

**NOTICE OF PROPOSED EXPEDITED RULEMAKING**  
**TITLE 9. HEALTH SERVICES**  
**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES –**  
**FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION**

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
- |          |       |
|----------|-------|
| R9-8-118 | Amend |
| R9-8-403 | Amend |
| R9-8-701 | Amend |
| R9-8-702 | Amend |
| R9-8-703 | Amend |
| R9-8-705 | Amend |
| R9-8-706 | Amend |
| R9-8-707 | Amend |
| R9-8-708 | Amend |
| R9-8-711 | Amend |
| R9-8-801 | Amend |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statutes: A.R.S. §§ 36-132(A)(1) and 36-136(G) and (Q)  
Implementing statutes: A.R.S. § 36-136(I)(4), as amended by Laws 2021, Ch. 118
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
- Notice of Docket Opening: 29 A.A.R. XXXX, September XX, 202X [*To be added by the Register editor*]
- 4. The agency's contact person who can answer questions about the rulemaking:**
- Name: Jennifer Botsford, Bureau Chief  
Address: Arizona Department of Health Services  
Division of Public Health Services, Public Health Preparedness,  
Bureau of Environmental Health Services  
150 N. 18th Ave., Suite 220  
Phoenix, AZ 85007

Telephone: (602) 364-3142  
Fax: (602) 364-3146  
E-mail: Jennifer.Botsford@azdhs.gov

or

Name: Myrna Motta, Office Chief  
Address: Arizona Department of Health Services  
Division of Public Health Services, Public Health Preparedness,  
Bureau of Environmental Health Services  
Office of Food Safety and Environmental Services  
150 N. 18th Ave., Suite 220  
Phoenix, AZ 85007

Telephone: (602) 364-0929  
Fax: (602) 364-3146  
E-mail: Myrna.Motta@azdhs.gov

or

Name: Stacie Gravito, Interim Office Chief  
Address: Arizona Department of Health Services  
Office of Administrative Counsel and Rules  
150 N. 18th Avenue, Suite 200  
Phoenix, AZ 85007-3232

Telephone: (602) 542-1020  
Fax: (602) 364-1150  
E-mail: Stacie.Gravito@azdhs.gov

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41-1027, to include an explanation about the rulemaking:**

Arizona Revised Statutes (A.R.S.) § 36-136, as amended by Laws 2021, Ch. 118, requires the Arizona Department of Health Services (Department) to add exemption requirements for small businesses licensed by the Department of Liquor Licenses and Control as a microbrewery, farm winery or craft distillery. The Department plans to amend the rules in Chapter 8, Article 1 to comply with the statutory changes made by Laws 2021, Ch. 118. The Department also plans to amend Article 4, as authorized by A.R.S. Title 36, Chapter 39, and Article 8, as authorized by A.R.S. § 36-136(I)(10), to address issues identified in recent five-year-review reports (5YRR) approved by the Governor's Regulatory Review Council. In addition, the Department plans to

amend the rules in Article 7, as specified in A.R.S. § 36-136(I)(9), to correct cross-references and clarify language in the rules. After obtaining an exception from the Governor’s rulemaking moratorium established under Executive Order 2022-01, and rulemaking approval pursuant to A.R.S. § 41-1039, the Department is making changes to the rules in 9 A.A.C. 8 to comply with the legislative requirement; improve the effectiveness of the rules and make them less burdensome; correct cross-references; address issues identified in a 5YRR; amend rules that are outdated, redundant, or otherwise no longer necessary; and make the rules clearer, more concise, and more understandable. The changes to be made will not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated, but reduce a burden due to outdated requirements without compromising health and safety.

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

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

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

Not applicable.

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

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

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Jennifer Botsford, Bureau Chief  
Address: Arizona Department of Health Services  
Division of Public Health Services, Public Health Preparedness,  
Bureau of Environmental Health Services  
150 N. 18th Ave., Suite 220  
Phoenix, AZ 85007  
Telephone: (602) 364-3142  
Fax: (602) 364-3146  
E-mail: Jennifer.Botsford@azdhs.gov  
or

Name: Myrna Motta, Office Chief  
Address: Arizona Department of Health Services  
Division of Public Health Services, Public Health Preparedness,  
Bureau of Environmental Health Services  
Office of Food Safety and Environmental Services  
150 N. 18th Ave., Suite 220  
Phoenix, AZ 85007  
Telephone: (602) 364-0929  
Fax: (602) 364-3146  
E-mail: Myrna.Motta@azdhs.gov

or

Name: Stacie Gravito, Interim Office Chief  
Address: Arizona Department of Health Services  
Office of Administrative Counsel and Rules  
150 N. 18th Avenue, Suite 200  
Phoenix, AZ 85007-3232  
Telephone: (602) 542-1020  
Fax: (602) 364-1150  
E-mail: Stacie.Gravito@azdhs.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Close of record: October 10, 2023, at 4:00 p.m.

A person may submit written comments on the proposed rules no later than the close of record to either of the individuals listed in items #4 and #9.

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

There are no other matters prescribed by statutes applicable specifically to the Department or this specific rulemaking.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rule does not require the issuance of a regulatory permit. Therefore, a general permit is not applicable.

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

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

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

No business competitiveness analysis was submitted to the Department.

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

Not applicable

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

**TITLE 9. HEALTH SERVICES**  
**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES –**  
**FOOD, RECREATIONAL, AND INSTITUTIONAL SANITATION**

**ARTICLE 1. FOOD ESTABLISHMENTS**

Section

R9-8-118. Exempt from Requirements and Inspections

**ARTICLE 4. CHILDREN’S CAMPS**

R9-8-403. Time-frames

**ARTICLE 7. PUBLIC SCHOOLS**

R9-8-701. Definitions

R9-8-702. General Provisions

R9-8-703. Restroom, Bathroom, and Shower Room Requirements

R9-8-705. Indoor Areas

R9-8-706. Water Supply

R9-8-707. Sewage Disposal

R9-8-708. Refuse Management

R9-8-711. Inspections

**ARTICLE 8. PUBLIC AND SEMIPUBLIC SWIMMING POOLS AND BATHING PLACES**

R9-8-801. Definitions

## ARTICLE 1. FOOD ESTABLISHMENTS

### **R9-8-118. Exempt from Requirements and Inspections**

- A.** Except as provided in subsection (B), this Article applies to any FOOD ESTABLISHMENT.
- B.** This Article does not apply to the following, which are not subject to routine inspection or other regulatory activities by a REGULATORY AUTHORITY:
1. The beneficial use of wildlife meat authorized in A.R.S. § 17-240 and 12 A.A.C. 4, Article 1;
  2. Group homes, as defined in A.R.S. § 36-551;
  3. Child care group homes, as defined in A.R.S. § 36-897 and licensed under 9 A.A.C. 3;
  4. Residential group care facilities, as defined in A.A.C. R6-5-7401 that have 20 or fewer clients;
  5. Assisted living homes, as defined in A.R.S. § 36-401(A) and licensed under 9 A.A.C. 10, Article 8;
  6. Adult day health care facilities, as defined in A.R.S. § 36-401(A) and licensed under 9 A.A.C. 10, Article 11, that are authorized by the Department to provide services to 15 or fewer participants;
  7. Behavioral health residential facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 7, that are authorized by the Department to provide services to 10 or fewer residents;
  8. Hospice inpatient facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 6, that are authorized by the Department to provide services for 20 or fewer patients;
  9. Substance abuse transitional facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 14, that are authorized by the Department to provide services to 10 or fewer participants;
  10. Behavioral health respite homes, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 16;
  11. Adult behavioral health therapeutic homes, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 18;
  12. FOOD that is:
    - a. Served at a noncommercial social event, such as a potluck;
    - b. Prepared at a cooking school if:
      - i. The cooking school is conducted in the kitchen of an owner-occupied home,

- ii. Only one meal per day is prepared and served by students of the cooking school,
  - iii. The meal prepared at the cooking school is served to not more than 15 students of the cooking school, and
  - iv. The students of the cooking school are provided with written notice that the FOOD is prepared in a kitchen that is not regulated or inspected by a REGULATORY AUTHORITY;
- c. Not ~~potentially hazardous~~ time/temperature control for safety food and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes;
- d. Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising, or an employee social event;
- e. A demonstration of FOOD preparation or cooking class offered by:
  - i. A culinary school or educational institution and all FOOD prepared is consumed by attending students;
  - ii. A school or business and samples are not offered for human consumption; and
  - iii. A business where an individual provides, prepares, cooks, and consumes their own FOOD.
- f. Offered at a child care facility and limited to commercially pre-packaged FOOD that is not ~~potentially hazardous~~ time/temperature control for safety food and whole fruits and vegetables that are washed and cut onsite for immediate consumption; or
- g. Offered at locations that sell only commercially pre-packaged FOOD that is not ~~potentially hazardous~~ time/temperature control for safety food;
- 13. A cottage FOOD product, as defined in A.R.S. § 36-136(Q), prepared for commercial purposes that:
  - a. Is not ~~potentially hazardous~~ time/temperature control for safety food as defined in A.R.S. § 36-136(I)(4)(g); or
  - b. Is not a FOOD that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation; and
  - c. Is prepared in the kitchen of a home by a food preparer or under the supervision of an individual who:



- i. Has a certificate of completion from completing a food handler training course from an accredited program;
    - ii. Maintains an active certification of completion; and
    - iii. If a food preparer, is registered with the Department, as required in A.R.S. § 36-136(I)(4)(g) and specified in subsection (D); and
  - d. Is PACKAGED at the home with an attached label that includes:
    - i. The name, and registration number of the food preparer registered with the Department as specified in subsection (D);
    - ii. A list of the ingredients in the cottage FOOD;
    - iii. The date the cottage FOOD was prepared; and
    - iv. The statement: This product was produced in a home kitchen that may process common FOOD allergens and is not subject to public health inspection; and
    - v. If applicable, a statement that the cottage FOOD was prepared in the home kitchen of a facility for individuals with developmental disabilities.
- 14. Fruits and vegetables grown in a garden at a public school, as defined in A.R.S. § 15-101, that are washed and cut on-site for immediate consumption.
- 15. Microbreweries, farm wineries, or craft distilleries licensed by the Department of Liquor Licenses and Control that sell only commercially prepackaged wrapped foods, crackers, or pretzels that are not time or temperature controlled and are served for immediate consumption.
- 16. Spirituos liquor, as defined in A.R.S. § 4-101, produced on the premises licensed by the Department of Liquor Licenses and Control including the area in which production and manufacturing of spirituous liquor occurs and does not provide, allow, or expose a common use cup, glass, or other receptacle used for drinking purposes without the receptacle being thoroughly cleansed and sanitized between consecutive uses, as specified in A.R.S. § 36-136.
- C. A food preparer who meets the requirements in subsection (B)(13) is authorized to prepare cottage FOOD for commercial purpose.
- D. To be exempt from the requirements in this Article, a food preparer identified in subsection (C) shall:
  - 1. Complete a food handler training course from an accredited program;
  - 2. Register with the Department by submitting:
    - a. An application in a Department-provided format that includes:

- i. The food preparer’s name, address, telephone number, and e-mail address;
      - ii. If the food preparer is supervised, the supervisor’s name, address, telephone number, and e-mail address;
      - iii. The address, including the county, of the home where the cottage FOOD is prepared;
      - iv. Whether the home where the cottage FOOD is prepared is a facility for developmentally disabled individuals; and
      - v. A description of each cottage FOOD prepared for commercial purposes;
    - b. A copy of the food preparer’s certificate of completion for the completed food handler training course;
    - c. If the food preparer is supervised, the supervisor’s certificate of completion for the completed food handler training course; and
    - d. An attestation in a Department-provided format that the food preparer:
      - i. Has reviewed Department-provided information on FOOD safety and safe FOOD handling practices;
      - ii. Based on the Department-provided information, believes that the cottage FOOD prepared for commercial purposes is not ~~potentially hazardous~~ time/temperature control for safety food or is not a FOOD that requires time or temperature control for safety to limit pathogenic microorganism growth or toxin formation; and
      - iii. Includes the food preparer’s printed name and date.
  - 3. Maintain an active certification of completion for the completed food handler training course;
  - 4. Renew the registration in subsection (D)(2) every three years;
  - 5. Submit any change to the information or documents provided according to subsection (D)(2)(a) through (c) to the Department within 30 calendar days after the change; and
  - 6. Display the food preparer’s certificate of registration when operating as a temporary FOOD ESTABLISHMENT and selling cottage FOOD.
- E.** Food establishments shall have until January 31, 2022 to comply with the certified food protection manager requirement specified in this Article.

**ARTICLE 4. CHILDREN’S CAMPS**

**R9-8-403. Time-frames**

- A.** The overall time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department or county is 60 days. The applicant and the Department or a county may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive time-frame and the overall time-frame shall not exceed 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department or a county is 30 days and begins on May 1 of each year or on the date the application is received if after May 1.
1. The Department or a county shall ~~mail~~ provide written notice of administrative completeness or deficiencies to the applicant within the administrative completeness review time-frame.
    - a. A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the license application.
    - b. If the Department or a county issues a notice of deficiencies within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice is issued until the date the Department or a county receives the missing information from the applicant.
    - c. If the applicant fails to submit to the Department or a county all the information and documents listed in the notice of deficiencies within 60 days of the date the Department or a county ~~mailed~~ provided the notice of deficiencies, the Department or county deems the license application withdrawn.
  2. If the Department or a county issues a license to the applicant during the administrative completeness review time-frame, the Department or a county does not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072 is 30 days and begins on the date the notice of administrative completeness is ~~mailed~~ provided to the applicant.
1. The Department or a county shall ~~mail~~ provide a children's camp license or a written notification of denial of the license application to the applicant within the substantive review time-frame.
  2. As part of the substantive-review time-frame for a children's camp license, the Department or a county may conduct an inspection of the children's camp to determine whether the children's camp has complied with the applicable requirements in subsection (C)(4) or (C)(5).

3. If the Department or a county issues a comprehensive written request or supplemental request for information, the substantive review time-frame and the overall time-frame are suspended from the date the Department or a county issues the request until the date the Department or a county receives all of the information.
  4. If an applicant applying to the Department meets all the requirements under ~~A.R.S. Title 8, Chapter 6, Article 1~~ A.R.S. Title 36, Chapter 39, Article 1, and these rules, the Department shall issue a license to the applicant.
  5. If an applicant applying to a county meets all the requirements under ~~A.R.S. Title 8, Chapter 6, Article 1~~ A.R.S. Title 36, Chapter 39, Article 1, these rules, and county requirements consistent with A.R.S. Title 8, Chapter 6, Article 1, a county shall issue a license to the applicant.
  6. If the Department or a county disapproves a license application, the Department or a county shall send the applicant a written notice of disapproval setting forth the reasons for disapproval and all other information required in A.R.S. § 41-1076.
- D.** If a time-frame's last day is on a Saturday, Sunday, or legal holiday, the Department or a county considers the next business day as the time-frame's last day.

## ARTICLE 7. PUBLIC SCHOOLS

### **R9-8-701. Definitions**

In this Article, unless otherwise specified:

- ~~1.~~ 1. ~~“Ample water supply” means sufficient water quantity and water pressure to operate all of a school’s drinking fountains, bathtubs, showers, lavatories, water closets, and urinals at all times from:~~
  - ~~a. A public water system that complies with 18 A.A.C. 4; or~~
  - ~~b. An underground water source that complies with 18 A.A.C. 11, Articles 4 and 5 or with A.R.S. § 45-811.01.~~
- ~~2.~~1. “Animal” means a mammal, bird, reptile, amphibian, fish or invertebrate, such as an insect, spider, worm, snail, clam, crab, or starfish.
- ~~3.~~ “Aquifer” ~~means the same as in A.R.S. § 49-201.~~
- ~~4.~~2. “Bathroom” means a restroom that contains a shower head or bathtub.
- ~~5.~~3. “Bathtub” means a receptacle, in which a user sits, with a faucet that supplies hot and cold water, or warm water, for filling the receptacle and a drain connected to a ~~sanitary sewer~~ sewage collection system.
- ~~6.~~4. “Bottled water” means the same as in R9-8-201.

- ~~7.5.~~ “Bottled water cooler” means a device that is not connected to a plumbing system and provides a vertically falling stream of drinking water from a source approved by the Department under 9 A.A.C. 8, Article 2, or that complies with 18 A.A.C. 4; 18 A.A.C. 11, Articles 4 and 5, or A.R.S. § 45-811.01.
- ~~8.~~ “Calendar year” means ~~January 1 through December 31.~~
- ~~9.6.~~ “Classroom” means an interior area of a school used primarily for instruction of students.
- ~~10.7.~~ “Clean” means ~~free of dirt or debris.~~ free of dirt, litter, or the remains of something that has been broken or torn into pieces.
- ~~11.8.~~ “Cold water” means water with a temperature from 33° F to 74° F.
- ~~12.9.~~ “Common drinking cup” means a hand-held container not connected to a plumbing system that:
- a. Holds liquid for human consumption,
  - b. Comes into contact with a user’s mouth, and
  - c. Is used by more than one individual.
- ~~13.~~ “Complaint” means ~~information indicating the need for inspection due to possible violations of this Article.~~
- ~~14.~~ “Constructed underground storage facility” means ~~the same as in A.R.S. § 45-802.01.~~
- ~~15.~~ “Debris” means ~~litter or the remains of something that has been broken or torn into pieces.~~
- ~~16.10.~~ “Department” means the Arizona Department of Health Services.
- ~~17.11.~~ “Device” means a piece of equipment that performs a specific function.
- ~~18.12.~~ “Drinking fountain” means a fixture connected to a plumbing system that provides a non-vertical stream of drinking water from an opening and drains into a ~~sanitary sewer~~ sewage collection system.
- ~~19.13.~~ “Drinking water” means water for human consumption that meets the requirements of 18 A.A.C. 4, or 18 A.A.C. 11, Article 4.
- ~~20.14.~~ “Dumpster” means a container designed for mechanical lifting and dumping by a refuse collection vehicle that transports the container’s contents.
- ~~21.15.~~ “Faucet” means a fixture connected to a plumbing system that provides and regulates the flow of drinking water from the plumbing system.
- ~~22.16.~~ “Fixture” means a permanent attachment to a structure.
- ~~23.17.~~ “Floor drain” means an opening in a floor surface that leads to a ~~sanitary sewer~~ sewage collection system.

- ~~24~~18. “Food establishment” means an entity that stores, prepares, packages, serves, or otherwise provides food for human consumption directly to a consumer or indirectly through a delivery service.
- ~~25~~19. “Habitat” means a place where an animal is kept while on school grounds.
- ~~26~~20. “Hot water” means water with a temperature from 95° F to 120° F.
- ~~27~~21. “Human consumption” means an individual’s use of water for activities such as drinking, bathing, showering, handwashing, cooking, dishwashing, laundering, cleaning, or using a water closet.
- ~~28~~. “Hydration” means ~~the process of replacing fluids lost by a human body.~~
- ~~29~~22. “Lavatory” means a sink or a basin with a faucet that supplies hot and cold water, or warm water, and with a drain connected to a ~~sanitary sewer~~ sewage collection system.
- ~~30~~. “~~Local health department~~” means:
- a. ~~The administrative division of an Arizona county, city, or town that manages environmental and health-related issues; or~~
  - b. ~~A public health services district under A.R.S. Title 48, Chapter 33.~~
- ~~31~~. “~~Managed underground storage facility~~” means the same as in A.R.S. § 45-802.01.
- ~~32~~23. “Non-absorbent” means not capable of absorbing or soaking up liquids.
- ~~33~~24. “Non-classroom” means an indoor area in a school, such as the school office, nurse’s office, library, or cafeteria, that are not used primarily for instruction of students.
- ~~34~~25. “Overflow rim” means the raised edge around a drinking fountain’s basin.
- ~~35~~26. “Participant” means:
- a. A member of the staff or a student of a school, or
  - b. A member of the staff or a student from another school, when the individual is present on the grounds of the school specified in subsection (a) for a school-organized activity.
- ~~36~~27. “Plumbing system” means fixtures, pipes, and related parts assembled to carry drinking water into a structure and carry sewage out of the structure.
- ~~37~~28. “Portable water container” means any type of device, not connected to a plumbing system, provided by a school, such as a bottle, cup, pitcher, or insulated cylindrical cooler, in which drinking water is held or carried.
- ~~38~~29. “Private school” means the same as in A.R.S. § 15-101.
- ~~39~~30. “Public water system” means the same as in A.R.S. § 49-352.
- ~~40~~31. “Refuse” means the same as in A.A.C. R18-13-302.

- 41.~~32~~. “Refuse container” means a portable receptacle used for refuse storage until the refuse is placed into a dumpster.
33. “Regulatory authority” means:
- a. The Arizona Department of Health Services; or
  - b. One of the following entities as specified in A.R.S. § 36-136(E):
    - i. A local health department;
    - ii. A county environmental department; or
    - iii. A public health services district.
- 42.~~34~~. “Responsible person” means:
- a. For an accommodation school defined in A.R.S. § 15-101, the county school superintendent with the powers and duties prescribed in A.R.S. Title 15, Chapter 3, Article 1;
  - b. For a charter school defined in A.R.S. § 15-101, the governing board defined in A.A.C. R7-2-1401;
  - c. For the Arizona State Schools for the Deaf and the Blind, the board of directors for the Arizona State Schools for the Deaf and the Blind established under A.R.S. Title 15, Chapter 11, Article 2;
  - d. For a school operated by a school district, the school district’s governing board defined in A.R.S. § 15-101.
- 43.~~35~~. “Restroom” means a structure or room that contains at least one lavatory and water closet or at least one lavatory, water closet, and urinal.
44. ~~“Sanitary sewer” means the same as in A.R.S. § 45-101.~~
- 45.~~36~~. “Sanitize” means the same as in A.A.C. R9-5-101 using heat, chemical agents, or germicidal solutions to disinfect and reduce pathogen counts, including bacteria, viruses, mold, and fungi.
- 46.~~37~~. “School” means an institution offering instruction:
- a. That is:
    - i. An accommodation school defined in A.R.S. § 15-101;
    - ii. The Arizona State Schools for the Deaf and the Blind established under A.R.S. Title 15, Chapter 11, Article 1;
    - iii. A charter school defined in A.R.S. § 15-101; or
    - iv. A school operated by a school district defined in A.R.S. § 15-101; and
  - b. That is not a private school.
- 47.~~38~~. “Sewage” means the same as in A.A.C. R18-13-1102.

39. “Sewage collection system” means a system of pipelines, conduits, manholes, pumping stations, force mains, and all other structures, devices, and appurtenances that collect, contain, and convey sewage from its sources to the entry of a sewage treatment facility or on-site wastewater treatment facility serving sources other than a single-family dwelling.
- 48.40. “Shower head” means a fixture connected to a plumbing system that allows drinking water to fall on a user’s body.
- 49.41. “Shower room” means a structure or room that contains at least one shower head and one floor drain, but does not contain a bathtub, lavatory, water closet, or urinal.
- 50.42. “Underground water source” means:
- a. ~~An aquifer,~~ An aquifer defined in A.R.S. § 49-201;
  - b. ~~A constructed underground storage facility, or~~ A constructed underground storage facility defined in A.R.S. § 45-802.01; or
  - c. ~~A managed underground storage facility.~~ A managed underground storage facility defined in A.R.S. § 45-802.01.
- 51.43. “Urinal” means the same as in A.R.S. § 45-311.
- 52.44. “Warm water” means water with a temperature from 75° F to 94° F.
- 53.45. “Water closet” means the same as in A.R.S. § 45-311.
- 54.46. “Water cooler” means a fixture connected to a plumbing system for cooling water and dispensing a vertically falling stream of drinking water.

**R9-8-702. General Provisions**

- A. A responsible person shall ensure that a school complies with the provisions of this Article and with federal and state statutes and rules and local ordinances governing subjects included in ~~A.R.S. § 36-136(H)(9)~~ A.R.S. § 36-136(I)(9).
- B. A violation of this Article is a public nuisance under A.R.S. § 36-601.

**R9-8-703. Restroom, Bathroom, and Shower Room Requirements**

- A. A responsible person shall ensure that a school provides restrooms or bathrooms that:
  1. Are clean; and
  2. Have:
    - a. Floors of a non-absorbent material;
    - b. Floors that slope to a drain connected to a ~~sanitary sewer~~ sewage collection system;
    - c. Water closets with seats of the split or U-shaped type made of non-absorbent material;
    - d. Interior surfaces that are clean, washable, and free from gaps;



- e. Toilet paper at all water closets; and
  - f. Soap and single-use paper towels or air hand dryers at all lavatories.
- B.** If a school provides a shower room, the responsible person shall ensure that the shower room:
- 1. Is clean;
  - 2. Does not have a school-provided cloth towel unless, after each use, the cloth towel is machine washed with detergent and machine dried; and
  - 3. Has:
    - a. Hot and cold, or warm water from all shower heads;
    - b. Floors of a non-absorbent material;
    - c. Floors that slope to a drain connected to a ~~sanitary sewer~~ sewage collection system; and
    - d. Interior surfaces that are clean, washable, and free of gaps.
- C.** A responsible person shall ensure that restrooms, bathrooms, and shower rooms are maintained to avoid odors.

**R9-8-705. Indoor Areas**

A responsible person shall ensure that:

- 1. Indoor classroom and non-classroom areas are clean; and
- 2. If a classroom has a lavatory in it, the lavatory has soap and single-use paper towels or ~~air hand dryers~~ an air hand dryer.

**R9-8-706. Water Supply**

**A.** A responsible person shall ensure that a school has an ample water supply- that:

- 1. Maintains water quality and water pressure, and water temperature as specified in R9-8-703(B)(3)(a), for the school's drinking fountains, showers, lavatories, water closets, and urinals at all times, and
- 2. Is provided by an approved water supplier in accordance with 18 A.A.C. 4.

**B.** A responsible person shall ensure that a school's drinking water is dispensed from:

- 1. A clean drinking fountain that:
  - a. Provides, from an opening, a stream of water that does not touch anything before reaching a user's mouth;
  - b. Has an opening that is higher than the overflow rim to prevent the opening's submersion; and
  - c. Has a device to prevent a user's mouth from touching the opening from which the water streams;
- 2. A clean and sanitized water cooler;

3. A clean and sanitized bottled water cooler;
  4. A clean and sanitized lavatory faucet; or
  5. A clean and sanitized portable water container.
- C. If a portable water container or the bottle from a school’s bottled water cooler is to be refilled, a responsible person shall ensure that the portable water container or the bottle is:
1. ~~Washed, rinsed, and sanitized, as specified in 9 A.A.C. 8, Article 1; Maintained by a food establishment regulated by 9 A.A.C. 8, Article 1; and~~
  2. ~~Stored in a clean area; and Filled with water from an approved water supplier specified in subsection (A).~~
  3. ~~Refilled with drinking water from any of the sources of drinking water specified in subsection (B).~~
- D. A responsible person shall ensure that a school does not provide a common drinking cup to students. ~~unless the common drinking cup is washed, rinsed, and sanitized, as specified in 9 A.A.C. 8, Article 1, after each use.~~
- E. A responsible person shall ensure that a school provides:
1. Drinking fountains, water coolers, or bottled water coolers according to Tables 1 and 2; and
  2. At least one drinking fountain, water cooler, or bottled water cooler on each floor of the school that contains a classroom, regardless of the number of students.

**Table 1. Kindergarten to Eighth Grade**

<b>Number of Students</b>	<b>Minimum Number of Drinking Fountains, Water Coolers, or Bottled Water Coolers*</b>
1-50	1
51-100	2
101-150	3
151-200	4
201-250*	5

\*For each additional 1-50 students, another drinking fountain, water cooler, or bottled water cooler is required.

**Table 2. Ninth Grade to Twelfth Grade**

<b>Number of Students</b>	<b>Minimum Number of Drinking Fountains, Water Coolers, or Bottled Water Coolers*</b>
1-100	1
101-200	2
201-300	3
301-400	4
401-500*	5

\*For each additional 1-100 students, another drinking fountain, water cooler, or bottled water cooler is required.

**F.** A responsible person shall ensure a school provides drinking water that is:

1. Accessible from the school grounds; and
2. Sufficient to maintain the hydration of all participants at school-organized outdoor activities.

**R9-8-707. Sewage Disposal**

A responsible person shall ensure that a school's:

1. Water closets and urinals flush sewage to a ~~sanitary sewer~~ sewage collection system;
2. Lavatories, showers, bathtubs, and other plumbing fixtures drain sewage to a ~~sanitary sewer~~ sewage collection system; and
3. ~~Sanitary sewer lines~~ Sewage collection systems are maintained in accordance with the recommendations of the ~~local health department~~ regulatory authority.

**R9-8-708. Refuse Management**

A responsible person shall ensure that a school:

1. Stores refuse in durable, non-absorbent, and washable containers;
2. Provides:
  - a. Indoor refuse containers in each classroom and in each non-classroom area; and
  - b. Accessible outdoor refuse containers;

3. Maintains refuse containers so that refuse does not accumulate in school buildings or on school grounds; and
4. Disposes of refuse by using an approved collection agency and approved disposal sites that are maintained and operated according to 18 A.A.C. 13, Article 3.

**R9-8-711. Inspections**

The ~~Department~~ regulatory authority shall inspect:

1. A school for compliance with this Article at least once each calendar year, January 1 through December 31, and
2. Areas of a school pertinent to the details of a complaint upon receipt of the complaint.

**ARTICLE 8. PUBLIC AND SEMIPUBLIC SWIMMING POOLS AND BATHING PLACES**

**R9-8-801. Definitions**

In this Article, unless otherwise specified:

1. “Artificial lake” has the same meaning as in A.A.C. R18-5-201.
2. “Backwash” has the same meaning as in A.A.C. R18-5-201.
3. “Bathing place” means a volume of water that is used for water contact recreation.
4. “Clean” means free from slime, scum, dirt, or other debris.
5. “Deck” has the same meaning as in A.A.C. R18-5-201.
6. “Department” means the Arizona Department of Health Services.
7. “Incontinent” means unable to restrain a bowel movement.
8. “Local health department” has the same meaning as in ~~R9-18-101~~ A.R.S. § 36-671.
9. “Maximum bathing load” has the same meaning as in A.A.C. R18-5-201.
10. “Natural bathing place” has the same meaning as in A.A.C. R18-5-201.
11. “Operate” has the same meaning as in A.A.C. R18-5-201.
12. “Operator” means an individual who owns, runs, maintains, or otherwise controls or directs the functioning of a bathing place.
13. “Oxidation-reduction potential” means the measurement in millivolts of the potential for transfer of electrons from one atom or molecule to another in water.
14. “Potable water” has the same meaning as in A.A.C. R18-5-201.
15. “Ppm” means parts per million.
16. “Private residential spa” has the same meaning as in A.A.C. R18-5-201.
17. “Private residential swimming pool” has the same meaning as in A.A.C. R18-5-201.
18. “Public health services district” has the same meaning as “district” in A.R.S. § 48-5801.

19. “Public spa” has the same meaning as in A.A.C. R18-5-201.
20. “Public swimming pool” has the same meaning as in A.A.C. R18-5-201.
21. “Regulatory authority” means the Department or a local health department or public health services district operating under a delegation of authority from the Department.
22. “Sanitary facility” means a designated area that includes a toilet, urinal, sink, or shower.
23. “Scum” means a film that forms on the surface of water.
24. “Semi-artificial bathing place” means a lake, pond, river, stream, swimming hole, or hot spring that is modified to be used for water contact recreation.
25. “Semipublic spa” has the same meaning as in A.A.C. R18-5-201.
26. “Semipublic swimming pool” has the same meaning as in A.A.C. R18-5-201.
27. “Shallow area” has the same meaning as in A.A.C. R18-5-201.
28. “Shock treatment” means adding chlorine to water to elevate the free chlorine residual to 20 ppm and destroy ammonia and nitrogenous and organic contaminants in the water.
29. “Slime” means a glutinous or viscous liquid matter.
30. “Spa” has the same meaning as in A.A.C. R18-5-201.
- ~~31.~~ “Surface water” has the same meaning as in A.A.C. R18-11-101.
- ~~32-31.~~ “Swimming pool” has the same meaning as in A.A.C. R18-5-201.
- ~~33-32.~~ “Turnover rate” has the same meaning as in A.A.C. R18-5-201.
- ~~34-33.~~ “Wading pool” has the same meaning as in A.A.C. R18-5-201.
- ~~35-34.~~ “Water circulation system” has the same meaning as in A.A.C. R18-5-201.
- ~~36-35.~~ “Water circulation system components” has the same meaning as in A.A.C. R18-5-201.
- ~~37-36.~~ “Water fountain” means a bathing place that functions by using mechanical means to propel a stream of water out of an opening or structure.
- ~~38-37.~~ “Water contact recreation” means an activity for enjoyment in which an individual wets all or part of the individual’s body with water.