit holder whose name is legally changed shall ~~notify~~ provide written notice to the Department in writing and request a revised ~~concealed-weapon~~ weapons permit within 10 days of the name change. The permit holder shall ensure that the written request for a revised concealed-weapon permit: by submitting a written request containing
1. Contains both the previous name, the and new name; names.
  2. Is accompanied by a copy of the court document or marriage certificate authorizing the name change, and
  3. the Includes the fee specified in R13-9-102(A)(4).
- B. Within 15 working days ~~from~~ after receipt of the ~~a~~ request for a revised permit, the Department shall ~~process the request and~~ mail the revised permit to the ~~permittee~~ with instructions that failure to return the previous permit within five working days shall result in suspension of both the previous permit and the new permit ~~permit holder~~. The Department shall ~~destroy the previous permit upon receipt.~~
- C. The Department shall ~~ensure that a~~ revised permit shall ~~retain~~ has the same expiration date as the previous permit.
- D. Upon receipt of a revised permit, the permit holder shall destroy the previous permit or return the previous permit to the Department.

**ARTICLE 3. FIREARMS-SAFETY TRAINING PROGRAM; ORGANIZATIONS AND INSTRUCTORS**

**R13-9-301. ~~General Requirements for Firearms-safety Training Program~~ Repealed**

- ~~A. An organization shall only conduct firearms safety training programs or refresher firearms safety training programs that are approved by the Department.~~
- ~~B. An organization shall conduct Department-approved firearms safety training and refresher firearms safety training in this state.~~
- ~~C. An organization shall only conduct firearms safety training programs or refresher firearms safety training programs that are taught by firearms safety training instructors who meet the qualifications in R13-9-307 and are registered with the Department. An organization shall not allow an instructor whose registration is suspended to teach in the organization's program.~~

**R13-9-302. Application for Approval of a Firearms-safety Training Program Approval Organization**

- A. ~~An organization seeking~~ To obtain approval of a ~~16-hour firearms safety training program as a firearms-safety training organization,~~ the responsible party of the ~~firearms-safety organization~~ shall submit to the Department ~~the following information on the Department's an original application, using a form available from the Department, that provides the following information:~~
- ~~1. The business name of the organization;~~
  - ~~2. The business address and mailing address addresses of the organization, including the county in which the organization is located;~~ and
  - ~~3. The name and telephone number of a the responsible party who shall serve as the contact with the Department and have the authority to sign for and bind the organization.~~
- B. ~~The responsible party designated under subsection (A)(3) shall attest under penalty of perjury to the truthfulness of the information given on the firearms safety training program application by signing in the space provided on the form. The responsible party shall sign the application and attest that to the best of the responsible party's knowledge, the information provided is true.~~
- C. ~~The responsible party shall attach to the application a detailed topical outline of a proposed classroom and practical training program. The outline shall include test questions and the correct answers and cover the topics required by A.R.S. § 13-3112(N) for the firearms safety training program. The topical outline shall require that all firearms qualification be conducted using a firearm with live ammunition. The approval of a firearms-safety training organization expires if the organization's Department-assigned number is not on a certificate of completion submitted under R13-9-202(2)(a) for three consecutive years. If the approval of a firearms-safety training organization expires under this subsection, the organization may apply under this Section to be approved again.~~
- ~~D. As part of the application, the responsible party shall submit the organization's written list of applicants for registration or registered firearms safety instructors and the assigned instructor's registration number. The Department shall not approve a program unless each of the program's instructors meets the requirements of R13-9-307.~~
- ~~E. The responsible party shall include, as part of the application, a copy of the organization's seal, or stamp that they will place on all applicants' completion certifications.~~

**R13-9-303. ~~Time frames for Firearms-safety Training Program Approval~~ Repealed**

- ~~A. The Department shall review the application for firearms-safety program approval to verify that the organization has submitted the required forms and information. Within 14 days of receipt, the Department shall return an incomplete, illegible, or non-original application with a written description of the deficiencies. The Department shall base the determination of deficiencies upon the requirements of A.R.S. § 13-3112 and R13-9-302. The Department shall notify the organization in writing of approval or disapproval of a program within 60 days after receiving a completed application and topical outline.~~
- ~~B. For firearms safety training program approval, the overall time frame defined by A.R.S. § 41-1072 is 60 days; which~~

Notices of Final Rulemaking

includes:

1. 14 days for administrative completeness review; and
2. 46 days for substantive review.

C. Program approval remains in effect unless the program is suspended or revoked for failure to maintain the requirements of A.R.S. § 13-3112 and this Chapter.

**R13-9-304. ~~Requesting Department Assistance with Program Development Repealed~~**

~~An organization that wishes to receive Department assistance in developing a firearms safety training program shall submit a written request for assistance to the Department.~~

**R13-9-305. Responsibilities of the Responsible Party of an Approved Firearms-safety Training Organization Obligations**

A. As soon as possible but no later than 90 days after a firearms-safety training organization is approved, the responsible party shall submit to the Department a roster of the approved firearms-safety instructors who will be teaching for the organization.

B. After being approved and before any firearms-safety training is conducted by a firearms-safety organization, the responsible party shall submit to the Department a copy of the stamp or seal that the organization intends to affix to the certificate of completion provided to a successful participant under subsection (G).

~~A.C.A~~ The responsible party shall notify the Department in writing within 10 days of any change of an to the roster of the firearms-safety training organization's registered approved instructors, or the business name, address, telephone number, or responsible party.

D. The responsible party shall ensure that all approved firearms-safety instructors teaching for the firearms-safety training organization use an eight-hour, Department-approved, firearms-safety training program and standardized examination when conducting firearms-safety training for applicants for a concealed-weapons permit.

E. If a firearms-safety instructor teaching for a firearms-safety training organization conducts training for an applicant under this Article, the responsible party shall ensure that the training is conducted within Arizona.

~~B.F.~~ For each individual who receives initial or refresher The responsible party of a firearms-safety training organization, the organization shall maintain the following written records ensure that the organization maintains for five years from the date of the individual's completion of, or withdrawal from, the a firearms-safety training program is completed, a record that provides:

1. Name of the firearms-safety training organization;

~~1-2.~~ Name and age of the individual each program participant at the time the firearms-safety training commenced program started;

~~2-3.~~ Dates and number of hours of each training session program;

~~3-4.~~ Physical location of each training session program;

~~4-5.~~ Title and Department-assigned number of the approved firearms-safety training program organization;

~~5-6.~~ Name and Department-assigned registration number of each approved firearms-safety training instructor and name of any assistant or co-instructor conducting the training sessions; and

~~6-7.~~ Whether the individual a program participant passed, failed, or withdrew from the firearms-safety training program.

G. The responsible party of a firearms-safety training organization shall ensure that at the end of each firearms-safety training program, the approved firearms-safety instructor who taught the firearms-safety training program provides each eligible applicant with a certificate of completion, by completing the form that is available from the Department and affixing to the form the stamp or seal described in subsection (B).

~~C.H.~~ Upon request by the Department, an The responsible party of an approved firearms-safety training organization shall make its firearms-safety training the records required under this Section available to the Department for inspection upon request.

I. If the responsible party of a firearms-safety training organization fails to comply with a provision of this Section, the Department shall take appropriate disciplinary action against the firearms-safety training organization.

**R13-9-306. ~~Refresher Firearms safety Training Program Repealed~~**

~~A.~~ The Department shall develop and provide a four hour refresher firearms safety training program for use by an organization. An organization shall not use any other refresher firearms safety training program.

~~B.~~ Refresher firearms safety training shall include, but is not limited to, legal issues relating to the use of deadly force, judgmental shooting, safety issues, qualification conducted using a firearm with live ammunition, and a written test.

**R13-9-307. Eligibility for Approval as a Firearms-safety Instructors Instructor**

A. A firearm safety training organization shall only use instructors who are registered with the Department and meet the following qualifications: To be eligible for approval as a firearms-safety instructor, an individual shall:

1. Meet the requirements of A.R.S. § 13-3112(E)(1) through 13-3112(E)(5) including, without exception, the requirement at A.R.S. § 13-3112(E)(6);

2. Possess a current certificate of completion from documentation of completing one of the following firearms-safety

Notices of Final Rulemaking

training instructor programs:

- a. Arizona Basic Police Firearms Instructor Certification issued training provided by the Arizona Peace Officers Standards and Training Board POST;
  - b. Police Firearms Instructor Development School issued provided by the National Rifle Association NRA;
  - c. Law Enforcement Security Firearms Instructor Development School issued provided by the National Rifle Association NRA;
  - d. Training provided by the NRA that results in rating as one of the following:
    - i. Pistol Instructor and Personal Protection Instructor rating issued by the National Rifle Association;
    - ii. Law Enforcement Tactical Handgun Instructor rating, issued by the National Rifle Association;
    - iii. Law Enforcement Handgun/ Shotgun Instructor rating, issued by the National Rifle Association; or
    - iv. Law Enforcement Tactical Shooting Instructor, or
  - e. Firearms Instructor Training Program (FITP), issued provided by a federal law enforcement agency; and
3. ~~Satisfactorily complete a 16~~ Complete an eight-hour, Department-approved, firearms-safety training program from provided by an approved firearms-safety training organization and provide a completion certification to the Department or hold a valid concealed-weapons permit.
  4. ~~Satisfactorily complete the Department's firearms-safety instructor training program. The Department provides the firearms-safety instructor training program to applicants who meet all other firearms-safety instructor requirements.~~
- B.** The Department shall not approve an individual as a firearms-safety instructor if the individual:
1. Has been convicted of a felony even if the individual's civil rights have been restored or the conviction has been expunged, set aside, or vacated; or
  2. Has a history of behavior that the Department determines is contrary to the safe and lawful use of a firearm.

**R13-9-308. Application for ~~Registration of~~ Approval as a Firearms-safety Instructor**

- A. ~~The responsible party of a firearms-safety training organization shall provide~~ A firearms-safety instructor applicant shall submit to the Department on each instructor:
1. ~~Two sets of classifiable fingerprints and a fee to cover the cost of state and federal fingerprint processing;~~
  2. ~~A complete~~ An original application for approval as a firearms-safety instructor, using a form available from the Department, that includes with the following information required under R13-9-202(A) and (B):
    - a. Full legal name;
    - b. County of residence and residential address, including zip code, or descriptive location of residence if an address is not assigned;
    - c. Mailing address if different from residential address;
    - d. Social Security number;
    - e. Contact telephone numbers;
    - f. Descriptive information about the applicant including race, gender, height and weight, eye and hair colors, and date and place of birth;
    - g. A statement whether the applicant:
      - i. Is a citizen of the United States;
      - ii. Was born outside of the United States or one of its territories;
      - iii. Is currently under indictment for a felony arrest or has ever been convicted of a felony offense;
      - iv. Is currently under indictment for a misdemeanor domestic violence arrest;
      - v. Has ever been convicted for a misdemeanor domestic violence offense and if so, whether the conviction was expunged, set aside, or vacated;
      - vi. Has been discharged from the United States Armed Forces under dishonorable conditions; and
      - vii. Suffers from a mental illness and has ever been adjudicated mentally incompetent or committed to a mental institution by court order; and
    - h. The applicant's dated signature attesting that the information provided in the application is true to the best of the applicant's knowledge;
  3. ~~A current certificate of completion from an organization's approved firearms-safety training program referenced in R13-9-307(3);~~ obtained within the last five years from an approved firearms-safety training organization or a valid concealed-weapons permit; and
  3. Documentation of completing one of the firearms-safety training instructor programs listed in R13-9-307(A)(2).
  4. ~~A letter from the responsible party of the organization that includes:~~
    - a. ~~The organization's identification number and stamp or seal, and~~
    - b. ~~A statement that the person will be an instructor for that organization.~~
  5. ~~The following evidence of completion from one of the instructor training programs listed in R13-9-307(2):~~
    - a. ~~For an Arizona Peace Officers' Standards and Training Board program or federal law enforcement agency program, a current certificate of completion; or~~
    - b. ~~For a National Rifle Association instructor certification program, a current certificate of appointment or the current certification card issued by the National Rifle Association;~~

Notices of Final Rulemaking

- B. ~~Upon receipt of the documents in subsection (A), the Department shall send notification to the organization of the dates available for the instructor to attend a Department firearms safety instructor training program; and In addition to submitting the materials required under subsection (A), an instructor applicant shall ensure that the responsible party of the firearms-safety training organization for which the instructor applicant will provide training submits to the Department:~~
- ~~1. Two full sets of classifiable fingerprints from the instructor applicant; and~~
  - ~~2. The fee required under R13-9-102(B).~~
- C. ~~After completing the firearms safety~~ The Department shall determine whether an instructor training program and meeting applicant meets all the requirements of R13-9-307, the Department shall register the instructor and notify the organization instructor applicant that the instructor meets the requirements to be applicant is approved or not approved as a firearms-safety training instructor.

**R13-9-309. Renewal of Approval as a Firearms-safety Instructor Registration Renewal**

- A. The approval of a firearms-safety instructor expires as follows:
1. If the firearms-safety instructor holds a valid concealed-weapons permit, the approval as a firearms-safety instructor expires when the concealed-weapons permit expires; or
  2. If the firearms-safety instructor does not hold a valid concealed-weapons permit, the approval as a firearms-safety instructor expires five years from the date of approval.
- B. ~~The responsible party of a firearms safety organization~~ An approved firearms-safety instructor shall renew submit an original renewal application instructor registrations every four years by no more than 90 days before the firearms-safety instructor's approval expires.-
- C. If the approval of a firearms-safety instructor expires, the former firearms-safety instructor shall immediately stop providing firearms-safety training. The former firearms-safety instructor may apply again for approval under R13-9-308.
- D. A firearms-safety instructor shall include the following information in a renewal application:
1. Submitting a complete, legible application, on an approved Department application a form that is available from the Department, with the information required under R13-9-308(A)(1) and (B);
  2. Submitting two sets of classifiable fingerprints and a fee to cover the cost of state and federal fingerprint processing; Current documentation that the firearms-safety instructor completed one of the firearms-safety training instructor programs listed in R13-9-307(A)(2);
  3. Submitting a letter from the organization that includes:
    - a. The organization's identification number and stamp or seal; and
    - b. A statement that the person will be an instructor for that organization;
  4. Ensuring that the instructor satisfactorily completes the Department firearms safety instructor training program within six months before submitting an application for renewal; and
  5. Providing evidence Documentation that the applicant has firearms-safety instructor instructed or co-instructed at least eight two approved firearms-safety training classes for a minimum of two students each within the four five years before the application for renewal firearms-safety instructor's approval expires; and
  4. If the firearms-safety instructor does not have a valid concealed-weapons permit, two sets of classifiable fingerprints and the fee required under R13-9-102(B).
- B. ~~Upon verification that the firearms safety instructor meets the qualifications under R13-9-307 and this Chapter, the Department shall renew the registration of the firearms safety instructor and notify the organization that the instructor continues to meet the requirements to be a firearms-safety training instructor.~~

**R13-9-310. Firearms-safety Instructor Responsibilities**

- A. To ensure timely communication from the Department, an approved firearms-safety instructor shall provide notice to the Department within 10 days after a change of address or contact telephone number.
- B. If mail from the Department to an approved firearms-safety instructor is returned to the Department because it is undeliverable, the Department shall administratively suspend the firearms-safety instructor's approval until the firearms-safety instructor submits updated information.

**ARTICLE 4. HEARINGS AND DISCIPLINARY PROCEEDINGS CERTIFICATE OF FIREARMS PROFICIENCY**

**R13-9-401. Suspension and Revocation Certificate of Firearms Proficiency Eligibility**

To be eligible to receive a LEOSA-authorized certificate of firearms proficiency from the Department, an individual shall:

1. Be a resident of Arizona; and
2. Be a qualified retired law enforcement officer. An individual is a qualified retired law enforcement officer if the individual:
  - a. Is retired in good standing from service with a public agency as a law enforcement officer for a reason other than mental instability;
  - b. While in service as a law enforcement officer, was authorized by law to engage in or supervise the prevention, detection, investigation, prosecution, or incarceration of a person for any violation of law, and had statutory powers of arrest;

Notices of Final Rulemaking

- c. Was regularly employed as a law enforcement officer for a total of 15 years or more or, if employed as a law enforcement officer for fewer than 15 years, retired after any applicable probationary period of service due to a service-connected disability, as determined by the agency;
- d. Has a non-forfeitable right to benefits under the retirement plan of the agency;
- e. Meets the training and qualification standards of an active-duty law enforcement officer in Arizona;
- f. Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- g. Is not prohibited by federal law from possessing a firearm.

**R13-9-402. Reconsideration, Request for Hearing Application for a Certificate of Firearms Proficiency**

To obtain a certificate of firearms proficiency, an applicant who is eligible under R13-9-401 shall submit:

1. An original application, using a form available from the Department, which provides the following information about the applicant:
  - a. Full legal name;
  - b. Residential address or descriptive location of residence if an address is not assigned;
  - c. Mailing address if different from the residential address;
  - d. Social Security number;
  - e. Telephone number;
  - f. E-mail address;
  - g. Descriptive information including race, gender, height and weight, eye and hair colors, and date and place of birth;
  - h. Name and address of the law enforcement agency from which the applicant is retired; and
  - i. The applicant's dated signature affirming that the information provided is true and accurate;
2. Documentation that the applicant met the requirement under R13-9-401(2)(e) within the last 12 months;
3. A copy of photographic identification from a law enforcement agency indicating that the applicant is retired from the agency;
4. A letter from the law enforcement agency from which the applicant is retired that:
  - a. Is on agency letterhead;
  - b. Includes the applicant's name, rank, employee or badge number, dates of employment, and retired status; and
  - c. Provides the name and telephone number of an individual within the agency who can verify the information provided; and
5. The fee required under R13-9-102.

**R13-9-403. Issuance of a Certificate of Firearms Proficiency**

The Department shall issue a certificate of firearms proficiency to an individual who is eligible under R13-9-401 and submits the information and documents required under R13-9-402. The Department shall ensure that the certificate of firearms proficiency contains:

1. The following information about the certificate holder:
  - a. Legal name as shown on the application submitted under R13-9-402;
  - b. Birth date;
  - c. Physical description including race, gender, height and weight, and eye and hair colors; and
  - d. Name of the law enforcement agency from which retired;
2. The statement, "Retired Law Enforcement Officer," following the certificate holder's name;
3. A certificate number;
4. The date of issuance;
5. The title "Retired Law Enforcement Officer's Certificate of Firearms Proficiency;" and
6. A brief statement on the reverse side identifying the certificate and its purpose.

**R13-9-404. Renewal of a Certificate of Firearms Proficiency**

- A.** A certificate of firearms proficiency expires one year after the date of issuance.
- B.** To renew a certificate of firearms proficiency before it expires, the certificate holder shall comply with the requirements in R13-9-402(1), (2), and (5).
- C.** If a certificate of firearms proficiency expires, the former certificate holder may obtain a new certificate only by complying with all of the requirements in R13-9-402.

**R13-9-405. Certificate Holder Responsibilities**

- A.** A certificate holder who is in actual possession of a concealed weapon shall also be in possession of:
  1. Photographic identification issued by a law enforcement agency indicating that the certificate holder is a retired law enforcement officer; and
  2. The certificate of firearms proficiency issued under R13-9-403.
- B.** On request by any peace officer, a certificate holder who is in actual possession of a concealed weapon shall present the documents listed in subsection (A).

**ARTICLE 5. LEOSA-RECOGNIZED INSTRUCTORS**

**R13-9-501. Application for Recognition as a LEOSA Instructor**

- A.** To be recognized as a LEOSA instructor, an individual shall:
1. Be certified as a firearms instructor by POST; and
  2. Submit an application, available from the Department, which provides the following information about the applicant:
    - a. Name.
    - b. Mailing address.
    - c. Telephone number.
    - d. E-mail address.
    - e. Social Security number, and
    - f. Name of the law enforcement agency with which the applicant is or was employed.
- B.** After receiving the application required under subsection (A)(2) and confirming that the applicant is certified by POST as a firearms instructor, the Department shall recognize the applicant as a LEOSA instructor and assign a LEOSA-instructor number.

**R13-9-502. LEOSA Instructor Responsibilities**

An individual recognized by the Department as a LEOSA instructor shall:

1. Comply with all POST firearms-certification rules and requirements when performing firearms-qualification services for a retired law enforcement officer;
2. Complete the documentation required under R13-9-402(2) for a retired law enforcement officer who successfully completes the firearms-qualification requirement;
3. Maintain for five years the following information about a retired law enforcement officer to whom firearms-qualification services are provided:
  - a. Name and age of the retired law enforcement officer at the time firearms-qualification services are provided;
  - b. Date and number of hours that the retired law enforcement officer received firearms-qualification services;
  - c. Physical location at which firearms-qualification services were provided;
  - d. Name of LEOSA instructor and LEOSA-instructor number; and
  - e. Whether the retired law enforcement officer passed, failed, or withdrew from the firearms qualification; and
4. Provide notice to the Department within 10 days:
  - a. Of a change in mailing address or telephone number;
  - b. Of a change in the information regarding the LEOSA instructor posted on the Department's web site;
  - c. If the individual no longer wants to be recognized as a LEOSA instructor; and
  - d. If the individual's POST certification as a firearms instructor is suspended or revoked.

**ARTICLE 4.6. HEARINGS AND DISCIPLINARY PROCEEDINGS**

**~~R13-9-401.~~R13-9-601. Suspension and Revocation**

- A.** The Department shall suspend a permit if the permittee ~~If a permit holder is arrested or indicted for an offense that would make disqualify the permittee permit holder unqualified under the provisions of A.R.S. § 13-3112; or if the permittee permit holder is a prohibited possessor,~~ the Department shall immediately suspend and seize the permit. The Department shall restore the permit under the conditions specified in A.R.S. § 13-3112(C).
- B.** ~~The~~ If a permit holder is convicted of an offense that disqualifies the permit holder under A.R.S. § 13-3112, the Department shall revoke a the permit. The Department shall restore the permit under the conditions specified in A.R.S. § 13-3112(C).
- C.** ~~The~~ After providing notice and an opportunity for hearing, the Department shall suspend or revoke a permit or Department approval if the Department determines that the ~~permittee permit holder or approved firearms-safety training organization or firearms-safety instructor:~~
1. ~~fails~~ Failed to maintain all of the conditions specified in A.R.S. § 13-3112(E) and this Chapter; or
  2. Provided false, incomplete, or misleading information to the Department.
- D.** ~~The~~ The Department may suspend or revoke a permit, or firearms safety program approval if the permittee or organization:
1. ~~Violates or fails to meet or continuously maintain any condition or requirement of A.R.S. § 13-3112, or of this Chapter; or~~
  2. ~~Provides false, incomplete, or misleading information to the Department.~~
- E.** ~~The~~ The Department shall suspend or revoke approval of a firearms safety training program if an investigation by the Department determines a firearms safety instructor or any representative of a firearms safety training program or firearms safety training organization:
1. ~~Engaged in or is engaging in a pattern or practice of instructing students that illegal conduct with a firearm is legal; or~~
  2. ~~Fails to maintain a training program that meets the minimum requirements under A.R.S. § 13-3112(N).~~
- F.D.** If the Department revokes a permit or approval, the affected ~~permittee individual or firearms-safety training~~ organization shall not ~~reapply~~ apply for a another permit or approval for at least two years from the date of revocation.

Notices of Final Rulemaking

~~G.E.~~ The Department shall notify the affected permittee or organization in writing and state the reason for the Department's intent to suspend or revoke or if If the Department determines that emergency action is required to suspend a permit or Department approval, the Department shall send a notice ~~shall be sent~~ of summary suspension by certified mail to the last known address of the ~~permittee individual or firearms-safety training organization~~. For purposes of R13-9-401 and R13-9-402, notice is considered received on the earlier of the date of actual receipt or the fifth day after the date of mailing. The Department shall ensure that the notice ~~shall include~~ includes all requirements under A.R.S. § 41-1092 et seq.

~~H.F.~~ Upon receipt of a notice of a summary suspension or final administrative decision suspending or revoking a permit or approval:

1. The ~~permittee permit holder~~ shall ~~immediately cease carrying~~ not unlawfully carry a concealed weapon and shall return the permit to the Department within five working days;
2. ~~An organization shall ensure that the organization's~~ The firearms-safety instructor shall immediately stop providing instruction stop conducting firearms-safety training, and
3. ~~An a firearms-safety training organization shall ensure that a suspended or revoked firearms-safety instructor teaching for the organization immediately stop stops conducting any program firearms-safety training for applicants for concealed-weapons permits;~~ and
3. The firearms-safety training organization shall immediately stop sponsoring firearms-safety training for applicants for concealed-weapons permits.

~~I.G.~~ The Department ~~may shall~~ require ~~immediate surrender of that~~ a permit be surrendered or seize a permit when required to do so under A.R.S. § 13-3112 law.

**R13-9-602. Hearing Procedures**

The Department shall conduct all hearings according to the procedures in A.R.S. Title 41, Chapter 6, Article 10 and the rules issued by the Office of Administrative Hearings.

**R13-9-603, R13-9-402. Reconsideration, Request for Hearing Rehearing or Review of Decision**

A. On receipt of a notice of denial:

1. ~~An applicant for a concealed weapon permit or renewal of a permit may submit additional documentation to the Department. The applicant shall submit the documentation within 20 days from receipt of the notice of denial.~~
2. ~~On receipt of additional documentation, the Department shall reconsider its decision and inform the applicant within 20 days of receiving the documentation of the Department's decision.~~
3. ~~If denied after reconsideration under subsection (A)(2), the Department shall notify the applicant of the right to request a hearing under A.R.S. Title 41, Chapter 6, Article 10. The Department shall provided for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules issued by the Office of Administrative Hearings.~~

B. An affected individual or organization is entitled to an administrative hearing under A.R.S. § 41-1092, due to:

1. ~~Denial, revocation, or suspension of a permit; or~~
2. ~~Denial, suspension, or revocation of firearms-safety training program approval. Within 30 days after the Department enters a final administrative decision, the affected individual or firearms-safety training organization may, but is not required to, file a motion for rehearing or review of the decision.~~

C. A person shall file a written request for a hearing with the Department within 30 days of receipt of the notice. The request shall be directed to the name and address stated in the notice. A party may amend a motion for rehearing or review at any time before the Department rules on the motion.

D. The Department 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 Department or any order or abuse of discretion that deprived the moving party of a fair hearing;
2. Misconduct by the Department, its staff, or an administrative law judge;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered 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; or
7. The findings of fact or decision is not justified by the evidence or is contrary to law.

E. The Department may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.

F. Not later than 15 days after the date of a decision, and after giving the parties notice and an opportunity to be heard, the Department may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. The Department may grant a motion for rehearing or review, timely served, for a

**Notices of Final Rulemaking**

---

reason not stated in the motion. An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted.

**G.** When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may serve opposing affidavits within 15 days after service of the motion. This period may be extended by the Department for a maximum of 20 days for good cause as described in subsection (H) or upon written stipulation of the parties. Reply affidavits may be permitted.

**H.** The Department 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 a ruling on the motion will:

1. Further administrative convenience, expedition, or economy; or

2. Avoid undue prejudice to any party.

**I.** If, in a particular decision, the Department makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare, the decision may be issued as a final decision without an opportunity for rehearing or review. If an application for judicial review of the decision is made, it shall be made under A.R.S. § 12-901 et seq.