

**Five Year Review Report  
Title 2, Chapter 18, Articles 1 through 4  
Government Information Technology Agency**

Introduction

The Government Information Technology Agency (GITA) adopted rules as authorized by statute to oversee and provide procedures for state agencies in undertaking information technology projects. As the result of legislative changes, the Arizona Department of Administration (ADOA) is now the agency responsible for the rules. The rules are now overseen by ASET, a division of ADOA. These rules were originally adopted July 9, 1998, then later amended R2-18-101, R2-18-201, and R2-18-301, and made effective December 4, 2004. The rules include Chapter 18 consisting of Article 1, Section R2-18-101, Article 2, Section R2-18-201, Article 3, Section R2-18-301 and Article 4, Section R2-18-401, inclusive.

The Department conducted a five-year review of these rules that were approved by GRRC Council on March of 2009. The five-year review report approved by Council during that time indicated that no course of action was needed for the rules.

Except as otherwise noted, the information is identical, consistent and effective for all of the rules in the Article: Article 1, Section R2-18-101, Article 2, Section R2-18-201, Article 3, Section R2-18-301, and Article 4, Section R2-18-401.

1. General and specific statutes authorizing the rules:

A.R.S. § 41-703 (3) – Provides general authority for the rules

A.R.S. §§ 41-3501, 41-3502, 41-3503, 41-3504, 41-3504 (A) (12), 41-3505, 41-3506, 41-3507, 41-3508, 41-3521, 41-3531, 41-3532, 41-3541 and 41-3542 – Provides specific authority for the rules

2. Objective of the rules including the purpose for the existence of the rules:

**R2-18-101. Definitions**

This rule defines the meaning of words and phrases contained within Chapter 18, Government Information Technology Agency. The rule was adopted so that agencies understood specific terminology used throughout the rules and prevent misunderstanding of their application and meaning.

**R2-18-201. Information Technology Project Justification and Monitoring**

This rule outlines the procedures for agencies to follow in order to approve information technology projects. The rule was established to ensure agencies followed common standards, centralized planning documents, consistent quality assurance and project

management processes to reduce risk of project failure, increased project quality, and on-time and on budget completions in order to prevent unneeded, overpriced or incompatible IT systems being purchased.

**R2-18-301. Information Technology Planning**

This rule outlines the procedures for agencies to follow in order to prepare annual information technology plans. This rule was established to guide agencies in putting together centralized planning documents needed for preparing annual information technology plans. The rule prevents agencies from deviating from common standards, consistent quality assurance and project management processes to reduce risk of project failure, increased project quality, and on-time and on budget completions.

**R2-18-401. Appeals of Government Information Technology Agency Divisions**

This rule outlines the procedures for agencies to use when an information technology plan or project has been disapproved by the Department. The rule was established so that agencies have clear procedures to follow in appealing the decision of the Department in addition, prevents an unfair process for the agencies seeking an appeal.

3. Effectiveness of the rules in achieving the objective, including a summary of any available data supporting the conclusion reached:

The Department believes the rules are effective in achieving their objectives. The rules were established as there was no mechanism in state government to obtain independent evaluation of information technology (IT) projects for the state. In absence of these rules, agencies often purchased IT systems that were unneeded, overpriced or incompatible with other statewide systems. In an effort to control this, rules were adopted so there would be common standards, centralized planning documents, consistent quality assurance and project management processes to reduce the risk of project failure, increased project quality, and on-time and on budget completions.

4. Consistency of the rules with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency:

The rules are consistent with A.R.S. §§ 41-703 (3), 41-3501, 41-3502, 41-3503, 41-3504, 41-3504 (A) (12), 41-3505, 41-3506, 41-3507, 41-3508, 41-3521, 41-3531, 41-3532, 41-3541 and 41-3542.

5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:

The Department enforces R2-18-201, R2-18-301 and R2-18-401. R2-18-101 is “definitions” and is not directly enforced.

6. Clarity, conciseness, and understandability of the rules:

All of the rules are generally clear, concise, and understandable.

7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analysis submitted to agency questioning whether the rules are based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rules are discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:

The Department has not received written criticisms regarding any of the rules during the last five years.

8. A comparison of the current economic, small business, and consumer impact of the rules with economic, small business, and consumer impact statement prepared on the last rulemaking of the rule or, if no economic, small business, and consumer impact statement was prepared on the last rulemaking of the rule, an assessment of the actual economic, small business, and consumer impact of the rules:

The information provided with the previous five-year review report approved by Council in March 2009 indicated that the economic impact of the rules had not differed significantly from that projected in the economic impact statement submitted in the December 4, 2004 final rulemaking.

It is important to note that the process for agencies to submit their information technology plans has temporarily changed as the Department is assessing a new system to collect this information. The system that was used previously (PARIS) is no longer supported so at this time, the Department is collecting the information manually from agencies. Agencies are required to submit their plans by September 1<sup>st</sup> of each year once the Statewide Strategic IT Plan is released. Once received, the Department reviews the plans to ensure they are aligned with the Statewide Strategic IT Plan. To the Department's knowledge, there has never been a case where an agency's plan was denied.

In addition to agency appeals, to the Department's knowledge there has never been a case where a Project Investment Justification (PIJ) was not approved. The Department works closely with agencies to ensure that all questions and concerns are addressed by the agency. In the event that an agency chooses to appeal then the agency's request to do so would be submitted to the Project Oversight team within ASET and then submitted to the state CIO for review. The state CIO also serves as the Chairman of the Information Technology Advisory Council (ITAC.)

The rules continue to present no economic burden to the general public or small businesses. Further, the impact on agencies is minor, if one assumes that agencies exercise normal due diligence in their technology project planning.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

None

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:

No course of action was stated in the previous five-year review report.

11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Department believes that the rules impose the least burden and costs to individuals, public and private entities regulated by these rules. The Department has made every effort to ensure the procedures outlined for agencies are efficient, cost effective and necessary to achieving the regulatory objectives.

12. A determination that the rules are not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law, indicating whether:

- a. There is a similar regulatory framework governing the same subject matter under federal law,

Not applicable.

- b. The rules are more restrictive than a similar requirement in federal law, and

Not applicable.

- c. There is statutory authority for more restrictive requirements than those in federal law.

Not applicable.

13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037, indicating whether:

Not applicable. All the rules were adopted or amended before July 29, 2010.

- a. The rule requires issuance of a regulatory permit, license, or agency authorization;

Not applicable.

- b. The permit, license, or agency authorization falls within the definition of “general permit” in A.R.S. § 41-1001, if a permit, license or agency authorization is issued; or

Not applicable.

- c. An exception applies under A.R.S. § 41-1037, if a general permit is not issued.

Not applicable.

14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department stated in the previous five-year review report approved by Council in March of 2009 that no course of action was needed. In FY 2012, S.B. 1615, Section 43 was signed into law that transitioned GITA to ADOA. Now that the transition of GITA to ADOA has been implemented, the Department is in the process of reviewing the rules and intends to amend them where GITA is referenced within the rules. Once the review of the rules is completed, the Department will submit a rulemaking to GRRC by November 2014.

**Five Year Review Report  
Title 2, Chapter 11, Articles 1 through 5  
Public Buildings Maintenance**

Introduction

The Arizona Department of Administration (ADOA) adopted rules as authorized by statute to protect, regulate the conduct of state employees and the public, maintain public health and safety, and regulate the use of solicitation of materials and special events on state property. The public buildings maintenance rules were previously adopted under 2 A.A.C. 6 and were allowed to expire effective September 30, 2002. The rules were updated and made by emergency rulemaking effective June 18, 2003 for 180 days. 2 A.A.C. 11 was adopted by final rulemaking effective August 8, 2003 that repealed and replaced the emergency rules. The rules include Chapter 11 consisting of Article 1, Sections R2-11-101 through R2-11-114; Article 2, Sections R2-11-201 through R2-11-209; Article 3, Sections R2-11-301 through R2-11-311; Article 4, Sections R2-11-401 through R2-11-409; and Article 5, Section R2-11-501 inclusive.

ADOA conducted a five-year-review of these rules that was approved by GRRC Council on November 4, 2008. The five-year-review report approved by Council during that time indicated that Articles 1 through 5 were clear, concise, effective, and conformed to the specific statute in law. ADOA did indicate the possibility of amending Article 2, specifically R2-11-201 and R2-11-206. In addition, the Department indicated the possibility of amending Articles 3 and 4, specifically R2-11-301 through R2-11-311 and R2-11-401 through R2-11-409. After further discussion following the previously approved five-year-review report, the Department decided that no amendments were necessary at the time as the application of the rules continue to operate without comment or challenge from public and private entities.

Except as otherwise noted, the information is identical, consistent and effective for all of the rules in the Articles.

1. General and specific statutes authorizing the rules:

A.R.S. §§ 41-703, 41-791(D), and 41-796(A) – Provides specific authority for the rules.

2. Objective of the rules including the purpose for the existence of the rules:

ADOA believes the rules are effective in achieving their objectives.

**Article 1 General  
R2-11-101 through R2-11-114**

Article 1 rules protect state property and regulate the conduct of state employees and the public on state property. The objective of R2-11-101 is to help state employees and the public understand the terminology that is used throughout this Article. The objective of R2-11-102 is to ban alcohol on state property. The rule is necessary to protect the health and safety of state employees and the public. The objective of R2-11-103 is to prevent a person from altering, remodeling, or redecorating state property without prior approval from the Director. The rule is necessary to protect state property and the safety of state employees and the public. The objective of R2-11-104 is to prevent animals on state property with the exception of an animal guide or service animal without prior approval from the Director. The rule is necessary to protect the safety of state employees and the public. The objective of R2-11-105 is to prevent the use of bicycles, rollerblades, rollerskates, and skateboards on state property unless that person is an on-duty police officer on bicycle patrol or a state employee using a bicycle for transportation to and from work. The rule is necessary for the safety of state employees and the public. The objective of R2-11-106 is to prevent a person from installing or modifying an electrical or plumbing system on state property without prior approval from the Director. The rule is necessary to prohibit unauthorized work on electrical or plumbing systems on state property that could affect the health and safety of state employees and the public. The objective of R2-11-107 is to prevent a person from tampering with or adjusting heating and cooling equipment or controls on state property without prior approval from the Director. The rule is necessary to prohibit unauthorized work on cooling and heating equipment on state property that could affect the health and safety of state employees and the public. The objective of R2-11-108 is to prevent a person from creating loud noises on state property that interferes with the work of an employee or daily business of an agency. The rule is necessary to prevent workplace disruptions to state employees. The objective of R2-11-109 is to prevent a person from picking, cutting, or removing flowers, shrubs, trees, or other parts of plants from state property without prior approval from the Director. The objective of R2-11-110 is to prevent a person from being on the roof of a state building without prior approval from the Director. The rule is necessary for the health and safety of state employees and the public. The objective of R2-11-111 is to prevent a person from installing a sign of any type on state property without prior approval from the Director. The rule is necessary to prohibit altering of state property with unauthorized signs and protects the health and safety of state employees and the public. The objective of R2-11-112 bans smoking in a state building unless the person is in a designated smoking area and is necessary for the health of state employees or the public. The objective of R2-11-113 is to prevent littering, dumping of residential or commercial materials and to prevent waste disposal that could potentially affect the health and safety of state employees and the public. The rule is necessary for the health and safety of state employees and the public. The objective of R2-11-114 is to prevent the waste of finite resources by requiring prior approval from the Director before a person is allowed to open a window in a state building.

## **Article 2 Traffic and Parking**

### **R2-11-201 through R2-11-209**

Article 2 rules regulate traffic and parking on state property and are necessary to enforcing traffic and parking laws in addition to ensuring safety on state property. The objective of R2-11-201 is to define the terminology that is used in this Article. The rule is necessary for clarity and understanding of the rules. The objective of R2-11-202 is to

provide general provisions regarding responsibility of those parking on state property, those who have parking permits and what the Department is not responsible for. The objective of R2-11-203 is to outline specific parking prohibitions on or around state property. The rule is necessary to maintain safe traffic and parking conditions on state property for state employees and the public. The objective of R2-11-204 is to state the requirements and criteria for using parking decals. The rule is necessary so that a state employee understands how to properly place their parking permit so that it is visible. The objective of R2-11-205 is to authorize the Department to enforce all state laws governing the operation of vehicles. The rule is necessary to provide safe traffic and parking conditions for state employees and the public. The objective of R2-11-206 is to explain the penalties for violations under this Article or other laws. The rule is necessary so vehicle operators know what the fines are for violation of traffic and parking rules and laws. The objective of R2-11-207 is to explain the hearing process for a registered owner if they wish to contest a citation. The rule is necessary so that a person has the ability to appeal a citation. The objective of R2-11-208 is to allow a party in a contested case before the Department to file a motion for rehearing or review within 30 days after service of the final administrative decision. The rule is necessary for a person to have the ability to request a rehearing. The objective of R2-11-209 is to authorize the Department to remove any vehicle on state property that is parked in a prohibitive manner under the provisions of this Article and requires the registered owner of the vehicle to pay all costs for removal. The rule is necessary to maintain safe traffic and parking conditions on state property for state employees and the public.

### **Article 3 Solicitation**

#### **R2-11-301 through R2-11-311**

Article 3 rules regulate the use of state property for solicitation of material. Article 3 rules are necessary so that an individual or individuals requesting to hold a solicitation on state property are provided the application process for their requests, sets forth rules and requirements they must follow, and prescribes their appeal process should their request be denied by the Director. The objective of R2-11-301 is to define the terms and phrases used in Article 3. The rule is necessary for clarity and understanding of the rules. The objective of R2-11-302 is to prevent a solicitation on state property without express written permission from the Director. The objective of R2-11-303 outlines the application requirements to conduct a solicitation on state property. R2-11-304 is to explain the processing procedure for applications of solicitations. The objective of R2-11-305 is to explain the permit issuance and denial process for applications of solicitations. The objective of R2-11-306 is to authorize the Director to designate one bulletin board in every state building where the solicitor shall post solicitation material. The objective of R2-11-307 is to prevent a person from using state materials, supplies, equipment or other resources, such as payroll stuffing or interoffice mail, to conduct a solicitation. The objective of R2-11-308 is to prevent a person from conducting a solicitation at a work site except for posting material on a bulletin board designated by the Director. The objective of R2-11-309 is to exempt certain state programs from the solicitation requirements. The objective of R2-11-310 is to authorize the Director to suspend or revoke a permit for failure to comply with this Article. The objective of R2-11-311 is to explain the process that a solicitor may obtain a hearing on a denial or summary suspension of a permit and outlines the timelines for both the Department and the applicant on process.

**Article 4 Special Events**  
**R2-11-401 through R2-11-409**

Article 4 regulates the use of state property for special events. Article 4 rules are necessary so that an individual or individuals requesting to hold a special event on state property are provided the application process for their request, sets forth rules and requirements they must follow, and prescribes their appeal process should their request be denied by the Director. The objective of R2-11-401 is to define of terms and phrases used in Article 4. The rule is necessary for clarity and understanding of the rules. The objective of R2-11-402 is to prevent unauthorized use of state buildings or grounds without express written permission from the Director. The objective of R2-11-403 is to explain the application requirements for special events. The objective of R2-11-404 is to explain the processing procedure for applications of special events. The objective of R2-11-405 is to explain the permit issuance and denial process for applications of special events. The objective of R2-11-406 is to require all sponsors of special events must designate one monitor for every 50 persons expected to attend an event. The objective of R2-11-407 is to set forth requirements by the Director for the sponsor to abide by all conditions set forth by the Director in ensuring the public health and safety at an event. The objective of R2-11-408 is to authorize the Director to suspend or revoke a permit for failure to comply with this Article. R2-11-409 stipulates that a sponsor may obtain a hearing on a denial or summary suspension of a permit and outlines the timelines for both the Department and the applicant on the process.

**Article 5 Severability**  
**R2-11-501**

The objective of R2-11-501 is to ensure that if a rule or portion of a rule in this Chapter is held unconstitutional or invalid, the holding does not affect the validity of the remaining rules. The rule is necessary so that in the event a section is held invalid, the rest of the rules remain whole and unaffected.

3. Effectiveness of the rules in achieving the objective, including a summary of any available data supporting the conclusion reached:

All of the rules effectively achieve their objectives.

4. Consistency of the rules with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency:

The Department's analysis of these rules shows that the rules do not exceed the authority provided by statute. The rules are consistent with A.R.S. §§ 41-621, 41-791, and 41-796.

5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:

The Department enforces R2-11-101 through R2-11-114, R2-11-201 through R2-11-209, R2-11-301 through R2-11-311, R2-11-401 through R2-11-409 and R2-11-501.

6. Clarity, conciseness, and understandability of the rules:

All of the rules are generally clear, concise, and understandable.

7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analysis submitted to agency questioning whether the rules are based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rules are discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:

The Department has not received written criticisms regarding any of the rules during the last five years.

8. A comparison of the current economic, small business, and consumer impact of the rules with economic, small business, and consumer impact statement prepared on the last rulemaking of the rule or, if no economic, small business, and consumer impact statement was prepared on the last rulemaking of the rule, an assessment of the actual economic, small business, and consumer impact of the rules:

The information provided with the previous five-year-review report approved by Council on November 4, 2008 indicated that the economic impact of the rules had not differed significantly from that projected in the economic impact statement submitted in the final rulemaking and made effective on August 8, 2003. Article 2 rules could have an impact on public and private individuals or small businesses that use the state parking facilities, if the use is inappropriate. Articles 3 and 4 can impact small businesses looking to conduct a solicitation or special event on state property. Impacts can occur regarding the special events rules in cases where special events are cancelled due to increased costs for insurance coverage required by the Director. However, the rules on special events can have a favorable impact on small businesses as well, specifically insurance agents who provide coverage for such events.

The administrative costs for compliance of these rules are minimal to the Department. There are no viable alternative methods of compliance that would apply to small business.

The Department did not see any impacts as a result of the 2003 economic impact statement and its estimations as noted nor received comments on the EIS. In addition, there are no changes from the previous economic impact statements provided to Council.

Since the previous five-year-review report was approved by Council, the Arizona Department of Public Safety (DPS) is now responsible for enforcement of the Article 2 traffic and parking rules. As a result of legislative changes, the former Capitol Police

whom enforced the Article 2 rules previously was transitioned into DPS. The Department believes what was reported in the 2003 EIS remains the same. Article 2 rules will have a negative impact on the small businesses that use the state parking facilities, if the use is inappropriate. The Department may subcontract the collection duties to a collection agency, and that would have a positive impact on the collection agency's revenues. There is no practical method to reduce the impact on small businesses that use the state parking in the conduct of business, without diluting the corrective effects sought in the rules. The Department will continue to monitor the enforcement of the traffic and parking rules.

The 2003 EIS submitted on Special Events and Solicitation rules reported 1528 applications received by the Office of Special Events in 2001. Of the 1528 applications, 131 were cancellations. The Department also reported that there had never been a revocation of a permit then. In comparison, there were a total of 165 applications received by the Office of Special Events in 2012. By contrast, the Department processed 151 applications within the timeframe prescribed in the rules, whereas, the Department did not have that information available in the 2003 EIS. In addition, the Department revoked 14 applications for solicitations, whereas, the Department reported that no applications were revoked in the 2003 EIS. The difference in the number of applications being reported in the 2003 EIS to the substantially lower number of applications in 2012 is a result to the Department stopping the use of state indoor facilities for solicitations and special events. In addition, the State's budget situation reduced the number of employees within the Office of Special Events down to one FTE.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

None

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:

The Department did not complete the course of action indicated in the previous five-year review report.

The Department stated in the previous five-year-review report, approved by Council on November 4, 2008, that it was considering amending Article 2, Sections R2-11-201 and R2-11-206 to update the rules relating to the removal of vehicles on state property and the current penalty structure for violators. After further discussion, the Department decided the penalties outlined in R2-11-206 were fair and offered the least financial impact to individuals who may violate the rules. In addition, the Department reviewed the vehicle removal procedures from state property and determined that the existing rules were in line with other private or public property vehicle removal procedures.

In that report, the Department also indicated the possibility of amending Articles 3 and 4 and was in the process of considering draft amendments with the goal to open a docket in November 2008. After further discussion, the Department decided not to move forward on amending Sections R2-11-301 through R2-11-311 and R2-11-401 through R2-11-409, which were operating without comment or challenge.

11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Department believes that the rules impose the least burden and costs to individuals, public and private entities regulated by these rules. The Department has made every effort to ensure the procedures outlined for individuals regulated by the rules are efficient, cost effective and necessary to achieving the regulatory objectives.

12. A determination that the rules are not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law, indicating whether:

- a. There is a similar regulatory framework governing the same subject matter under federal law,

There is no similar regulatory framework or federal law applicable to the subject matter of the rules.

- b. The rules are more restrictive than a similar requirement in federal law, and

There is no similar requirement in federal law.

- c. There is statutory authority for more restrictive requirements than those in federal law.

Federal law does not apply to these rules.

13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037, indicating whether:

- a. The rule requires issuance of a regulatory permit, license, or agency authorization;

The Department indicates that the rules are not applicable to the requirements imposed by A.R.S. § 41-1037 as the rules were adopted prior to July 29, 2010.

- b. The permit, license, or agency authorization falls within the definition of “general permit” in A.R.S. § 41-1001, if a permit, license or agency authorization is issued; or

Not applicable as answer was provided in 13(a).

- c. An exception applies under A.R.S. § 41-1037, if a general permit is not issued.

Not applicable as answer was provided in 13(a).

- 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department is not considering a course of action in amending the rules at this time.

## **FIVE-YEAR REVIEW REPORT**

### **TITLE 2. ADMINISTRATION CHAPTER 6. DEPARTMENT OF ADMINISTRATION BENEFIT SERVICES [DIVISION]**

#### **INTRODUCTION AND BACKGROUND**

The Arizona Department of Administration (ADOA), Human Resources Division, Benefit Services Office fulfills the statutory responsibility to provide health and other insurance benefits to the State of Arizona employees, retirees, long-term disability recipients, COBRA participants and their eligible dependents. "Benefit Options" is the program name for the benefits offered to State of Arizona employees and retirees.

According to the *2012 Benefit Options Annual Report* published by ADOA, during the 2012 Plan Year (the period of January 1, 2012 through December 31, 2012), the Benefit Options program offered a comprehensive insurance package to over 128,000 members consisting of active State and university employees, retirees, and their qualified dependents. The benefits include medical, pharmaceutical, dental, flexible spending, vision, wellness, life, and disability insurance. For 2012, the health benefit plan was self-funded; whereas the dental plans, vision plan, disability insurance, and life insurance plans were fully-insured. Based on the 2012 contribution strategy, the total health and dental premiums collected was \$734 million with total plan expenses of \$726 million, resulting in a net operational gain of more than \$7 million.

Title 2, Chapter 6, Department of Administration – Benefit Services Division, is the set of rules that govern the insurance benefit plans made available by the agency, eligibility criteria, enrollment periods, effective dates, and the procedures for requesting a review of either a plan provider decision or an agency decision. These rules impact all state employees (including university employees), retirees, former elected officials and their eligible dependents, as well as plan providers.

These rules were codified March 7, 2009. Prior to 2009, Benefit Services Rules were located in Title 2, Chapter 5. The agency's 2006 Five-Year Review of the rules in Title 2, Chapter 5, which was approved by the Governor's Regulatory Review Council (GRRC) in September 2006, included a recommendation that the Benefit Services Rules be relocated to a separate chapter. Effective March 7, 2009, the Benefit Services Rules were repealed from Chapter 5 and adopted as new rules in Chapter 6. Although there were some similarities to the previous rules, the agency made the new rules more clear, concise and understandable and also included new language pertaining to older children who become disabled. Thus, this is the first Five-Year Review Report on the rules in Title 2, Chapter 6.

During the past five years, none of the rules in Title 2, Chapter 6 have been repealed, adopted or amended. The agency anticipates amending several rules to reflect court rulings, legal interpretations, and changing requirements. Further, any proposed action may be subject to change with the continuing implementation of the federal Patient Protection and Affordable Care Act (PPACA) and federal and state regulations.

## **REVIEW PROCEDURES**

The four articles of the ADOA Benefit Services Rules were reviewed by a Human Resources Management Group consisting of Benefit Services and other Human Resources managers.

The Human Resources Management Group reviewed all existing rules, held discussion sessions, and compiled possible suggestions for changes and improvements. Comments received by managers and staff members while providing services to employees, supervisors and agency management, as well as changes in laws, best practices, employee inquiries and internal agency procedures were taken into consideration.

Rule recommendations were built upon the findings and discussions of the Human Resources Management Group and reflect a consensus on each of the major recommendations. The results are reflected in this report in the Analysis of Individual Rules, under item #14. The identified changes will be promulgated subject to review of the ADOA Director, the Human Resources Director, and other Human Resources Division Benefit Services staff. The final changes then will be considered when fulfilling rule requirements covered by this review.

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## ANALYSIS THAT IS IDENTICAL FOR ALL OF THE RULES

As provided by Arizona Administrative Code (A.A.C.) R1-6-301(B), the following information is the same for all of the rules in this report:

**4. Consistency of the rules with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency:**

**a. Consistency with federal statutes**

Except as indicated in the “Notes” provided below, the rules are consistent with applicable federal laws. The federal laws used in determining the consistency include, but are not limited to:

- The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986, which provides employees and their dependents the opportunity to continue group health insurance coverage that might otherwise be terminated
- The Health Information Technology for Economic and Clinical Health (HITECH) Act, which addresses privacy and security concerns associated with the electronic transmission of health information
- The Health Insurance Portability and Accountability Act (HIPAA) of 1996, which protects health insurance coverage for employees and their covered dependents when they change or lose their jobs and establishes the requirements for the security and privacy of health data, including who is covered, what information is protected, and how protected health information can be used and disclosed
- The Newborns’ and Mothers’ Health Protection Act (Newborns’ Act) of 1996, which includes important protections for mothers and their newborn children with regard to the length of the hospital stay following childbirth, and the notice to satisfy the Newborns’ Act disclosure requirement
- The Patient Protection and Affordable Care Act (PPACA), which includes a requirement for insurance companies to cover all applicants within new minimum standards and regardless of pre-existing conditions; requires that adult children be allowed to remain on their parents’ insurance plans until the child turns 26 years old; and, will require employers to offer health insurance to employees who work an average of 30 or more hours per week, with some exceptions
- Section 125 of the Internal Revenue Code, which sets forth the requirements and tax treatment of cafeteria [insurance] plans, including flexible spending accounts

**Notes:**

It is important to note that the Employee Retirement Income Security Act (ERISA), which covers most private sector employee benefit plans, does not cover plans established or maintained by government entities; thus, ERISA was not used in determining consistency.

Rule R2-6-101, Definitions, specifically subsections (8), (18) and (34), which provide definitions for “child”, “disabled older child” and “older child”, respectively, are inconsistent with the PPACA, pertaining to coverage for young adults under age 26.

**b. Consistency with state statutes**

Except as indicated in the “Notes” provided below, the rules are consistent with state laws. The state laws used in determining the consistency include, but are not limited to:

- Applicable state statutes in Title 20 (because the health benefit plan is self-funded, A.R.S. § 38-651 requires the agency to provide that the self-insurance program include all health coverage benefits that are mandated pursuant to Title 20)
- A.R.S. § 38-612, Administration of payroll salary deductions, which allows state officers or employees to authorize deductions to be made from their salaries or wages for the payment of premiums on any health benefits, disability plans or group life plans provided for by statute and any existing insurance programs already provided by payroll deduction
- The statutes in Title 38, Chapter 4, Article 4, Health and Accident Insurance
- A.R.S. § 38-1103, Health insurance payments for spouse or dependents of law enforcement officer killed in the line of duty; applicability; definitions
- A.R.S. § 41-703, Duties of [ADOA] director, which grants general authority to the ADOA Director for the agency’s activities and operations; A.R.S. § 41-703(11) authorizes the ADOA Director to delegate “as the director deems necessary to carry out the efficient operation of the department.”

**Notes:**

Rules R2-6-101, Definitions, R2-6-106, Effective Date of Coverage, and R2-6-108, COBRA, which include “domestic partner” (same-sex or opposite-sex) as an eligible dependent, are inconsistent with A.R.S. § 38-651, Expenditure of monies for health and accident insurance, which authorizes the agency to expend public monies for health and accident insurance for state officers and employees and their eligible dependents. During the 2009 legislative session, Third Special Session, A.R.S. § 38-651 was amended by adding a definition for “dependent” to include only a spouse or a child, precluding previously qualified same-sex and opposite-sex domestic partners from receiving benefits. The agency stopped offering benefits to opposite-sex domestic partners and intended that the law apply equally to same-sex domestic partners; however, a United States Federal District Court, in *Diaz v. Brewer, et al.* (2:09-cv-02402 JWS), imposed a preliminary injunction preventing the State from implementing A.R.S. § 38-651(O) as applied to qualified same-sex domestic partners. As of the writing of this report, the injunction is still in effect and the case is pending litigation.

Rules referencing surviving dependent and/or surviving spouse are consistent with A.R.S. § 38-651.01, Group health and accident coverage for retired public employees and elected officials and their dependents. However, the rules have

not been amended to incorporate the provisions of A.R.S. § 38-1103, Health insurance payments for spouse or dependents of law enforcement officer killed in the line of duty; applicability; definitions, which was added by Laws 2010 and subsequently amended by Laws 2013. The agency is enforcing any inconsistencies or omissions in rule according to statute.

**c. Consistency with other rules made by the agency**

Except as indicated in the “Notes” provided below, the rules are consistent with other rules made by the agency. The rules used in determining the consistency include, but are not limited to:

- 1 A.A.C. 6, Governor’s Regulatory Review Council
- 2 A.A.C. 1, Department of Administration
- 2 A.A.C. 5, Department of Administration – State Personnel System (heading changed from Personnel Administration to State Personnel System at 18 A.A.R. 2784, effective September 29, 2012)
- 2 A.A.C. 7, Department of Administration – Finance Division, Purchasing Office
- 2 A.A.C. 10, Department of Administration – Risk Management Division
- 2 A.A.C. 11, Department of Administration – Public Buildings Maintenance
- 2 A.A.C. 15, Department of Administration – General Services Division

**Notes:**

The definition of “employee” in R2-6-101(21) is inconsistent with the definition of “employee” in 2 A.A.C. 1, 2 A.A.C. 5 and 2 A.A.C. 11, which define “employee” more broadly. The definition of “employee” in the Benefit Services rules (2 A.A.C. 6) incorporates eligibility for insurance benefits in the definition.

R2-6-301(F) contains incorrect references to rules in 2 A.A.C. 5, Department of Administration – State Personnel System. The rules in 2 A.A.C. 5 were repealed and new rules adopted effective September 29, 2012, with the implementation of personnel reform in State government.

**5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:**

The rules have been enforced consistently during the past five years through highly centralized control of interpretation and application by the ADOA Benefit Services Office. Although A.A.C. R2-6-103, Authority of the Director, permits the ADOA Director to delegate authority regarding the insurance plans to an agency head, the ADOA Director has not delegated this authority.

The ADOA Benefit Services Office maintains a comprehensive website to provide information to state officers and employees relating to various benefit topics. The information is applicable to all state employees (includes employees of State Personnel System (SPS) agencies and non-SPS agencies, i.e., the legislative and judicial branches, the state universities, the Department of Public Safety, etc.) and

retired state employees. The topics include a summary of who is eligible to participate in the benefit plans, detailed plan descriptions, guides and forms for enrollees, legal notifications, and other information.

Benefit guides are published annually, by plan year, according to audience: new hires, active employees, retired State employees and COBRA participants. The guides provide insurance enrollment information, a summary of any benefit changes for the plan year, eligibility criteria and, documentation requirements for eligible dependents. Notice is provided that Benefit Services may audit a member's documentation to determine whether an enrolled dependent is eligible according to the plan requirements.

The Benefit Services Audit Unit performs systematic evaluations of contract compliance, operational controls, risk management and dependent eligibility. Dependent eligibility audits are performed annually on the health plan's membership. The eligibility audits provide assurance that dependent eligibility is monitored and enforced.

**7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:**

During the five years immediately preceding the five-year review report, the agency has not received written criticisms regarding any of the rules. The agency has been named a party in a lawsuit where plaintiffs have alleged discrimination and requested a preliminary injunction on equal protection grounds. In the previously discussed *Diaz v. Brewer, et al.*, defendants include the governor of Arizona, the (former) interim Director of the agency, and two other agency officials. However, the plaintiffs are not alleging that the rule(s) is(are) discriminatory, but that the authorizing statute, A.R.S. § 38-651, in defining "dependent" as, "a spouse under the laws of this state ..." discriminates against same-sex partners. As previously mentioned in the agency's response to item #4(b), a district court imposed a preliminary injunction preventing the State from implementing A.R.S. § 38-651(O) as applied to qualified same-sex domestic partners. As of the writing of this report, the injunction is still in effect and the case is pending litigation.

**8. A comparison of the current estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule:**

The economic impact of the rules has not differed significantly from that projected in the economic impact statement (EIS) submitted with the last rulemaking effective March 2009 (copy attached). In that report, it was anticipated that costs of repealing the insurance benefit rules so that they could be relocated to a separate Chapter would be minimal. The rules directly affect state agencies and employees and not small businesses or consumers.

**9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:**

Not applicable. No analysis was submitted to the agency regarding the impact of the rules on business competitiveness.

**10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:**

Not applicable. The rules in Title 2, Chapter 6 were adopted as new rules effective March 7, 2009; thus, this is the first Five-Year Review Report on these rules.

**11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:**

The agency believes that once the changes indicated in this report are made, the rules will impose the least burden and costs to persons regulated by the rules.

**13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037:**

Not applicable. The rules in Title 2, Chapter 6 were adopted prior to July 29, 2010. In addition, the rules do not require issuance of a regulatory permit, license or agency authorization.

## ANALYSIS OF INDIVIDUAL RULES

### ARTICLE 1. GENERAL PROVISIONS R2-6-101 through R2-6-108

This Article includes definitions of terms used in the rules, a requirement for funding availability, the authority of the ADOA Director, and confidentiality requirements regarding protected health information. The Article also provides enrollment periods and effective dates for insurance coverage made available by ADOA as well as eligibility for coverage under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA).

#### R2-6-101. Definitions

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule provides definitions of words and terms used in the Benefit Services Rules. The definitions are necessary for understanding the terminology used throughout these rules.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the rule is effective in achieving the intended objective of providing understanding of the terms used in these rules. However, the agency believes the rule is only generally effective because changes to federal and state laws, as well as pending litigation, have resulted in inconsistencies in several of the definitions.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be partially clear, concise and understandable for the reasons cited in item #3.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than federal law.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The agency plans to amend R2-6-101 by amending the definitions for "child," "disabled older child" and "older child." To differentiate between "dependent" as used throughout most of the rules and a "dependent" as used in A.R.S. § 38-1103, Health insurance payments for spouse or dependents of law enforcement officer killed in the line of duty; applicability; definitions, the agency plans to add a definition for "surviving dependent of a deceased law enforcement officer." In addition, the agency is proposing to remove definitions and references to "domestic partner" in order to correct the inconsistencies with A.R.S. § 38-651. Subject to the rulemaking moratorium, the agency anticipates submitting a final rulemaking by December 2014.

**R2-6-102. Availability of Funds Required**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule describes the requirement for the availability of funds in order to expend public funds for insurance plans. The rule is necessary so all parties are aware that insurance benefit expenses are contingent upon legislative appropriation and funding availability.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

Not applicable; there is no corresponding federal law pertaining to the requirement for the availability of funds. The requirement for the availability of funding is a state requirement only.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-103. Authority of the Director**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general rulemaking authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule describes the authority of the ADOA Director pertaining to the insurance plans made available by the agency, including a provision for the ADOA Director to delegate specific authority to an agency head. A.R.S. § 41-703(11) provides general authority for the ADOA Director to delegate administrative functions, duties and powers as the Director deems necessary. The rule is necessary to outline the ADOA Director's scope and authority for parties subject to the Benefit Rules.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

Not applicable; there is no corresponding federal law pertaining to the authority of the ADOA Director. The ADOA Director's authority is prescribed by state law(s).

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-104. Confidentiality**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule stipulates that the agency must comply with all laws regarding use and disclosure of protected health information of plan participants.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than the federal law. The rule requires that the Department complies with all federal laws regarding protected health information; thus, the rule does not impose more stringent requirements than the federal laws.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-105. Times for Enrollment**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general rulemaking authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule describes when eligible individuals may enroll in the insurance plans made available by the agency. The rule is necessary so affected individuals know how many days/months they have after a specified event to enroll for insurance benefits.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than federal law and, in fact, may be slightly more generous than federal law. For example, the federal Health Insurance Portability and Accountability Act (HIPAA) provides that an employee must enroll within 30 days of loss of coverage or life event. However, state laws may complement HIPAA by allowing more protections than the federal law, such as by increasing the number of days parents have to enroll children in certain cases. Arizona state law and this rule provide that an employee must enroll within 31 days (30 days under federal law) of loss of coverage or other qualified life event.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-106. Effective Date of Coverage**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule outlines the effective dates of coverage upon initial enrollment, notification of a qualified life event, eligibility for Medicare, or other approved changes. The rule is necessary so affected individuals know when insurance coverage commences and changes to coverage become effective.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the rule is effective in achieving the objective. However, the agency believes the rule is only generally effective because the rule is silent regarding continuing health insurance coverage for a surviving spouse or surviving dependent(s) of a deceased law enforcement officer as provided by A.R.S. § 38-1103 and the rule includes two references to “domestic partner.”

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be partially clear, concise and understandable for the reasons cited in item #3.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than federal law.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The agency plans to amend R2-6-106 by adding information pertaining to continuation of health insurance coverage for a surviving spouse and surviving

dependents of a deceased law enforcement officer. In addition, the agency proposes to remove domestic partners from the rule in order to correct the inconsistency between the rule and A.R.S. § 38-651. Subject to the rulemaking moratorium, the agency anticipates submitting a final rulemaking by December 2014.

## **R2-6-107. Termination of Coverage**

### **1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

### **2. Objective of the rule, including the purpose for the existence of the rule:**

This rule outlines when insurance coverage terminates for an employee, an eligible dependent, a retiree or former elected official, a surviving spouse or dependent and a COBRA member. The rule is necessary so affected individuals understand when insurance coverage terminates.

### **3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the rule is effective in achieving the objective. However, the agency believes the rule is only generally effective because the rule is silent regarding the termination of coverage for a surviving spouse or surviving dependents of a deceased law enforcement officer as provided by A.R.S. § 38-1103. In accordance with A.R.S. § 38-1103(D), coverage terminates if the surviving spouse remarries, becomes eligible for Medicare or dies.

### **6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be partially clear, concise and understandable for the reasons cited in item #3.

### **12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than federal law.

### **14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an**

**existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The agency plans to amend R2-6-107 by adding information pertaining to termination of insurance coverage for a surviving spouse and surviving dependents of a deceased law enforcement officer. Subject to the rulemaking moratorium, the agency anticipates submitting a final rulemaking by December 2014.

**R2-6-108. COBRA**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule sets forth the notification requirements for COBRA-qualifying events and stipulates that the State shall not pay any of the cost for COBRA coverage. The rule is necessary so affected individuals are aware of the notification requirements and if an individual elects COBRA, he/she will be responsible for all costs plus an administrative fee.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the rule is effective in achieving the objective. However, the agency believes the rule is only generally effective because the rule includes a reference to "domestic partnership."

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be partially clear, concise and understandable for the reason cited in item #3.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than a corresponding federal law. Subsection E of the rule states that COBRA coverage is determined by federal law; therefore, the rule does not impose more stringent requirements than the federal law.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The agency is proposing to amend R2-6-108 by removing the reference to domestic partnership from the rule in order to correct the inconsistency between the rule and A.R.S. § 38-651. Subject to the rulemaking moratorium, the agency anticipates submitting a final rulemaking by December 2014.

**ARTICLE 2. INSURANCE PLANS  
R2-6-201 through R2-6-205**

This Article includes the types of insurance plans available through the State, information pertaining to long-term disability insurance, the types of flexible spending accounts and the flexible benefit plan available to State employees, as well as the minimum performance standards for health, dental and vision insurance plans.

**R2-6-201. Insurance Plans**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule sets forth the types of insurance plans the agency will make available to eligible individuals. The rule is necessary so that affected individuals are aware of the types of insurance plans the State offers.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

Not applicable; there is no corresponding federal law currently in effect that requires the State to offer health or other insurance coverage.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-202. Long-term Disability Insurance**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development. A.R.S. § 38-651.03 provides specific authority for the agency to adopt rules for eligibility of officers and employees and for integrating disability income insurance with other forms of income protection.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule provides that employees will be automatically enrolled in a long-term disability (LTD) plan, the plan in which an employee is enrolled is dependent on the retirement plan to which the employee is contributing, and payments and benefits may offset the amount an employee receives under an LTD plan. The rule is necessary so employees are aware of the automatic enrollment and offset provision.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than federal law.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-203. Flexible Spending Accounts**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development. A.R.S. § 38-651.05 provides specific authority to the agency to provide for deductions or salary reductions for flexible spending accounts and to adopt rules.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule identifies the types of flexible spending accounts that employees may establish and specifies that such accounts are regulated by federal law. The rule is necessary so employees are aware they may establish a flexible spending account, which can provide certain tax benefits and, if an employee establishes such an account, of the requirement to annually sign a salary reduction order for the account.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than the federal law. The rule states that a flexible spending account is regulated by federal law; therefore, the rule does not impose more stringent requirements than the federal laws.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-204. Employee Flexible Benefit Plan**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development. A.R.S. § 38-651.05 provides specific authority for the agency to establish a flexible or cafeteria employee benefit plan and to adopt rules for its administration.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule establishes the state's health and supplemental life insurance plans and flexible spending accounts as pre-tax plans under the Internal Revenue Service regulations and sets forth the requirement that the agency comply with Section 125 of the Internal Revenue Code pertaining to pre- and post-tax treatment of compensation. The rule is necessary for understanding how an employee's compensation will be treated in a flexible benefit plan.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than federal law. The rule references Section 125 of the Internal Revenue Code and stipulates that the compensation of an employee or officer be taxed as required by law.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-205. Performance Standards for Health, Dental, and Vision Insurance Plans**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development. A.R.S. § 38-651 provides specific authority for the agency to designate and adopt performance standards for qualifying plans by rule.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule sets forth the minimum performance standards for health, dental and vision insurance plans. The rule is necessary so that plan providers are aware of the minimum performance standards with which they must comply in the areas of cost competitiveness, utilization review, network development/access, conversion and implementation, report accuracy and timeliness, quality outcomes and customer satisfaction.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

Not applicable; there is no federal law currently in effect that establishes performance standards for public sector employee insurance plans.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**ARTICLE 3. ELIGIBILITY CRITERIA  
R2-6-301 through R2-6-303**

This Article includes the eligibility criteria for participation in the health, dental, vision and disability insurance plans and the agency's authority to conduct audits to ensure individuals enrolled by members are eligible dependents.

**R2-6-301. Eligibility to Participate in Health, Dental, and Vision Insurance Plans**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule sets forth who is eligible to participate in the State's health, dental and vision insurance plans, the eligibility exception for an employee who is on approved leave without pay and coverage of a newborn infant. The rule is necessary to specify that employees, officers, retirees, former elected officials, eligible dependents and surviving spouses and dependents may participate in the insurance plans by enrolling at specified times and by paying the cost of each plan chosen. The rule also provides notice to satisfy the Newborns' and Mothers' Health Protection Act (Newborns' Act) disclosure requirement.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the rule is effective in achieving the objective. However,

the agency believes the rule is only generally effective because the rule is silent regarding eligibility for a surviving spouse or surviving dependents of a deceased law enforcement officer as provided by A.R.S. § 38-1103. In addition, as noted in the agency's response to item #4(c), the rule contains incorrect references to rules in 2 A.A.C. 5, Department of Administration – State Personnel System.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be partially clear, concise and understandable for the reasons cited in item #3.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than federal law. Although A.R.S. § 20-1057 addresses coverage for newborns and length of stays in connection with childbirth, because the State's health insurance plan is self-insured, the State's health benefit plan must comply with the federal Newborns' law requirements.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The agency proposes to amend R2-6-301 by adding information pertaining to a surviving spouse and surviving dependents of a deceased law enforcement officer. In addition, the agency proposes to amend subsection (F) to update the references to rules in 2 A.A.C. 5. Subject to the rulemaking moratorium, the agency anticipates submitting a final rulemaking by December 2014.

**R2-6-302. Eligibility to Participate in Life and Short-term Disability Insurance Plans**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development. A.R.S. § 38-651.03 provides specific authority for the agency to adopt eligibility criteria and standards for disability income insurance for State officers and employees.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule sets forth who is eligible to participate in the State's life and short-term disability insurance plans and limitations of the plans, where applicable. The rule is necessary to specify that employees, officers, former elected officials, eligible dependents and a surviving spouse of a former elected official may participate in these insurance plans by enrolling at specified times and, except for basic life insurance which is provided to an employee or officer at no charge, by paying the cost of each plan chosen.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

Not applicable; there is no corresponding federal law regarding eligibility to participate in an employer's disability insurance plan(s).

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-303. Audit of Dependent Eligibility**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule provides notice that the agency will conduct audits to verify dependent eligibility, the acceptable documentation for eligibility and the action that will be taken

by the agency if a member chosen for audit fails to produce evidence of dependent eligibility within the required timeframe, including terminating the insurance coverage of the individual whose eligibility was not proven. The rule is necessary so that members are aware of the agency's audit process and requirements.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the rule is effective in achieving the objective. However, the agency believes the rule is only generally effective because the federal Patient Protection and Affordable Care Act (PPACA) affects the ability of a group health plan or insurer to rescind, or otherwise cancel, such plan or coverage for any individual, including an ineligible dependent. In addition, under the PPACA, although coverage for an ineligible dependent may be cancelled retroactively, advance notice of at least 30 days must be provided to the individual.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be partially clear, concise and understandable for the reasons cited in item #3.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that with the recent enactment of the PPACA, the rule could be considered more stringent than the federal law. There is no statutory authority to exceed the requirements of the PPACA; therefore, the agency is proposing minor revisions to the rule to ensure the rule is not more stringent than federal law. The course of action the agency is proposing is outlined in item #14.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The agency proposes to amend subsection (D) of the rule by replacing "shall" with "may" and by adding a provision that will address the advance notice requirement if the agency terminates insurance coverage of an individual whose eligibility was not proven. Subject to the rulemaking moratorium, the agency anticipates submitting a final rulemaking by December 2014.

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**ARTICLE 4. APPEALS AND GRIEVANCES**  
**R2-6-401 through R2-6-402**

This Article includes appeal and grievance procedures for plan-provider decisions and agency decisions, respectively.

**R2-6-401. Appeal of a Plan-provider Decision**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development. A.R.S. § 38-651 provides specific authority for the protection of the State officers and employees, including grievance procedures for claim or treatment denials.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule delineates the authority delegated to the plan providers by the agency and outlines that a member who wishes to appeal a decision by the plan provider is required to follow the appeal procedures as outlined in the plan. The rule is necessary so that members are aware of the authority that has been delegated to the plan providers and the method for appealing a plan provider's decision.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than federal law.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an**

**existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-6-402. Grievance of a Department Decision**

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. § 41-703(3) provides general authority. A.R.S. § 38-653 provides specific authority for Benefit Rules development. A.R.S. § 38-651 provides specific authority for the protection of State officers and employees, including grievance procedures for creditable coverage determinations, dissatisfaction with care and access to care issues.

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule identifies insurance benefits-related matters that may be grieved through the agency's benefits grievance procedure, the process for filing a grievance and how and when the agency will provide a response. The rule is necessary so that members are aware of which insurance benefits matters are grievable, the method for filing a benefits grievance and when the member can expect a response.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to the rule, the agency believes the rule is effective in achieving the objective.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rule to be clear, concise and understandable.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

After analysis, the agency has determined that the rule is not more stringent than federal law. The rule complies with the federal Patient Protection and Affordable Care Act (PPACA) which requires a process for eligibility challenges. The rule permits an individual to file a grievance with the Director regarding determination of eligibility.

- 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**Five Year Review Report**  
**Title 2, Chapter 15, Article 3, Materials Management**  
**Management Services Division**

Introduction

The Arizona Department of Administration (ADOA) adopted rules as authorized by statute to provide policies and procedures for the State Surplus Administrator to act on behalf of the state in all matters pertaining to the disposition of excess and surplus materials. The rules were original adopted as an emergency, effective January 1, 1985. The rules were permanently adopted, effective April 3, 1985. The rules were later amended by final rulemaking, effective September 24, 2004. The rules include Chapter 15 consisting of Article 3, R2-15-301 and R2-15-303 through R2-15-310 inclusive.

ADOA conducted a five-year-review of these rules that was approved by GRRC Council on November 3, 2009. The five-year-review report approved by Council during that time indicated that Article 3 was clear, concise, effective, and conformed to the specific statute in law. In addition, the Department noted that no course of action was needed for the rules.

Except as otherwise noted, the information is identical, consistent and effective for all of the rules in the Article.

1. General and specific statutes authorizing the rules:

A.R.S. §§ 41-703(3), 41-2511 – Provides specific authority for the rules.

2. Objective of the rules including the purpose for the existence of the rules:

ADOA believes the rules are effective in achieving their objectives.

**Article 3 Materials Management**  
**R2-15-301 and R2-15-303 through R2-15-310**

Article 3 rules establish the Department's policies and procedures for the Surplus Property Administrator to act on behalf of the state in all matters pertaining to the disposition of excess and surplus materials. The objective of R2-15-301 is to help state employees and the public understand the terminology that is used throughout this Article. The reason the rule is necessary is to ensure state employees and the public understand the words used in the rest of the rule. The objective of R2-15-303 is to outline the responsibilities, the disposal methods, and how to trade-in surplus or excess material for state government units. In addition, the objective of this rule explains the sealed bidding process and online sales advertising for surplus and excess material. The reason this rule is necessary is because there should be clear guidance as to the disposition methods

allowed and because ARS 41-2602 directs the Department to enact rules covering this topic. The objective of R2-15-304 is to have each state government unit conduct an inventory and outlines how to do an annual inventory report. The reason this rule is necessary is because conducting an annual inventory is part of good governance and because ARS 41-2602 directs the Department to enact rules covering this topic. The objective of R2-15-305 shows state government units how to remove capital inventory material that has been lost, stolen or destroyed. The reason this rule is necessary is because good governance would suggest there be a mechanism and process in place to remove items from inventory which have been lost stolen or missing and because ARS 41-2602 directs the Department to enact rules covering this topic. The objective of R2-15-306 is to direct the State Surplus Property Administrator to file a state plan of operations with the General Services Administration, provides authority for the State Surplus Property Administrator to act on behalf of the state regarding federal surplus material and requires the State Surplus Property Administrator to distribute federal surplus material to eligible entities. The reason for this rule is good governance would suggest that the methods by which the State acquires or disposes of excess and surplus materials should be formalized and available to the agencies or the public and because ARS 41-2602 directs the Department to enact rules covering this topic. The objective of R2-15-307 is to explain the eligibility for the acquisition of federal or state surplus material for state agencies and disallows state government units from obtaining excess or surplus materials without the approval of the State Surplus Property Administrator. The reason for this rule is because good governance would suggest there should be guidance regarding eligibility for the surplus program and a control element in place to track the acquisition of property from the Federal Government and because ARS 41-2604 directs the Department to enact rules covering this topic. The objective of R2-15-308 is to allow the State Surplus Property Administrator to assess fees and charges to state government units for the transfer or sale of surplus state material. The reason for this rule is to clearly outline the mechanism by which the program is funded and because ARS 41-2607 directs the Department to enact rules covering this topic. The objective of R2-15-309 is to outline the circumstances where the State Surplus Property Administrator may authorize the State Treasury to place monies into a government-insured depository institution. This reason for this rule is to provide guidance as to where monies received by the program are deposited. R2-15-310 prescribes the authority to reimburse agencies on the sale or disposal of state surplus or excess materials and provides thresholds for that reimbursement to state government units. The reason for this rule is to provide guidance to the program on how and to whom proceeds are reimbursed and because ARS 41-2607 directs the Department to enact rules covering this topic.

3. Effectiveness of the rules in achieving the objective, including a summary of any available data supporting the conclusion reached:

All of the rules effectively achieve their objectives.

4. Consistency of the rules with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency:

The Department's analysis of these rules shows that the rules do not exceed the authority provided by statute. The rules are consistent with A.R.S. §§ 41-703(3) and 41-2511.

5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:

The Department enforces 2 A.A.C. 15, Article 3.

6. Clarity, conciseness, and understandability of the rules:

All of the rules are generally clear, concise, and understandable. However, R2-15-303B with respect to the citation regarding the Mines and Minerals Museum (ARS 27-105(6)) has been rendered moot by statute. The specific statute granting the exemption has been repealed. The Department may undertake a rule revision to remove this exemption however since there is no longer a Department of Mines and Minerals, the rule change would strictly be a technical correction to strike the language.

7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analysis submitted to agency questioning whether the rules are based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rules are discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:

The Department has not received written criticisms regarding any of the rules during the last five years.

8. A comparison of the current economic, small business, and consumer impact of the rules with economic, small business, and consumer impact statement prepared on the last rulemaking of the rule or, if no economic, small business, and consumer impact statement was prepared on the last rulemaking of the rule, an assessment of the actual economic, small business, and consumer impact of the rules:

The information provided with the previous five-year-review report approved by Council on November 3, 2009 indicated that the economic impact of the rules had not differed and that there has been no impact on small business or consumers in the state. The effects on state agencies has not changed and remain unchanged from the previous EIS report submitted with the 2004 amendment of the rules. In FY2014, the Program grossed over \$3,000,000 in revenue as a result of the effectiveness of these rules.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

None

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:

The Department indicated in the previous five-year review report that no course of action was necessary for the rules.

11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Department believes that the rules impose the least burden and costs to individuals, public and private entities regulated by these rules. The Department has made every effort to ensure the procedures outlined for individuals regulated by the rules are efficient, cost effective and necessary to achieving the regulatory objectives.

12. A determination that the rules are not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law, indicating whether:

- a. There is a similar regulatory framework governing the same subject matter under federal law,

The federal government does not get involved in the disposal of state property, as disposal of state property is governed by state law. The Federal Surplus Property Program is authorized under ARS 41-2603. The Program complies with federal regulations and there are no corresponding State rules governing the Federal Surplus Property Donation program.

- b. The rules are more restrictive than a similar requirement in federal law, and

There is no similar requirement in federal law as the federal government does not get involved with the disposal of state property.

- c. There is statutory authority for more restrictive requirements than those in federal law.

Federal law does not apply to the disposal of state property.

13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037, indicating whether:

a. The rule requires issuance of a regulatory permit, license, or agency authorization;

The Department indicates that the rules are not applicable to the requirements imposed by A.R.S. § 41-1037 as the rules were adopted prior to July 29, 2010.

b. The permit, license, or agency authorization falls within the definition of “general permit” in A.R.S. § 41-1001, if a permit, license or agency authorization is issued; or

Not applicable as answer was provided in 13(a).

c. An exception applies under A.R.S. § 41-1037, if a general permit is not issued.

Not applicable as answer was provided in 13(a).

14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department is not considering a course of action in amending the rules at this time. However, the Department may undertake an action to strike the moot language contained in R2-15-303B to eliminate the repealed exemption.

**Five Year Review Report**  
**Title 2, Chapter 9, Article 1, General Provisions**  
**Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans**

Introduction

The Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans adopted rules as authorized by statute to provide policies and procedures that govern the solicitation of employees by persons offering tax deferred compensation and annuity plans. The former rules were repealed and a new section was adopted, effective May 7, 1980. The rules were later amended by final rulemaking, effective September 24, 2004. The rules include Chapter 9 consisting of Article 1, Section R2-9-101.

The Governing Committee conducted a five-year-review of the rule that was approved by GRRC Council on November 3, 2009. The five-year-review report approved by Council during that time indicated that Article 1 was clear, concise, effective, and conformed to the specific statute in law. In addition, the Committee noted that no course of action was needed for the rules.

Except as otherwise noted, the information is identical, consistent and effective for all of the rules in the Article.

1. General and specific statutes authorizing the rules:

A.R.S. §§ 38-871(C) (4) – Provides specific authority for the rules.

2. Objective of the rules including the purpose for the existence of the rules:

The Governing Committee believes the rule is effective in achieving its objective.

**Article 1 General Provisions**

**R2-9-101**

The objective of R2-9-101 is to establish the Governing Board's policies and procedures that govern the solicitation of employees by persons offering tax deferred compensation and annuity plans. The reason the rule is necessary is to ensure that the administrator of tax deferred compensation and annuity plans provides a business plan that describes its approach to educating and marketing to employees and does so in a manner approved by the Governing Board prior to engaging in such activity. In addition, the rule provides that if the administrator of such plans fails to provide the business plan as required or establish the procedures as required by this rule, then the result will be a breach of the contract with the Governing Board.

3. Effectiveness of the rules in achieving the objective, including a summary of any available data supporting the conclusion reached:

The rule effectively achieves its objective.

4. Consistency of the rules with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency:

The Governing Board's analysis of the rule shows that the rule does not exceed the authority provided by statute. The rule is consistent with A.R.S. §§ 38-871(C) (4).

5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:

The Governing Board enforces R2-9-101.

6. Clarity, conciseness, and understandability of the rules:

The rule is generally clear, concise, and understandable.

7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analysis submitted to agency questioning whether the rules are based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rules are discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:

The Governing Board has not received written criticisms regarding the rule during the last five years.

8. A comparison of the current economic, small business, and consumer impact of the rules with economic, small business, and consumer impact statement prepared on the last rulemaking of the rule or, if no economic, small business, and consumer impact statement was prepared on the last rulemaking of the rule, an assessment of the actual economic, small business, and consumer impact of the rules:

The information provided with the previous five-year-review report approved by Council on November 3, 2009 indicated that the economic impact of the rule had not differed and that there has been no impact on small business or consumers in the state. The rule only affects the Governing Board, the Plan Administrator and the Plan Participants of the state and does not affect the public and the impacts on those remain the same from the information provided in 2004.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

None

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:

The Governing Board indicated in the previous five-year review report that no course of action was necessary for the rule.

11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Governing Board believes that the rule imposes the least burden and costs to individuals, public and private entities regulated by the rule. The rule only affects the Governing Board, the Plan Administrator and the Plan Participants of the state and does not affect the public.

The impact remains the same from the information provided in 2009. The Governing Board will expend time reviewing and approving the annual business plan of the plan administrator. The information provided previously indicated that no fee increase would be requested by the plan administrator that would affect plan participants.

The Governing Board estimates that the rule does not have any impact on small businesses or consumers in the state, nor affects state agencies.

12. A determination that the rules are not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law, indicating whether:

- a. There is a similar regulatory framework governing the same subject matter under federal law,

There is no similar regulatory framework or federal law applicable to the subject matter of the rule.

- b. The rules are more restrictive than a similar requirement in federal law, and

There is no similar requirement in federal law.

- c. There is statutory authority for more restrictive requirements than those in federal law.

Federal law does not apply to this rule.

- 13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037, indicating whether:

- a. The rule requires issuance of a regulatory permit, license, or agency authorization;

The Governing Board indicates that the rule is not applicable to the requirements imposed by A.R.S. § 41-1037 as the rule was adopted prior to July 29, 2010.

- b. The permit, license, or agency authorization falls within the definition of “general permit” in A.R.S. § 41-1001, if a permit, license or agency authorization is issued; or

Not applicable as answer was provided in 13(a).

- c. An exception applies under A.R.S. § 41-1037, if a general permit is not issued.

Not applicable as answer was provided in 13(a).

- 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Governing Board is not considering a course of action in amending the rule at this time.

## **FIVE YEAR REVIEW REPORT**

### **TITLE 2. ADMINISTRATION**

#### **CHAPTER 1. DEPARTMENT OF ADMINISTRATION**

#### **ARTICLE 8. REIMBURSEMENT FOR PUBLIC OR PRIVATE TRANSPORTATION**

##### **INTRODUCTION AND BACKGROUND**

The Arizona Department of Administration (ADOA), Office of Travel Reduction Programs is responsible for the education, motivation, and implementation of alternate commute options for state employees. In accordance with current laws, the State of Arizona is required, as an employer, to have a program whereby employees are encouraged to reduce their commute.

The Office of Travel Reduction Programs (program) is comprised of three main sections: Capitol Rideshare, State of Arizona Telework Program and Agency Liaison Services. Working together with a variety of stakeholders, the program assists state agencies in meeting travel reduction goals. Additionally, the program designs and implements the State of Arizona Travel Reduction Plan for Maricopa County in accordance with A.R.S. §49-588.

Title 2, Chapter 1, Article 8 – Reimbursement for Public or Private Transportation, is the set of rules that provide for up to one hundred percent of the cost to state employees for public transportation or private bus service to and from an employee's place of work. This article includes definitions of terms used in the rules, eligibility requirements for reimbursement and the maximum amount of reimbursement subsidies. The article also provides for procedures necessary for reimbursement subsidies and the requirements for participation in as well as procedures for employees seeking to pay reduced transportation costs. These rules were adopted in 1991 and include R2-1-801 through R2-5-805, inclusive.

The agency's 2010 Five-year Review of the rules in Title 2, Chapter 1, Article 8, was approved by the Governor's Regulatory Review Council (GRRC) in May 2010. Although the review generally found the rules to be satisfactory, the agency had proposed a minor clarification to one of the definitions to correct a reference change.

During the past five years, none of the rules in Title 2, Chapter 1, Article 8 have been repealed, adopted or amended. Upon review, additional erroneous references to amended, renumbered or repealed statutes and rules were discovered in the definitions. The agency intends to notify the Secretary of State regarding these errors. However, any proposed action may be subject to change should any federal or state regulations be amended.

## **REVIEW PROCEDURES**

Article 8 was reviewed by a group consisting of Travel Reduction staff and other Human Resources Division staff.

The group reviewed all existing rules, held discussions, and compiled possible suggestions for changes and improvements. Related changes to laws, best practices and internal agency procedures were taken into consideration.

Recommendations were based upon the findings and discussions of the Human Resources staff. The results are reflected in this report in the Analysis of Individual Rules, under item #14. Changes identified will be pursued subject to review of the ADOA Director, the Human Resources Director, and Travel Reduction staff.

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## ANALYSIS THAT IS IDENTICAL FOR ALL OF THE RULES

As provided by Arizona Administrative Code (A.A.C.) R1-6-301(B), the following information is the same for all of the rules in this report:

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. §41-703(3) provides general authority. A.R.S. §41-710.01 provides specific authority for the Director to adopt rules to provide for reimbursement of transportation costs for state employees.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to these rules, the agency believes the rules are effective in achieving the intended objectives.

**4. Consistency of the rules with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency:**

**a. Consistency with federal statutes**

The rules are consistent with applicable federal law. The federal law used in determining the consistency is listed below:

- The Clean Air Act, which sets limits on certain air pollutants and gives the Environmental Protection Agency authority to limit emissions of air pollutants from various sources; state, local and tribal governments have the responsibility of developing a State Implementation Plan (SIP) that outlines how each state will control air pollution under the Clean Air Act.

**b. Consistency with state statutes**

Unless otherwise indicated in the 'Notes' below, the rules are consistent with state laws. The state laws used in determining consistency include, but are not limited to:

- A.R.S. §38-612, Administration of payroll salary deductions, subsection (B)(9), which allows state employees or officers to authorize deductions to be made from their salaries or wages for the payment of charges payable for transportation expenses pursuant to A.R.S. §41-710.01.
- A.R.S. §41-101.03, State employee travel reduction program; designated state agency; fund, which governs the designation of an appropriate state agency to establish, administer, and operate a travel reduction program for the transportation of state employees between their residences and their places of work.
- A.R.S. §41-703, Duties of the [ADOA] director, which grants general authority to the ADOA Director for the agency's activities and operations.

- A.R.S. §41-710.01, Reimbursement of transportation and telecommuting costs; definitions, which provides the ADOA Director with specific rulemaking authority related to reimbursement of transportation costs for state employees.
- A.R.S. §49-541, Definitions, which set forth definitions of applicable areas in Maricopa and Pima Counties that are covered by the requirements set forth in A.R.S. §49-588.
- A.R.S. §49-581, [Travel Reduction Programs] Definitions, which defines common terms used throughout the travel reduction programs statutes.
- A.R.S. §49-588, Requirements for major employers, which outlines the various requirements major employers must follow related to the establishment and administration of travel reduction programs.

Notes:

R2-1-801 includes a definition for “eligible employee” which excludes employees of the State Compensation Fund employed under A.R.S. §23-981.01. However, A.R.S. §23-981.01 was repealed by Laws 2010, Chapter 268, §2 (§41-3012.19), effective January 1, 2013.

**c. Consistency with other rules made by the agency**

Except as indicated in “Notes” provided below, the rules are consistent with other rules made by the agency. The rules used in determining the consistency include, but are not limited to:

- 1 A.A.C. 6, Governor’s Regulatory Review Council
- 2 A.A.C. 1, Department of Administration
- 2 A.A.C. 5, Department of Administration – State Personnel System
- 2 A.A.C. 6, Department of Administration – Benefit Services [Division]
- 2 A.A.C. 7, Department of Administration – Finance Division, Purchasing Office
- 2 A.A.C. 10, Department of Administration – Risk Management Division
- 2 A.A.C. 11, Department of Administration – Public Buildings Maintenance
- 2 A.A.C. 15, Department of Administration – General Services Division

Notes:

R2-1-801 contains incorrect references to rules in 2 A.A.C. 5, Department of Administration – State Personnel System. The rules in 2 A.A.C. 5 were repealed and new rules adopted effective September 29, 2012, with the implementation of personnel reform in Arizona state government.

**5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:**

The rules have been enforced consistently during the past five years through centralized control of interpretation and application of these rules by the Office of Travel Reduction Programs. The Office of Travel Reduction Programs enforces these rules via an employee-signed agreement outlining the terms and conditions for participation in the program which includes areas such as acceptable use of the state’s transit smartcard as well as penalties for misuse, residency requirements, eligibility requirements and other compliance factors.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rules to be clear, concise and understandable.

**7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:**

During the five years immediately preceding this five-year review report, the agency has not received any written criticisms, reports or other analyses questioning whether the rule is based on valid scientific or reliable principles or methods. In addition, the agency has not been party to any litigation or administrative proceedings in which written allegations were presented alleging the rule to be discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency.

**8. A comparison of the current estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule:**

The economic impact of the rules has not differed significantly from that projected in the economic impact statement (EIS) submitted with the last rulemaking effective February 2008 (copy attached). In that report, it was anticipated that costs associated with the administration of these rules would be minimal. During FY2013-2014 the subsidy amount was set at 50% for participating employees. A total of \$719,870.89 was spent on transit subsidies for state employees in FY2013-2014, with 26,528 state employees in Maricopa County and 5,144 in Pima County benefitting from a public or private bus subsidy. While the rules directly affect state agencies and employees and not small businesses or consumers, increased ridership resulting from these programs indirectly provides an economic benefit to affected businesses.

**9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:**

Not applicable. No analysis was submitted to the agency regarding the impact of the rules on business competitiveness.

**10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:**

In the prior Five-year Review Report, the agency stated that it would make a minor revision to R2-1-801 to reflect a revised definition of "Pay Status". However, the agency delayed the amendment of this rule to allow for the implementation of the new State Personnel System (SPS) rules adopted effective September 29, 2012.

**11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:**

After analysis the agency believes that the rules contained in this report impose the least burden and costs to persons regulated by the rules.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

Not applicable; there is no corresponding federal law pertaining to reimbursement subsidies. The requirement for the provision of subsidies to employees is a state requirement only.

**13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037:**

Not applicable. The rules in Title 2, Chapter 1, Article 8 were adopted prior to July 29, 2010. In addition, the rules do not require issuance of a regulatory permit, license or agency authorization.

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## ANALYSIS OF INDIVIDUAL RULES

### R2-1-801. Definitions

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule provides definitions of words and terms used in the rules relating to administering the reimbursement subsidies for public or private transportation expenses. The definitions are necessary for understanding the terminology used throughout these rules.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The agency intends to contact the Secretary of State to request corrections of several errors within the definitions, as these definitions contain references to other rules or statutes that have since been amended, renumbered or repealed. The agency anticipates contacting the Secretary of State by June 2015.

### R2-1-802. Transportation Program Reimbursement Subsidy Eligibility

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule describes the conditions under which an eligible employee may receive a reimbursement subsidy.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

### R2-1-803. Transportation Program Reimbursement Subsidy Amount

**2. Objective of the rule, including the purpose for the existence of the rule:**

This rule describes authority of the ADOA Director to determine the amount of any reimbursement subsidies that will be paid based upon the number of eligible and participating employees, the cost of private and public transportation and the actual amount of appropriated funds designated for transportation program reimbursement subsidies. The rule also outlines notification requirements to eligible employees relating to the percentage of the subsidy.

- 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-1-804. Transportation Program Reimbursement Subsidy Procedure**

- 2. Objective of the rule, including the purpose for the existence of the rule:**

This rule sets forth the requirements for the submission and content of monthly invoices by providers of public and private transportation. In addition, the rule also stipulates that an eligible participating employee shall pay the reduced cost through payroll deduction.

- 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**R2-1-805. Transportation Program Reduced Cost Procedure**

- 2. Objective of the rule, including the purpose for the existence of the rule:**

This rule describes the requirements for a procedure that an eligible employee must use if the eligible employee wishes to pay a reduced cost for transportation. Further, the rule describes the conditions under which an eligible employee may receive and use the state's transit smartcard.

- 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rule remains effective, and no repeal or amendment is projected.

**Five Year Review Report  
Title 2, Chapter 1, Article 4  
Emergency Telecommunication Services Revolving Fund**

**Introduction**

The Department adopted rules as authorized by statute to ensure that certain criteria are met by political subdivisions for funding eligibility from the Emergency Telecommunications Services Revolving Fund. The rules were adopted, effective June 22, 1985. The rules were later amended by final rulemaking, effective May 12, 2000. The rules include Chapter 1 consisting of Article 4, Sections R2-1-401 through R2-1-411.

The Department conducted a five-year-review of the rule that was approved by GRRC Council on May 4, 2010. The five-year-review report approved by Council during that time indicated that Article 4 was clear, concise, effective, and conformed to the specific statute in law. In addition, the Department noted that no course of action was needed for the rules.

Except as otherwise noted, the information is identical, consistent and effective for all of the rules in the Article.

1. **General and specific statutes authorizing the rules:**

A.R.S. §41-704 – Provides specific authority for the rules.

2. **Objective of the rules including the purpose for the existence of the rules:**

The Department believes the rules are effective in achieving their objective.

**Article 4 Emergency Telecommunications Services Revolving Fund**

**R2-1-401 Definitions**

The objective of R2-1-401 is to help political subdivisions within the state understand the terminology that is used throughout the Article. The reason the rule is necessary is to ensure that political subdivisions understand the terms used in the rules.

**R2-1-402 Establishment of 9-1-1 Planning Committee**

The objective of R2-1-402 is for all public or private safety agencies to establish a 9-1-1 Planning Committee. The rule is necessary in order to be eligible for funding from the Emergency Telecommunications Services Revolving Fund.

**R2-1-403 Submission of Service Plan**

The objective of R2-1-403 is for each planning committee to submit a final service plan. The reason the rule is necessary is to ensure that the 9-1-1 service plan includes pertinent and up to date information and provides continuity for deployment of 9-1-1 in Arizona.

**R2-1-404 Certificate of Service Plan Approval**

The objective of R2-1-404 is for planning committees to submit a budget for projected 9-1-1 projected budget costs and to receive certification of 9-1-1 service plan approval. The reason the rule is necessary is to ensure consistency in the development of 9-1-1 systems and establishes time elements for service plan updates and review.

**R2-1-405 Resubmitting of a Service Plan**

The objective of R2-1-405 is to outline the timeframes for resubmitting a service plan. The reason the rule is necessary is allow a revised plan to be submitted should one be disapproved.

**R2-1-406 Modification of an Approved Service Plan**

The objective of R2-1-406 is to identify the requirements necessary for proposing modifications to an approved service plan. The reason the rule is necessary is allow for an approved service plan to be modified.

**R2-1-407 9-1-1 System Design Standards**

The objective of R2-1-407 is to specify the system components of a 9-1-1 system and minimum call levels. The reason the rule is necessary is without the required system design standards, the service plan will not be eligible for funding.

**R2-1-408 9-1-1 Operational Requirements**

The objective of R2-1-408 specifies minimal operational requirements for services and equipment for 9-1-1 systems with approved service plans. The rule is necessary for a service plan to receive payments from the fund for eligible costs.

**R2-1-409 Funding Eligibility**

The objective of R2-1-409 is to outline costs associated with providing 9-1-1 services which are eligible for funding from the fund. The rule is necessary in order to determining funding eligibility for service plans.

**R2-1-410 Method of Reimbursement**

The objective of R2-1-410 is to outline the methodology for payment of approved invoices for 9-1-1 goods and services. The rule is necessary in order for service plans to receive payment from the fund.

**R2-1-411 Allocation of Funds**

The objective of R2-1-411 is to outline the process for conducting the annual line access report from the operating telephone companies. The rule is necessary for payment and allocation of funds in the event of a fund deficit.

3. Effectiveness of the rules in achieving the objective, including a summary of any available data supporting the conclusion reached:

The rules effectively achieve their objective.

4. Consistency of the rules with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency:

The Department's analysis of the rules shows that the rules do not exceed the authority provided by statute. The rules are consistent with A.R.S. §§ 41-704, 42-5251 through 42-5253.

5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:

The Department enforces R2-1-401 through R2-1-411.

6. Clarity, conciseness, and understandability of the rules:

The Department considers the language for all the rules to be clear, concise, and understandable.

7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analysis submitted to agency questioning whether the rules are based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rules are discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:

The Department has not received written criticisms regarding the rules during the last five years.

8. A comparison of the current economic, small business, and consumer impact of the rules with economic, small business, and consumer impact statement prepared on the last rulemaking of the rule or, if no economic, small business, and consumer impact statement was prepared on the last rulemaking of the rule, an assessment of the actual economic, small business, and consumer impact of the rules:

The information provided with the previous five-year-review report approved by Council on May 4, 2010 indicated there was no economic impact of the rules on small business and consumers and there has been no change since then.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

None

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:

The Department indicated in the previous five-year review report that no course of action was necessary for the rules.

11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Department believes that the rules impose the least burden and costs to individuals, public and private entities regulated by the rules. The rules only affect the eligibility and distribution of funds collected through the Emergency Telecommunications Services Revolving Fund.

The impact remains the same from the information provided in 2010.

The Department estimates that the rule does not have any impact on small businesses or consumers in the state, nor affects state agencies. Sales tax does not impact the rules.

12. A determination that the rules are not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law, indicating whether:

- a. There is a similar regulatory framework governing the same subject matter under federal law,

There is no similar regulatory framework or federal law applicable to the subject matter of the rules.

- b. The rules are more restrictive than a similar requirement in federal law, and

There is no similar requirement in federal law.

- c. There is statutory authority for more restrictive requirements than those in federal law.

Federal law does not apply to this rule.

13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037, indicating whether:

- a. The rule requires issuance of a regulatory permit, license, or agency authorization;

The Department indicates that the rules are not applicable to the requirements imposed by A.R.S. § 41-1037 as the rules were adopted prior to July 29, 2010.

- b. The permit, license, or agency authorization falls within the definition of “general permit” in A.R.S. § 41-1001, if a permit, license or agency authorization is issued; or

Not applicable as answer was provided in 13(a).

- c. An exception applies under A.R.S. § 41-1037, if a general permit is not issued.

Not applicable as answer was provided in 13(a).

14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department is not considering a course of action in amending the rules at this time.

**Five Year Review Report  
Title 2, Chapter 15, Article 2  
Fleet Management**

Introduction

The Department adopted rules as authorized by statute to provide policies and procedures for operating a motor vehicle fleet in addition to providing transportation for state officers and employees. The rules were adopted, effective July 27, 1983. The rules were repealed effective February 7, 1990. New sections were adopted by final rulemaking effective either February 7, 1990 or October 20, 2000. The rules were amended by final rulemakings effective either October 20, 2000 or July 6, 2012. The rules include Chapter 15 consisting of Article 2, Sections R2-15-201 through R2-15-203 and R2-15-205 through R2-15-207.

The Department conducted a five-year-review of the rules that was approved by GRRC Council on December 7, 2010. The five-year-review report approved by Council during that time indicated that Article 2 was clear, concise, effective, and conformed to the specific statute in law. In addition, the Department noted that no course of action was needed for the rules.

Except as otherwise noted, the information is identical, consistent and effective for all of the rules in the Article.

1. General and specific statutes authorizing the rules:

A.R.S. §41-803 – Provides general authority for the rules.  
A.R.S. §41-803(B) – Provides specific authority for the rules.

2. Objective of the rules including the purpose for the existence of the rules:

The Department believes the rules are effective in achieving their objective.

**Article 2 Fleet Management**

**R2-15-201 Definitions**

The objective of R2-15-201 is to help state agencies, boards and commissions understand the terminology that is used throughout the Article. The reason the rule is necessary is to ensure that state agencies, boards and commissions understand the terms used in the rules.

**R2-15-202 Vehicles, Operators, and Uses**

The objective of R2-15-202 is for all state agencies, boards and commissions who utilize state vehicles understand who is an authorized operator, the proper use of a state vehicle

and that the vehicle is properly registered and complies with state law. The rule is necessary in order for employees of state agencies, boards and commissions to operate a state vehicle.

**R2-15-203 Operator Responsibilities**

The objective of R2-15-203 is for state employees to understand the responsibilities for operating a state vehicle. The reason the rule is necessary is to ensure that all authorized state employees follow the policies and procedures for operating a state vehicle.

**R2-15-205 Vehicle Request Procedures**

The objective of R2-15-205 is to outline how authorized users can the use for fleet management taxis or extended dispatch vehicles. The reason the rule is necessary is for authorized state employees to understand the procedures for requesting and using a fleet management vehicles.

**R2-15-206 Special Equipment**

The objective of R2-15-206 is to allow the installation of special equipment on state vehicles only when requested in writing and authorized by fleet management. The reason the rule is necessary is allow state agencies, boards and commissions to install special equipment on a state vehicle.

**R2-15-207 Billing Rates**

The objective of R2-15-207 is to provide the rate methodology for charges on extended dispatch vehicles and taxis. The reason the rule is necessary is to allow for rate changes from fiscal year to fiscal year that are directly affected by the State budget in addition to variables associated with the management of a state fleet.

3. Effectiveness of the rules in achieving the objective, including a summary of any available data supporting the conclusion reached:

The rules effectively achieve their objective.

4. Consistency of the rules with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency:

The Department’s analysis of the rules shows that the rules do not exceed the authority provided by statute. The rules are consistent with A.R.S. §§ 41-803 and 41-803(B).

5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:

The Department enforces R2-15-201 through R2-15-203 and R2-15-205 through R2-15-207.

6. Clarity, conciseness, and understandability of the rules:

The Department considers the language for all the rules to be clear, concise, and understandable.

7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analysis submitted to agency questioning whether the rules are based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rules are discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:

The Department has not received written criticisms regarding the rules during the last five years.

8. A comparison of the current economic, small business, and consumer impact of the rules with economic, small business, and consumer impact statement prepared on the last rulemaking of the rule or, if no economic, small business, and consumer impact statement was prepared on the last rulemaking of the rule, an assessment of the actual economic, small business, and consumer impact of the rules:

The information provided with the previous five-year-review report approved by Council on December 7, 2010 indicated that the economic impact of the rules was nominal and there has been no change since then. In addition, the EIS submitted with the final rulemaking approved by Council on May 1, 2012 indicated no direct economic impact on small businesses or consumers and minimal impact on agencies and there has been no change since then.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

None

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:

The Department indicated in the previous five-year review report that no course of action was necessary for the rules.

11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons

regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Department believes that the rules impose the least burden and costs to the agencies regulated by the rules. Fleet Management has made every effort to ensure the policies, procedures, paperwork and compliance costs effectively work for agency customers, but that they are also efficient, cost effective and necessary to achieving the regulatory objectives for the Department to properly manage and maintain a state fleet.

The impact remains the same from the information provided in 2010 and 2012. The Department will expend time reviewing existing rules and there are no other expected costs.

The Department estimates that the rules do not have any impact on small businesses or consumers in the state, nor affects state agencies. Sales tax does not impact the rules.

12. A determination that the rules are not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law, indicating whether:

a. There is a similar regulatory framework governing the same subject matter under federal law,

There is no similar regulatory framework or federal law applicable to the subject matter of the rules.

b. The rules are more restrictive than a similar requirement in federal law, and

There is no similar requirement in federal law.

c. There is statutory authority for more restrictive requirements than those in federal law.

Federal law does not apply to this rule.

13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037, indicating whether:

a. The rule requires issuance of a regulatory permit, license, or agency authorization;

The Department indicates that most of the rules are not subject to the requirements imposed by A.R.S. § 41-1037 as the rules were adopted prior to July 29, 2010. However R2-15-202 was effective on July 6, 2012. Neither the authorization nor the approval described in R2-15-202(B)(1) all within the definition of “general permit” in A.R.S. § 41-1001(11) because the rule does not require “issuance” of the authorization or approval.

- b. The permit, license, or agency authorization falls within the definition of “general permit” in A.R.S. § 41-1001, if a permit, license or agency authorization is issued; or

Not applicable as answer was provided in 13(a).

- c. An exception applies under A.R.S. § 41-1037, if a general permit is not issued.

Not applicable as answer was provided in 13(a).

- 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department is not considering a course of action in amending the rules at this time.



## **FIVE-YEAR-REVIEW REPORT**

### **TITLE 2. ADMINISTRATION**

#### **CHAPTER 7. DEPARTMENT OF ADMINISTRATION STATE PROCUREMENT OFFICE**

**OCTOBER 2015**

## **FIVE-YEAR REVIEW SUMMARY**

Arizona Revised Statutes (A.R.S.) § 41-2511 authorizes the Director to adopt rules governing the procurement and management of all materials, services and construction to be procured by this state and the disposal of materials.

Arizona Administrative Code (A.A.C.) Title 2, Chapter 7, adopted effective April 3, 1985 and include Article 1, Sections R2-7-101 through 104; Article 2, Sections R2-7-201 through R2-7-203; Article 3, Sections R2-7-301 through R2-7-334, R2-7-336 through R2-7-370; Article 4, Sections R2-7-401 through R2-7-405, R2-7-407 through R2-7-411; Article 5, Sections R2-7-501, R2-7-503 through R2-7-515; Article 7, Section R2-7-701; Article 8, Sections R2-7-801 through R2-7-810; Article 9, Sections R2-7-901 through R2-7-937; Article 10, Sections R2-7-1001 through R2-7-1008, inclusive.

The Department conducted a five-year review of the rules that was approved by GRRC Council on April 3, 2001. The five-year review approved by Council during that time concluded that a course of action was needed for the rules. Following the five-year review, the Department undertook a lengthy and comprehensive rulemaking that included all stakeholders who wanted to participate in this process. This rulemaking was a complete overhaul of the procurement section that resulted in greater organization, understanding and clarity of the procurement rules for both the private and public sectors. Council approved the amendments for final rulemaking on February 7, 2006. The approved rules were published in the Register on March 31, 2006 and adopted effective April 8, 2006.

The Department conducted another five-year review of the rules that was approved by GRRC Council on February 1, 2011. The five-year review was approved by Council with a no action recommendation. The Department prepared rulemaking to address issues identified in the five-year review as well as other changes to improve processes. Council approved the Notice of Final Rulemaking on November 6, 2012. The approved rules were published in the Register on November 30, 2012 and adopted effective January 7, 2013.

In September 2013, the Department issued a Notice of Rulemaking Docket Opening to address recent statutory changes made by Laws 2013, Ch. 190 (HB2599). Discussions were held with all stakeholders who wanted to participate in the process. This rulemaking process included modifications to increase goals set forth for small business purchase and further defined the actions available for cooperative purchasing. Other changes were made to improve processes and increase efficiency and transparency in public procurement. Council approved the amendments for final rulemaking on December 2, 2014. The approved rules were published in the Register on December 19, 2014 and adopted effective February 2, 2015.

During this Five-Year Rules review, the Department plans to conduct future discussions with interested stakeholders to modify the definition of “procurement file” in R2-7-101(37). In addition, the Department plans to develop rules in compliance with A.R.S. § 41-2612(2), vendor performance and evaluation of past performance. The Department also discovered some minor, non-substantive issues with the rules concerning clarity, conciseness, and understandability and will be addressed in a future rulemaking.

## INFORMATION IDENTICAL FOR ALL RULES

1. **Authorization of rule by existing statute**

General authority: A.R.S. §41-2511(A)

Specific authority: A.R.S. §§ 41-2511, 41-2501 through 41-2504, 41-2512 through 41-2517, 41-2531 through 41-2559, 41-2561 through 41-2568, 41-2571 through 41-2583, 41-2585 through 41-2586, 41-2591, 41-2601 through 41-2607, 41-2611 through 41-2617, 41-2631 through 41-2637, 41-2661 and 41-2662, and 41-2671 through 41-2673

3. **Analysis of effectiveness in achieving the objective**

The rules have effectively allowed the Department to administer the procurement code for more than 120 state agencies, boards and commissions. The rules offer greater efficiency in public procurement, reduced operating cost of public procurement, increased opportunities for small, minority and women-owned businesses, improved understanding and ease of use for government agencies and suppliers, and increased access to procurement opportunities and information.

4. **Analysis of consistency with referenced state and federal statutes and rules**

A.R.S. §41-2511 authorizes the Director to adopt rules consistent with this chapter, governing the procurement and management of all materials, services and construction procured by this state and the disposal of materials. The rules in Articles 1 through 7 and 9 through 13 are consistent with state and federal statutes and rules.

5. **Status of enforcement of the rule**

The Department is currently enforcing the rules. Under A.R.S. § 41-2511, the State Procurement Office (SPO) has served as the central procurement authority for state agencies, boards and commissions. In this role, SPO administers the enforcement of the Arizona Procurement Code, applicable Executive Orders and SPO policies and procedures for approximately 120 state agencies, boards and commissions.

The State Procurement Office (SPO) is entrusted with the responsibility of delegating procurement authority and monitoring procurement compliance of state governmental units. Because of Laws 2013, Ch. 190 (HB2599, procurement reform), SPO has modified several agencies' procurement delegation so that all agency procurement delegations fall within three designations: \$10,000, \$100,000 or unlimited. When considering procurement authority delegation dollar limits and other restrictions, SPO reviews the agency's procurement history and future needs, as well as an agency's procurement training and experience.

Furthermore, as part of procurement reform, SPO implemented a robust compliance review program. In the past two years, the SPO compliance unit developed a new compliance review program, conducted procurement performance reviews of seven state agencies and reviewed agency control self-assessments of 12 state agencies. Finding and recommendations have been issued to appropriate agencies to ensure their compliance with State procurement laws.

7. **Summary of the written criticisms of the rule received within the last five years**

The Department was contacted by two law firms with written comments regarding an earlier rulemaking. Additionally, an oral proceeding was held and four individuals offered comments on the proposed rulemaking. Comments focused on proposed rule changes in three sections:

- R2-7-101, Definition of "procurement file"

Comments regarding the procurement file related to the documents to be included in the file, The Department's response was to remove the proposed changes to the definition to allow for further stakeholder discussion.

- R2-7-A910, Informal settlement conference

Comments on the conflict of interest and the mandatory nature of the proposed settlement conference concerned the stakeholders. The Department modified the informal settlement conference language to address the concerns.

- R2-7-1003, Cooperative purchasing

Although the written comments supported the adoption of the rule to facilitate the use of cooperative purchasing by state agencies, the concern was to create a clear link between any new cooperative contracts and existing state contracts. Written comments also expressed concern that the State Procurement Administrator maintains the responsibility in selecting the use of cooperative contracts available to an agency, as well as other grammatical changes.

The Department modified the proposed language to include the grammatical changes. The Department did not accept the proposal that the State Procurement Administrator maintain the authority in review and selection of cooperative contracts. The rule delegates the authority to the agency Chief Procurement Officer.

**8. Analysis of estimated economic, small business, and consumer impact comparison**

The last rule changes became effective on February 2, 2015, which included an economic, small business and consumer impact statement. The parties affected by the last rulemaking included state government officials and managers, state government procurement employees, suppliers including small businesses and non-profit organizations that provide services to state government, associations that represent various business groups, attorneys, local government units including cities, counties and school districts.

The benefits of the rulemaking were greater efficiency in public procurement, reduced operating cost of public procurement, increased opportunities for small businesses, improved understanding and ease of use of rules for government agencies and suppliers, and more open access to procurement opportunities and information.

There were no new costs to implementing agencies, as the revisions were primarily administrative in nature. The changes were communicated through the State Procurement Office's website in addition to email to agency procurement officials. Benefits included updated procurement practices for state government in addition to clarity in the rules that govern agency procurement practices. No new employees were required to implement and enforce the rules.

Small businesses subject to the rulemaking, including suppliers and minority and women-owned businesses, benefited from more open access to contracting opportunities with the state. In addition, the changes provided increased direct access to small dollar purchasing opportunities.

**9. Summary of business competitiveness analysis of the rules**

None

**10. Status of the completion of action indicated in the previous five-year review report**

In the Department's 2011 five-year review the department identified minor, non-substantive changes to the rules to improve clarity. The Department prepared a rulemaking to address the changes. The agency received no written comments regarding the rulemaking. Council approved the amendments for final rulemaking on November 6, 2012. The approved rules were published in the Register on November 30, 2012 and adopted effective January 7, 2013.

**12. Analysis of stringency compared to federal laws**

There is no corresponding federal law that is applicable. The rules are promulgated under state law.

**13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037**

The rules were adopted before July 29, 2010, and do not require the issuance of a regulatory permit or license.

**14. Proposed course of action**

The Department will continue to work with agency customers to ensure that the rules not only meet the objectives of the Department, but also consider the needs of agencies, boards and commissions of the state to procure materials needed for these entities to carry out their agency missions.

The Department plans to continue discussions with interested stakeholders to review and potentially modify the definition of “procurement file” in R2-7-101(37). In addition, the Department plans to develop rules in compliance with A.R.S. § 41-2612(2), vendor performance and evaluation of past performance. The Department and SPO will ensure the procurement process is competitive and fair for all vendors doing business with the state.

In addition, the Department plans to further clarify R2-7-C309(2)(a) by changing “Resolicit for new offers” to “Resolicit for new offers without canceling the solicitation under R2-7-C308.” R2-7-C309(2)(b) will be changed from “Cancel the procurement” to “Cancel the procurement under R2-7-C308.” Also, the Department plans to amend R2-7-A912 to clarify further by changing “contested cases” to “appealable agency actions.”

The Department will continue to review the rules while closely monitoring state and federal legislation and Executive Orders and expects to submit a rules package in December of 2017.

## INFORMATION FOR INDIVIDUAL RULES

### ARTICLE 1. GENERAL PROVISIONS

#### R2-7-101 Definitions

2. **Objective**

The objective of the rule is to define terms used throughout this chapter relating to procurement.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. However, the rule could be improved upon if the definition for “procurement file” were revised and any definition referencing another title and chapter were consistent with the expressed definition in that chapter. The Department continues to meet with interested stakeholders on a new definition for “procurement file” and will continue to refine the definitions within its rules for consistency.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule’s objectives.

#### R2-7-102 Written Determinations

2. **Objective**

The objective of the rule is to stipulate what a chief procurement officer shall do if a written determination is required and the record keeping requirements for that.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-103 Confidential Information**

2. **Objective**

The objective of the rule is to outline the protocol for a Chief Procurement Officer in determining whether or not specific information is confidential in nature.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **ARTICLE 2. PROCUREMENT ORGANIZATION**

### **R2-7-201 State Procurement Administrator: Duties and Qualifications**

2. **Objective**

The objective of the rule is to allow the director to hire a State Procurement Administrator with the appropriate qualifications and outlines the duties of the State Procurement Administrator.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-202 Delegation of Procurement Authority to State Governmental Units**

2. **Objective**

The objective of the rule is to allow the State Procurement Administrator to delegate procurement authority to Chief Procurement Officers in governmental units and includes outlined criteria for doing so.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-203 Agency Chief Procurement Officer**

2. **Objective**

The objective of the rule is to allow the agency Chief Procurement Officer to further delegate procurement authority within the purchasing agency.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs  
necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-204 State Employee or Public Officer Use of State Contracts**

**2. Objective**

The objective of the rule is to stipulate that state employees or public officers shall not purchase materials or services for their own personal or business use from contracts entered into by the state.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-205 Procurement Requests by Purchasing Agencies**

**2. Objective**

The objective of the rule is to stipulate that a purchasing agency must submit a purchasing request in writing to the procurement officer if the purchase is necessary.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-206 Authorized Procurement Officers**

**2. Objective**

The objective of the rule is to state that a procurement officer shall perform all procurement duties in accordance with the Arizona Procurement Code and within the authority delegated to the procurement officer and in accordance with this chapter.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-207 Resolution of Intra-agency Procurement Disputes**

**2. Objective**

The objective of the rule is to require the State Procurement Administrator to resolve all disputes between a purchasing agency and its Chief Procurement Officer.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-208 Authorization of Electronic Transactions

2. **Objective**

The objective of the rule is to allow the use of electronic transactions, but allows discretion in limiting the use of them based on consideration of what is in the best interest of the state.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-209 Prospective Suppliers List

2. **Objective**

The objective of the rule is to compile and maintain a prospective suppliers list, but also allows the State Procurement Administrator to remove suppliers from the list.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## ARTICLE 3. SOURCE SELECTION AND CONTRACT FORMATION

### R2-7-301 – R2-7-370 Repealed

#### PART A. GENERAL PROVISIONS

##### R2-7-A301 Source Selection Method: Determination Factors

2. **Objective**

The objective of the rule is to stipulate the source selection method and the determination factors to follow in awarding a contract.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### PART B. COMPETITIVE SEALED BIDDING

##### R2-7-B301 Solicitation

2. **Objective**

The objective of the rule is to outline the process and guidelines in issuing a solicitation for bids.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-B302 Pre-offer Conferences**

**2. Objective**

The objective of the rule is to conduct one or more pre-offer conferences and outlines the guidelines for conducting a conference.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-B303 Solicitation Amendment**

**2. Objective**

The objective of the rule is to issue a solicitation amendment and includes the responsibilities for both the agency Chief Procurement Officer and the offeror for this process.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-B304 Modification or Withdrawal of Offer Before Offer Due Date and Time**

**2. Objective**

The objective of the rule is to allow the offeror to modify or withdraw its offer in writing before the offer due date and time and requires the agency Chief Procurement Officer to record this action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-B305 Cancellation of a Solicitation Before Offer Due Date and Time**

**2. Objective**

The objective of the rule is to allow for the cancellation a solicitation before the offer due date and time if in the best interest of the state and provides additional guidelines for the agency Chief Procurement Officer for this action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-B306 Receipt, Opening, and Recording of Offers**

### **2. Objective**

The objective of the rule is to prescribe the process for receipt, opening, and recording of offers.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-B307 Late Offers, Modifications, Withdrawals**

### **2. Objective**

The objective of the rule is to outline the process for late offers, modifications and withdrawals.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-B308 Cancellation of Solicitation After Receipt of Offers and Before Award**

### **2. Objective**

The objective of the rule is to allow for cancellation of a solicitation after the offer due date and time if in the best interest of the state and in addition, provides guidelines for an agency Chief Procurement Officer on this action.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-B309 One Offer Received**

### **2. Objective**

The objective of the rule is to provide discretionary guidelines in awarding or rejecting the one offer that is received in response to a solicitation.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-B310 Offer Mistakes Discovered After Offer Opening and Before Award**

2. **Objective**

The objective of the rule is to provide guidelines and procedures to follow in the event a mistake is discovered after offer opening and before award.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-B311 Extension of Offer Acceptance Period**

2. **Objective**

The objective of the rule is to outline the procedures to extend the offer acceptance period and describes the responsibilities of the offeror in this process.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-B312 Bid Evaluation

2. **Objective**

The objective of the rule is to provide direction when evaluating offers to determine which offer provides the lowest cost to the state in accordance with any objectively measurable factors set forth in the solicitation.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-B313 Responsibility Determinations

2. **Objective**

The objective of the rule is to determine before an award whether an offeror is responsible or nonresponsible and outlines the factors for making the determination.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-B314 Contract Award

2. **Objective**

The objective of the rule is to provide the procedures to follow after awarding a contract.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-B315 Mistakes Discovered After Award

2. **Objective**

The objective of the rule is to describe the procedures when mistakes are discovered after the award of a contract and outlines the responsibilities of the offeror in this process.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-B316 Multistep Sealed Bidding**

**2. Objective**

The objective of the rule is to describe the procedures when using multistep sealed bidding and provides the guidelines for this procurement action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **PART C. COMPETITIVE SEALED PROPOSALS**

### **R2-7-C301 Solicitation**

**2. Objective**

The objective of the rule is to outline the process and guidelines when issuing a solicitation for competitive sealed proposal.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-C302 Pre-offer Conferences

2. **Objective**

The objective of the rule is to allow for one or more pre-offer conferences and outlines the guidelines for conducting a conference in a competitive sealed proposal process.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-C303 Solicitation Amendment

2. **Objective**

The objective of the rule is to allow for a solicitation amendment and includes the responsibilities for both the agency Chief Procurement Officer and the offeror in a competitive sealed bidding process.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C304 Modification or Withdrawal of Offer Before Offer Due Date and Time**

### **2. Objective**

The objective of the rule is to allow the Offeror to modify or withdraw its offer in writing before the offer due date and time and requires the agency Chief Procurement Officer to record this action within a competitive sealed proposal process.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C305 Cancellation of Solicitation Before Offer Due Date and Time**

### **2. Objective**

The objective of the rule is to allow a solicitation to be canceled before the offer due date and time if in the best interest of the state and provides additional guidelines on the agency Chief Procurement Officer for a competitive sealed proposal process.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C306 Receipt, Opening, and Recording of Offers**

### **2. Objective**

The objective of the rule is to prescribe the process for receipt, opening, and recording of offers by the agency Chief Procurement Officer during a competitive sealed proposal process.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C307 Late Offers, Modifications, and Withdrawals Before Offer Due Date and Time**

### **2. Objective**

The objective of the rule is to outline the process an agency Chief Procurement Officer must follow for late offers, modifications and withdrawals in a competitive sealed proposal process.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C308 Cancellation of Solicitation After Offer Opening and Before Award**

### **2. Objective**

The objective of the rule is to allow for cancellation of a solicitation after offer due date and time if in the best interest of the state and in addition, provides guidelines for an agency Chief Procurement Officer in a competitive sealed proposal process.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C309 Only One Offer Received**

### **2. Objective**

The objective of the rule is to provides discretionary guidelines in awarding or rejecting the one offer that is received in response to a solicitation in a competitive sealed proposal process.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. However, the rule could be improved upon if the rule were revised:

(2)(a): Remove "Resolicit for new offers" and replace with "Resolicit for new offers without canceling the solicitation under R2-7-C308"

(2)(b): Remove "Cancel the procurement; or" and replace with "Cancel the procurement under R2-7-C308"

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-C310 Extension of Offer Acceptance Period**

**2. Objective**

The objective of the rule is to provide guidelines and procedures in the event a mistake is discovered after offer and before award in a competitive sealed proposal process.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-C311 Determination of Non Susceptible for Award**

**2. Objective**

The objective of the rule is to outline procedures to extend the offer acceptance period and describes the responsibilities of the offeror in a competitive sealed proposal process.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C312 Responsibility Determinations**

### **2. Objective**

The objective of the rule is to provide direction when evaluating offers to determine which offer provides the lowest cost to the state in accordance with any objectively measurable factors set forth in the solicitation and describes the procedures for the agency Chief Procurement Officer in a competitive sealed proposal process.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C313 Clarification of Offers**

### **2. Objective**

The objective of the rule is to request clarifications from offerors and outlines the procedures for an agency Chief Procurement Officer in a competitive sealed proposal process.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-C314 Negotiations with Responsible Offerors and Revisions of Offers**

**2. Objective**

The objective of the rule is to establish procedures and schedules for conducting negotiations and prescribes the process for that.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-C315 Offer Revisions and Best and Final Offers**

**2. Objective**

The objective of the rule is to request written proposal revisions and requires written best and final offers from any offeror with whom negotiations have been conducted and provides guidelines should a mistake be discovered relevant to the award determination.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-C316 Evaluation of Offers

2. **Objective**

The objective of the rule is to describe the guidelines an agency Chief Procurement Officer can conduct in evaluating offers based on the evaluation criteria contained in the request for proposals.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. However, the Department plans to develop rules in compliance with A.R.S. § 41-2612(2), vendor performance and evaluation of past performance.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-C317 Contract Award

2. **Objective**

The objective of the rule is to provide procedures to follow after awarding a contract in a competitive sealed proposal process.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-C318 Mistakes Discovered After Award**

**2. Objective**

The objective of the rule is to describe the procedures when mistakes are discovered after the award of a contract and outlines the responsibilities of the offeror in a competitive sealed proposal process.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

### **PART D. PROCUREMENTS NOT EXCEEDING THE AMOUNT PRESCRIBED IN A.R.S. § 41-2535**

#### **R2-7-D301 Applicability**

**2. Objective**

The objective of the rule is to allow an agency Chief Procurement Officer to issue a request for quotation under R2-7-D302 for purchases not exceeding the amount prescribed in A.R.S. § 41-2535, including construction, and outlines criteria that would disallow this action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-D302 Solicitation – Request for Quotation**

**2. Objective**

The objective of the rule is to request a quotation for purchases that exceed \$10,000 but that are less than the amounts specified in A.R.S. § 41-2535 and stipulates what criteria the agency Chief Procurement Officer shall include in the solicitation.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-D303 Contract Award**

**2. Objective**

The objective of the rule is to provide procedures after awarding a contract for procurements not exceeding the amount prescribed in A.R.S. § 41-2535.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-D304 Purchases of \$10,000 and Less**

**2. Objective**

The objective of the rule is to use reasonable judgment in awarding contracts of \$10,000 and less that are advantageous to the state.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

### **PART E. LIMITED COMPETITION FOR PROCUREMENTS EXCEEDING THE AMOUNT PRESCRIBED IN A.R.S. § 41-2535**

#### **R2-7-E301 Sole Source Procurements**

**2. Objective**

The objective of the rule is to define the term "sole-source procurement" to mean a material or service procured without competition and lists the conditions for sole source procurements.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-E302 Emergency Procurements**

**2. Objective**

The objective of the rule is to define the term "*emergency*" to mean any condition creating an immediate and serious need for materials, services, or construction in which the state's best interests are not met through the use of other source-selection methods and outlines the procedures for such an action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-E303 Competition Impracticable Procurements**

**2. Objective**

The objective of the rule is to define the term "*competition impracticable*" to mean a procurement requirement exists which makes compliance with A.R.S. §§ 41-2535, 41-2534, 41-2538, or 41-2578 impracticable, unnecessary, or contrary to the public interest.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**PART F. COMPETITIVE SELECTION PROCESS FOR SERVICES OF CLERGY,  
PHYSICIANS, DENTISTS, LEGAL COUNSEL, OR CERTIFIED PUBLIC  
ACCOUNTANTS**

**R2-7-F301 Statement of Qualifications**

**2. Objective**

The objective of the rule is to request that persons desiring to provide the services specified in A.R.S. § 41-2513 submit statements of qualifications on a prescribed form and describes the criteria for what limited information can be included in this action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-F302 Solicitation**

**2. Objective**

The objective of the rule is to mandates that the agency procurement officer shall comply with Part D of this Article for procurements not exceeding the amount prescribed in A.R.S. § 41-2536 and prescribes guidelines the procurement officer must follow for

procurements exceeding the amount prescribed in A.R.S. § 41-2535, except as authorized in A.R.S. §§ 41-2536 or 41-2537.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-F303 Solicitation Amendment**

**2. Objective**

The objective of the rule is to issue a solicitation amendment and outlines the procedures for this action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-F304 Cancellation of Solicitation**

**2. Objective**

The objective of the rule is to cancel a solicitation at any time before an award based on the best interest of the state and outlines the procedures for this action.

6. **Analysis of clarity, conciseness, and understandability**  
The rule is clear, concise, and understandable.
11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**  
The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-F305 Receipt, Opening, and Recording of Offers**

2. **Objective**  
The objective of the rule is to prescribe the responsibilities in receipt, opening, and recording of offers for each solicitation.
6. **Analysis of clarity, conciseness, and understandability**  
The rule is clear, concise, and understandable.
11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**  
The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-F306 Timely and Late Modifications or Withdrawals of Offer**

2. **Objective**  
The objective of the rule is to outline the process to follow for timely and late modifications or withdrawals and the conditions for this action.
6. **Analysis of clarity, conciseness, and understandability**  
The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### R2-7-F307 Late Offers

2. **Objective**

The objective of the rule is to reject an offer received after the specified offer due date and time when a specified offer due date and time has been identified in the solicitation.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### R2-7-F308 Negotiations with Offers

2. **Objective**

The objective of the rule is to conduct negotiations with any or none of the offerors and prescribes the guidelines for this action.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-F309 Contract Award**

**2. Objective**

The objective of the rule is to award the contract to the offeror best qualified based on evaluation factors set forth in the request for proposal and after making a written determination that the price is fair and reasonable and includes criteria that the procurement officer must follow in making an award.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-F310 Mistakes Discovered After Award**

**2. Objective**

The objective of the rule is to describe procedures to follow when mistakes are discovered after the award of a contract and outlines the responsibilities of the offeror in requesting in writing correction or withdrawal in of an offer.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**PART G. OTHER SOURCE SELECTION**

**R2-7-G301 Request for Information**

**2. Objective**

The objective of the rule is to issue a request for information to obtain price, delivery, technical information or capabilities for planning purposes and lists the stipulations for this action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-G302 Demonstration Projects**

**2. Objective**

The objective of the rule is to mandate that an agency Chief Procurement Officer must submit a written request to the State Procurement Administrator to award a contract for a demonstration project and prescribes the criteria that the written request must contain.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-G303 Unsolicited Proposals**

2. **Objective**

The objective of the rule is to describe what an unsolicited proposal is and the procedures for an offeror to submit this type of proposal.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-G304 General Services Administration Contracts**

2. **Objective**

The objective of the rule is to purchase products or services using General Services Administration (GSA) schedules or contracts and outlines the conditions for doing this.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-G305 Public-Private Partnership Contracts**

**2. Objective**

The objective of the rule is to state what a public-private partnership contract is as referenced in this Article and outlines the guidelines that the agency Chief Procurement Officer must follow in submitting this request.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**ARTICLE 4. SPECIFICATIONS**

**R2-7-401 Preparation of Specifications**

**2. Objective**

The objective of the rule is to stipulate that state government units are permitted to prepare and utilize specifications only as authorized by the State Procurement Administrator under R2-7-202 and outline the guidelines for this process.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-402 Utilization of Specifications**

2. **Objective**

The objective of the rule is to outline the use of specifications and must seek approval from the State Procurement Administrator for proprietary or restrictive specifications.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-403 Determination for Use of Brand Name Type Specifications**

2. **Objective**

The objective of the rule is to authorize the use of a brand name only specification and outlines the guidelines an agency Chief Procurement Officer must follow.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-404 Conflict of Interest**

**2. Objective**

The objective of the rule is to state that no person preparing or assisting in the preparation of a solicitation or scope of work may receive any direct benefit from those specifications or scope of work.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-405 – R2-7-411 Repealed**

**ARTICLE 5. PROCUREMENT OF CONSTRUCTION AND SPECIFIED PROFESSIONAL SERVICES**

**R2-7-501 Procurement of Specified Professional and Construction Services**

**2. Objective**

The objective of the rule is to prescribe that an agency Chief Procurement Officer shall procure specified professional services as defined in A.R.S. §§ 41-2578, 41-2579, or 41-2581 and outlines the procedures for this process.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

### **R2-7-502 Compliance with the Department**

2. **Objective**

The objective of the rule is to require a purchasing agency to comply with the procurement requirements of the Department as mandated by A.R.S. § 41-790 et seq.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

### **R2-7-503 Procurement of Construction Using Alternate Project Delivery Method**

2. **Objective**

The objective of the rule is to allow for use of an alternate project delivery method if it is determined to be in the best interest of the state and outlines the factors for justifying this process.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-504 Notice**

2. **Objective**

The objective of the rule is to provide a copy of a solicitation for specified professional services or construction services to any person requesting a copy and provides guidelines for agency procurement officers to follow based on procurement amounts.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-505 Selection Committee**

2. **Objective**

The objective of the rule is to appoint a selection committee when required under A.R.S. §§ 41-2578, 41-2579, or 41-2581 and provides guidelines for agency procurement officers to follow on procurement amounts.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-506 Bid Security**

2. **Objective**

The objective of the rule is to require bid security requirements of A.R.S. § 41-2573 in the solicitation and provides specific guidelines to follow for this process.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-507 Offer Mistakes Discovered After Offer Opening and Before Award**

2. **Objective**

The objective of the rule is to provide guidelines and procedures for both the agency chief procurement officer and the offeror to follow in the event a mistake is discovered after offer and before award.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-508 Performance and Payment Bonds**

**2. Objective**

The objective of the rule is to ensure that performance and payment bonds are executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the Department of Insurance under A.R. S. Title 20, Chapter 2, Article 1 and in a format prescribed in A.R.S. § 41-2574. The rule also stipulates that the contractor shall show proof of the bond when requested by the agency Chief Procurement Officer.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-509 Conditions for Use of Substitute Security in Lieu of Retention**

**2. Objective**

The objective of the rule is to allow a substitute security rather than contract payment retention and outlines the conditions that the contractor must adhere to for this action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-510 The Form of Substitute Security in Lieu of Retention**

2. **Objective**

The objective of the rule is to accept a substitute security from a contractor if the conditions identified under R2-7-506 are met and lists the options that allow this action.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-511 Individual Job Order Contracting**

2. **Objective**

The objective of the rule is to award individual job order contracts and prescribes guidelines for this action.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-512 – R2-7-515 Repealed**

**ARTICLE 6. CONTRACT CLAUSES**

**R2-7-601 Contract Clauses**

**2. Objective**

The objective of the rule is to include all contract clauses in solicitations and contracts necessary to ensure the state's interests are addressed.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-602 Assignment of Rights and Duties**

**2. Objective**

The objective of the rule is to state that a contractor shall not assign or transfer the rights or duties of a state contract without the written consent of the agency Chief Procurement Officer.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-603 Change of Name**

2. **Objective**

The objective of the rule is to amend the name of a contractor holding a state contract and stipulates the guidelines for this action.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-604 Contract Change Orders and Amendments**

2. **Objective**

The objective of the rule is to provide guidelines in conducting contract change orders and amendments.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-605 Multi-term Contracts**

**2. Objective**

The objective of the rule is to outline the conditions and guidelines for an agency Chief Procurement Officer to solicit and award multi-term contracts.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-606 Terms and Conditions**

**2. Objective**

The objective of the rule is to publish terms and conditions for use in solicitations and contracts.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-607 Mandatory Statewide Contracts**

**2. Objective**

The objective of the rule is to require mandatory use of statewide contracts for all state governmental units.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-608 Multiple Source Contracts**

**2. Objective**

The objective of the rule is to limit the award of contracts to the least number of suppliers necessary to meet the requirements of the state.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## ARTICLE 7. COST PRINCIPLES

### R2-7-701 Cost principles

2. **Objective**

The objective of the rule is to set forth that the cost principles in the Code of Federal Regulations, 48 CFR 31 (September 2001) must be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions that provide for the reimbursement of costs.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

### R2-7-702 Determination of Fair and Reasonable Price

2. **Objective**

The objective of the rule is to prescribe guidelines and conditions to follow in determination of fair and reasonable price for contracts and contract modifications.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-703 Submission and Certification of Cost or Pricing Data**

### **2. Objective**

The objective of the rule is to prescribe the requirements for the offeror or contractor in submission and certification of cost or pricing data.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-704 Refusal to Submit Cost or Pricing Data**

### **2. Objective**

The objective of the rule is to describe the penalties for an offeror or contractor who refuses to submit cost or pricing data as required by an agency Chief Procurement Officer.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-705 Defective Cost or Pricing Data**

**2. Objective**

The objective of the rule is to provide guidelines to follow in the event defective cost or pricing data is found.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **ARTICLE 8. TRANSFERRED**

## **ARTICLE 9. LEGAL AND CONTRACTUAL REMEDIES**

### **R2-7-901 – R2-7-937 Repealed**

#### **PART A. PROTEST OF SOLICITATIONS AND CONTRACT AWARDS**

### **R2-7-A901 Protest of Solicitations and Contract Awards**

**2. Objective**

The objective of the rule is to outline procedures and guidelines for any interested party to protest solicitations or contract awards.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to**

**persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-A902 Stay of Procurements During the Protest**

**2. Objective**

The objective of the rule is to outline procedures to follow for stay of procurements during the protest of a solicitation or contract award.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-A903 Resolution of Solicitation and Contract Award Protests**

**2. Objective**

The objective of the rule is to resolve a protest and provides the guidelines to be followed for the resolution of solicitation and contract award protests.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-A904 Remedies by the Agency Chief Procurement Officer**

**2. Objective**

The objective of the rule is to offer an appropriate remedy and provide the conditions the agency Chief Procurement Officer must follow in conducting this action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

#### **R2-7-A905 Appeals to the Director**

**2. Objective**

The objective of the rule is to allow any interested party to appeal the decision of an agency Chief Procurement Officer and outlines the timeframe and procedures for this process.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-A906 Notice of Appeal to the Director**

2. **Objective**

The objective of the rule is to promptly provide notice of the appeal to all offerors and furnish copies as required by R2-7-101.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-A907 Stay of Procurement During Appeal to Director**

2. **Objective**

The objective of the rule is to prescribe the process for a stay of procurement during an appeal to the Director.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-A908 Agency Report

2. **Objective**

The objective of the rule is to outline guidelines and process in filing a complete agency report on the appeal with the Director.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-A909 Remedies by the Director

2. **Objective**

The objective of the rule is to implement remedies on an appeal.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-A910 Informal Settlement Conference**

### **2. Objective**

The objective of the rule is to hold an informal settlement conference prior to a final administrative decision.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-A911 Dismissal Before Hearing**

### **2. Objective**

The objective of the rule is to dismiss an appeal before a hearing based on specific criteria outlined and requires the Director to properly notify interested parties on this action.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-A912 Hearing

2. **Objective**

The objective of the rule is to resolve appeals of solicitation or contract award decisions as appealable agency actions under A.R.S. § 41-1092.07.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable. However, the rule could be improved upon if the rule were revised to use the term “appealable agency actions” instead of “contested cases.”

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule’s objectives.

## PART B. CONTRACT CLAIMS

### R2-7-B901 Controversies Involving Contract Claims Against the State

2. **Objective**

The objective of the rule is to allow a claimant to file a contract claim and prescribe the procedures for this action.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule’s objectives.

## **R2-7-B902 Agency Chief Procurement Officer's Decision**

**2. Objective**

The objective of the rule is to prescribe procedures to follow in the event a claim cannot be resolved.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-B903 Issuance of a Timely Decision**

**2. Objective**

The objective of the rule is to require a timely decision on a contract claim.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-B904 Appeals and Reports to the Director**

### **2. Objective**

The objective of the rule is to allow a claimant to appeal to the Director and prescribes the procedures for both the claimant and the Director for this action.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-B905 Controversies Involving State Claims Against the Contractor**

### **2. Objective**

The objective of the rule is to prescribe procedures to follow in the event a claim cannot be resolved with a contractor.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## PART C. DEBARMENTS AND SUSPENSIONS

### R2-7-C901 Authority to Debar or Suspend

22. **Objective**

The objective of the rule is to authorize the Director to debar or suspend a person from participating in state procurement.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

### R2-7-C902 Initiation of Debarment

2. **Objective**

The objective of the rule is to prescribe the steps the Director must follow for the initiation of a debarment.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-C903 Period of Debarment

2. **Objective**

The objective of the rule is to outline the period of debarment that the Director must follow for specific circumstances.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-C904 Notice of Debarment and Hearing

2. **Objective**

The objective of the rule is to prescribe the notification procedures that the Director must conduct for a debarment and hearing.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C905 Imputed Knowledge**

### **2. Objective**

The objective of the rule is to stipulate the actions the Director can follow for imputed knowledge regarding a debarment.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C906 Reinstatement**

### **2. Objective**

The objective of the rule is to reinstate or rescind a debarment at any time and outlines the process for this action.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C907 Limited Participation**

**2. Objective**

The objective of the rule is to allow a debarred person to participate on a limited basis with state procurement during the debarment period.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C908 Suspension**

**2. Objective**

The objective of the rule is to suspend a person from receiving any award and outlines the criteria the Director must follow in this action.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C909 Period and Scope of Suspension**

### **2. Objective**

The objective of the rule is to prescribe the period and scope of suspension by the Director.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-C910 Notice, Hearing, Determination, and Appeal**

### **2. Objective**

The objective of the rule is to outline the process on notice, hearing, determination, and appeal for the person suspended.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-C911 Master List

2. **Objective**

The objective of the rule is to maintain a master list of debarments and prescribe the items that must be included in this list.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## PART D. HEARING PROCEDURES

### R2-7-D901 Hearings

2. **Objective**

The objective of the rule is to refer a qualified hearing to the Office of Administrative Hearings.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## R2-7-D902 Rehearing of Director’s Decision

2. **Objective**

The objective of the rule is to allow any person or an agency Chief Procurement Officer to file a written request for a rehearing to the Director.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule’s objectives.

## ARTICLE 10. INTERGOVERNMENTAL PROCUREMENT

### R2-7-1001 Approval to Enter into a Cooperative Purchasing Agreement

2. **Objective**

The objective of the rule is to seek approval to enter into a cooperative purchasing agreement.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

11. **A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule’s objectives.

**R2-7-1002 Cooperative Purchasing Agreement Administered by an Agency Chief  
Procurement Officer**

**2. Objective**

The objective of the rule is to prescribe the conditions to follow in order to enter into a cooperative purchasing agreement.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-1003 Purchasing From a Cooperative Contract**

**2. Objective**

The objective of the rule is to prescribe the conditions to follow to purchase from a cooperative contract.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-1004 Establishment of a Committee as Required by A.R.S. § 41-2636**

### **2. Objective**

The objective of the rule is to establish a committee and outlines the make-up of the committee, meeting requirements to be certified as a non-profit agency for disabled individuals.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-1005 Certification as Non-Profit Agency for Disabled Individuals**

### **2. Objective**

The objective of the rule is to require a non-profit agency for disabled individuals to seek written approval from the committee to be certified as such.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-1006 Application for Approval as Required by A.R.S. § 41-2636 to Become a Certified Non-Profit Agency for Disabled Individuals**

**2. Objective**

The objective of the rule is to require a non-profit agency for disabled individuals to apply for approval and prescribes what information must be included on the application to be considered.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**R2-7-1007 Approval of Specific Materials or Services for Set-aside Use**

**2. Objective**

The objective of the rule is to require ACI (Arizona Correctional Industries), AIB (Arizona Industries for the Blind), and CNAID (Certified Non-Profit Agency that Serves Individuals with Disabilities) to submit specific information that is requested for approval of specific materials or services for set-aside use.

**6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

**11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-1008 Contract Awards Directed by the Committee**

### **2. Objective**

The objective of the rule is to enter into a contract as directed by the committee and prescribes the criteria for contracts to be renewed.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-1009 Contract Awards Initiated by an Agency Chief Procurement Officer or Local Public Procurement Unit**

### **2. Objective**

The objective of the rule is to stipulate that competition is not required by statute to enter into a contract for a material or service that is offered from a set-aside agency and also sets a time limit on the contract award.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

## **R2-7-1010 Set-aside Application Dispute Process**

### **2. Objective**

The objective of the rule is to allow any interested party to dispute any committee decision and outlines the process for this action.

### **6. Analysis of clarity, conciseness, and understandability**

The rule is clear, concise, and understandable.

### **11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective**

The rule imposes the least burden on stakeholders necessary to achieve the rule's objectives.

**ARTICLE 11. RESERVED**

**ARTICLE 12. RESERVED**

**ARTICLE 13. REPEALED**

**R2-7-1301 Repealed**

**Five Year Review Report  
Title 2, Chapter 10, Article 3  
Risk Management**

Introduction

The Department adopted rules as authorized by statute to provide policies and procedures in administering liability insurance for state agencies. The rules were adopted July 27, 1983 and include R2-10-301 through R2-10-304, inclusive. R2-10-302 through R2-10-304 was repealed by rulemaking dated December 18, 1992.

The Department amended R2-10-301 in December 2005 and requested a rescheduling of the five-year report due based on this rulemaking. The amended rule was approved by GRRC on December 6, 2005. The approved rule was published in the *Register* on December 30, 2005 and became effective February 4, 2006.

Except as otherwise noted, the following information is identical for the rule in this Article: R2-10-301.

1. General and specific statutes authorizing the rules:

A.R.S. §41-621 – Provides general authority for the rule

A.R.S. §§ 41-621(Q) and 41-623(A) – Provides specific authority for the rule

2. Objective of the rules including the purpose for the existence of the rules:

The Department believes the rules are effective in achieving their objective.

The objective of the rule is to establish the Department's policies and procedures for Risk Management in administering liability insurance for state agencies.

**Article 3 Risk Management**

**R2-10-301 Insurance: Purchase and Contracts**

R2-10-301 prescribes the approval procedures for state agencies to follow when seeking insurance or entering into contractual agreements that expand the state's liabilities of the state.

3. Effectiveness of the rules in achieving the objective, including a summary of any available data supporting the conclusion reached:

The rules effectively achieve their objective.

4. Consistency of the rules with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency:

The Department believes the following rule is consistent with state rule(s): R2-10-301.

5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:

The Department is currently enforcing the following rule: R2-10-301.

6. Clarity, conciseness, and understandability of the rules:

The Department considers the language for the rule to be clear, concise, and understandable.

7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analysis submitted to agency questioning whether the rules are based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rules are discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:

The Department has not received written criticisms regarding the rules during the last five years.

8. A comparison of the current economic, small business, and consumer impact of the rules with economic, small business, and consumer impact statement prepared on the last rulemaking of the rule or, if no economic, small business, and consumer impact statement was prepared on the last rulemaking of the rule, an assessment of the actual economic, small business, and consumer impact of the rules:

The information provided with the last adoption of rule in December 2005 estimated that there would be no adverse impact on small business as it does not impose any new requirements nor does it amend any existing requirements impacting small business. Consumers are not impacted by these rules.

Since the last review, the Department currently estimates that the rule does not have any adverse impact on small business or consumers in the state, nor has the effect on state agencies changed.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

None

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:

The Department indicated in the previous five-year review report that no course of action was necessary for the rules.

11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Department believes that the rule imposes the least burden and costs to the agencies regulated by the rule. Risk Management has made every effort to ensure the policies, procedures, paperwork and compliance costs effectively work for agencies, but that they are also efficient, cost effective and necessary to achieving the regulatory objectives for the Department to properly manage insurance for the state.

12. A determination that the rules are not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law, indicating whether:

- a. There is a similar regulatory framework governing the same subject matter under federal law,

There is no similar regulatory framework or federal law applicable to the subject matter of the rules.

- b. The rules are more restrictive than a similar requirement in federal law, and

There is no similar requirement in federal law.

- c. There is statutory authority for more restrictive requirements than those in federal law.

Federal law does not apply to this rule.

13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037, indicating whether:

- a. The rule requires issuance of a regulatory permit, license, or agency authorization;

Not applicable.

- b. The permit, license, or agency authorization falls within the definition of “general permit” in A.R.S. § 41-1001, if a permit, license or agency authorization is issued; or

Not applicable as answer was provided in 13(a).

- c. An exception applies under A.R.S. § 41-1037, if a general permit is not issued.

Not applicable as answer was provided in 13(a).

- 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department is not considering a course of action in amending the rules at this time.

## **FIVE YEAR REVIEW REPORT**

### **TITLE 2. ADMINISTRATION CHAPTER 1. DEPARTMENT OF ADMINISTRATION ARTICLE 6. ADJUSTED WORK HOURS**

#### **INTRODUCTION AND BACKGROUND**

The Arizona Department of Administration (ADOA) Office of Travel Reduction Programs is responsible for the education, motivation, and implementation of alternate commute options for state employees. In accordance with current laws, the State of Arizona is required, as an employer, to have a program whereby employees are encouraged to reduce their commute.

The Office of Travel Reduction Programs (program) is comprised of three main sections: Capitol Rideshare, State of Arizona Telework Program and Agency Liaison Services. Working together with a variety of stakeholders, the program assists state agencies in meeting travel reduction goals. Additionally, the program designs and implements the State of Arizona Travel Reduction Plan for Maricopa County in accordance with A.R.S. § 49-588.

Title 2, Chapter 1, Article 6 – Adjusted Work Hours, is the set of rules that require adjusted work hours for at least 85% of state employees who work in certain areas of Maricopa, Pima, Pinal or Yavapai counties during the winter months to reduce the level of carbon monoxide concentrations caused by vehicular travel. This article includes definitions of terms used in the rules, agency requirements for achieving adjusted work hours and monitoring methods to ensure compliance. These rules were initially adopted in 1989 and include R2-1-601 through R2-5-603, inclusive. The rules were substantially revised effective April 30, 2011.

In July 2011, the Governor's Regulatory Review Council (GRRC) granted the agency's request to reschedule the Five-year Review of the rules in Title 2, Chapter 1, Article 6, because the rules had been substantially revised within the previous two years. In its approval letter, GRRC rescheduled the report to March 2016, which is five years from the date GRRC approved the revisions to Article 6. These revisions were a result of the agency's previous Five-year Review Report that had been approved by GRRC in 2006.

During the past five years, none of the rules in Title 2, Chapter 1, Article 6 have been repealed, adopted or amended.

### **REVIEW PROCEDURES**

Article 6 was reviewed by a group consisting of Travel Reduction staff and other Human Resources Division staff.

The group reviewed all existing rules, held discussions, and determined that no action is necessary for these rules at this time.

## **ANALYSIS THAT IS IDENTICAL FOR ALL OF THE RULES**

As provided by Arizona Administrative Code (A.A.C.) R1-6-301(B), the following information is the same for all of the rules in this report:

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. §41-703(3) provides general authority. A.R.S. §41-796.01 provides specific authority for the Director to adopt rules to require adjusted work hours for state employees who work in certain areas of Maricopa, Pima, Pinal or Yavapai counties during the period of October 1 through the following April 1.

**2. Objective of the rule, including the purpose for the existence of the rule:**

The objective of the rules is to reduce carbon monoxide concentration levels in the specified counties during the carbon monoxide season, by requiring agencies to adjust work hours and thus the commute times of state employees.

- R2-1-601: objective is to define the words and terms used in Title 2, Chapter 1, Article 6.
- R2-1-602: objective is to provide the work schedule options that meet the adjusted workhours criteria to achieve the 85% compliance requirement.
- R2-1-603: objective is to provide the method the agency uses to determine compliance.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to these rules, the agency believes the rules are effective in achieving the intended objectives.

**4. Consistency of the rules with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency:**

**a. Consistency with federal statutes**

The rules are consistent with applicable federal law. The federal law used in determining the consistency is listed below:

- The Clean Air Act, which sets limits on certain air pollutants and gives the Environmental Protection Agency authority to limit emissions of air pollutants from various sources; state, local and tribal governments have the responsibility of developing a State Implementation Plan (SIP) that outlines how each state will control air pollution under the Clean Air Act.

**b. Consistency with state statutes**

The rules are consistent with state laws. The state laws used in determining consistency include, but are not limited to:

- A.R.S. §38-401, Office hours for state offices, which requires state offices to be open from 8:00 a.m. until 5:00 p.m.
- A.R.S. §41-101.03, State employee travel reduction program; designated state agency; fund, which governs the designation of an appropriate state agency to establish, administer, and operate a travel reduction program for the transportation of state employees between their residences and their places of work.
- A.R.S. §41-703, Duties of the [ADOA] director, which grants general authority to the ADOA Director for the agency's activities and operations.
- A.R.S. §49-541, Definitions, which set forth definitions of applicable areas in Maricopa, Pima, Pinal and Yavapai counties that are covered by the requirements set forth in A.R.S. §49-588.
- A.R.S. §49-581, [Travel Reduction Programs] Definitions, which defines common terms used throughout the travel reduction programs statutes.
- A.R.S. §49-588, Requirements for major employers, which outlines the various requirements major employers must follow related to the establishment and administration of travel reduction programs. Subsection (A)(3)(c) includes suggested measures for an employer's trip reduction plan. One such measure is adjusted work hours.

**c. Consistency with other rules made by the agency**

The rules are consistent with other rules made by the agency. The rules used in determining the consistency include, but are not limited to:

- 1 A.A.C. 6, Governor's Regulatory Review Council
- 2 A.A.C. 1, Department of Administration
- 2 A.A.C. 5, Department of Administration – State Personnel System
- 2 A.A.C. 6, Department of Administration – Benefit Services Division
- 2 A.A.C. 7, Department of Administration – Finance Division, Purchasing Office
- 2 A.A.C. 10, Department of Administration – Risk Management Division
- 2 A.A.C. 11, Department of Administration – Public Buildings Maintenance
- 2 A.A.C. 15, Department of Administration – General Services Division

**5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:**

The rules have been enforced consistently during the past five years through the use of travel reduction survey data. The Office of Travel Reduction Programs conducts a mandatory travel reduction survey that is distributed to state employees in affected areas. The survey is conducted during the carbon monoxide season and asks employees to indicate their work hours and how they typically commute to work. The survey response rate is typically above 85% and continues to indicate that the State is meeting the minimum percentage necessary for compliance with the rules.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rules to be clear, concise and understandable.

**7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:**

During the five years immediately preceding this five-year review report, the agency has not received any written criticisms, reports or other analyses questioning whether the rule is based on valid scientific or reliable principles or methods. In addition, the agency has not been party to any litigation or administrative proceedings in which written allegations were presented alleging the rule to be discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency.

**8. A comparison of the current estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule:**

The economic impact of the rules has not differed significantly from that projected in the economic impact statement (EIS) submitted with the last rulemaking effective April 2011. In that EIS, it was anticipated that the rulemaking would result in cost savings of approximately \$500,000 per year, by eliminating the requirement for agencies to develop and submit annual trip reduction plans. Instead, the data necessary to determine compliance with statute has been and continues to be collected through the annual travel reduction survey, resulting in substantial savings to the State on an ongoing basis. The rules directly affect state agencies and employees and not small businesses or consumers.

**9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:**

Not applicable. No analysis was submitted to the agency regarding the impact of the rules on business competitiveness.

**10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:**

As stated previously, the 2011 Five-year Review Report was rescheduled to March 2016 because the rules had been substantially revised within two years of the report due date. The revisions were the result of the agency's previous Five-year Review Report that had been approved by GRRC in 2006.

**11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:**

After analysis the agency believes that the rules contained in this report impose the least burden and costs to persons regulated by the rules.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

Not applicable; there is no corresponding federal law pertaining to adjusted work hours. The federal Clean Air Act authorizes the Environmental Protection Agency (EPA) to establish air quality standards to protect public health and welfare. States are responsible for developing state implementation plans to meet the standards. The requirement for the provision of adjusted work hours for state employees is a state requirement only.

**13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037:**

Not applicable. The rules do not require issuance of a regulatory permit, license or agency authorization.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The rules remain effective, and no repeal or amendments are projected.

## **FIVE YEAR REVIEW REPORT**

### **TITLE 2. ADMINISTRATION CHAPTER 1. DEPARTMENT OF ADMINISTRATION ARTICLE 9. REIMBURSEMENT FOR VAN POOL TRANSPORTATION**

#### **INTRODUCTION AND BACKGROUND**

The Arizona Department of Administration (ADOA) Office of Travel Reduction Programs is responsible for the education, motivation, and implementation of alternate commute options for state employees. In accordance with current laws, the State of Arizona is required, as an employer, to have a program whereby employees are encouraged to reduce their commute.

The Office of Travel Reduction Programs (program) is comprised of three main sections: Capitol Rideshare, State of Arizona Telework Program, and Agency Liaison Services. Working together with a variety of stakeholders, the program assists state agencies in meeting travel reduction goals. Additionally, the program designs and implements the State of Arizona Travel Reduction Plan for Maricopa County in accordance with A.R.S. §49-588.

Title 2, Chapter 1, Article 9 – Reimbursement for Van Pool Transportation, is the set of rules that require the ADOA Director to establish a program and procedures to reimburse state employees who participate in a vanpool in certain areas of Maricopa, Pinal, Yavapai and Pima counties. This article includes definitions of terms used in the rules, eligibility requirements for a reimbursement subsidy, reimbursement subsidy amounts, and subsidy reimbursement procedures. These rules were adopted in 1994 and include R2-1-901 through R2-5-905, inclusive.

The agency's 2011 Five-year Review of the rules in Title 2, Chapter 1, Article 9 was approved by the Governor's Regulatory Review Council (GRRC) in September 2011. Although the review generally found the rules to be satisfactory, the agency had proposed to amend one of the definitions to correct a rule reference change.

During the past five years, none of the rules in Title 2, Chapter 1, Article 9 have been repealed, adopted or amended. In lieu of conducting a rulemaking, the agency contacted the Secretary of State and requested, through the correction of errors provision in A.A.C. R1-1-109, a correction to the outdated rule reference, which has been incorporated in Code Supplement 14-2.

The agency anticipates amending one of the rules in Article 9 to remove a reference to a repealed statute. However, any proposed action may be subject to change should any federal or state regulations be amended prior to the submission of a final rulemaking.

## **REVIEW PROCEDURES**

Article 9 was reviewed by a group consisting of Travel Reduction staff and other Human Resources Division staff.

The group reviewed all existing rules, held discussions, and determined that rulemaking would be necessary for one of the rules in this Article. Related changes to laws, best practices and internal agency procedures were taken into consideration.

Rule recommendations were based upon the findings and discussions of the Human Resources staff. The results are reflected in this report under item #14. Changes identified will be promulgated subject to review of the ADOA Director, the Human Resources Director, and the Travel Reduction staff.

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## ANALYSIS THAT IS IDENTICAL FOR ALL OF THE RULES

As provided by Arizona Administrative Code (A.A.C.) R1-6-301(B), the following information is the same for all of the rules in this report:

**1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules:**

A.R.S. §41-703(3) provides general authority. A.R.S. §41-710.01 provides specific authority for the Director to adopt rules to provide for the reimbursement of transportation costs for state employees who participate in a vanpool.

**2. Objective of the rule, including the purpose for the existence of the rule:**

The overall objective of the rules is to improve air quality by reducing the number of commuter miles driven by state employees to state offices. The objectives of the specific rules are as follows:

- R2-1-901: objective is to define the terms used in Title 2, Chapter 1, Article 9.
- R2-1-902: objective is to outline the vanpool subsidy eligibility requirements.
- R2-1-903: objective is to describe the authority of the ADOA Director in determining the amount of any subsidy.
- R2-1-904: objective is to provide the procedures for vanpool subsidy payments.
- R2-1-905: objective is to establish the requirements for employee participation in a reduced cost subsidized vanpool.

**3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached:**

Because the agency has not received any comments, criticisms or questions from persons subject to these rules, the agency believes the rules are effective in achieving the intended objectives. There is no data available to support the effectiveness of this rule.

**4. Consistency of the rules with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency:**

**a. Consistency with federal statutes**

The rules are consistent with applicable federal law. The federal law used in determining the consistency is listed below:

- The Clean Air Act (42 U.S.C Sec. 7401 et seq. (1970)), which sets limits on certain air pollutants and gives the Environmental Protection Agency authority to limit emissions of air pollutants from various sources; state, local and tribal governments have the responsibility of developing a State Implementation Plan (SIP) that outlines how each state will control air pollution under the Clean Air Act.

**b. Consistency with state statutes**

The rules are consistent with state laws; however, Rule R2-1-901 contains a reference to a statute that was repealed in 2013. The state laws used in determining consistency include, but are not limited to:

- A.R.S. §41-101.03, State employee travel reduction program; designated state agency; fund, which governs the designation of an appropriate state agency to establish, administer, and operate a travel reduction program for the transportation of state employees between their residences and their places of work.
- A.R.S. §41-703, Duties of the [ADOA] director, which grants general authority to the ADOA Director for the agency's activities and operations.
- A.R.S. §41-710.01, Reimbursement of transportation and telecommuting costs; definitions, which provides the ADOA Director with specific rulemaking authority related to reimbursement of transportation costs for state employees.
- A.R.S. §49-541, Definitions, which set forth definitions of applicable areas in Maricopa, Pima, Pinal and Yavapai counties that are covered by the requirements set forth in A.R.S. §49-588.
- A.R.S. §49-581, [Travel Reduction Programs] Definitions, which defines common terms used throughout the travel reduction programs statutes.
- A.R.S. §49-588, Requirements for major employers, which outlines the various requirements major employers must follow related to the establishment and administration of travel reduction programs. Subsection (A)(3)(c) includes suggested measures for an employer's trip reduction plan. One such measure is subsidized vanpooling.

**c. Consistency with other rules made by the agency**

The rules are consistent with other rules made by the agency. The rules used in determining the consistency include, but are not limited to:

- 1 A.A.C. 6, Governor's Regulatory Review Council
- 2 A.A.C. 1, Department of Administration
- 2 A.A.C. 5, Department of Administration – State Personnel System
- 2 A.A.C. 6, Department of Administration – Benefit Services Division
- 2 A.A.C. 7, Department of Administration – State Procurement Office
- 2 A.A.C. 10, Department of Administration – Risk Management Division
- 2 A.A.C. 11, Department of Administration – Public Buildings Maintenance
- 2 A.A.C. 15, Department of Administration – General Services Division

**5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:**

The rules have been enforced consistently during the past five years by the Office of Travel Reduction Programs. According to the Office, approximately 49 state employees are participating in the vanpool reimbursement subsidy program.

**6. Clarity, conciseness and understandability of the rule:**

The agency considers the language of the rules to be clear, concise and understandable.

**7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:**

During the five years immediately preceding this five-year review report, the agency has not received any written criticisms, reports or other analyses questioning whether the rule is based on valid scientific or reliable principles or methods. In addition, the agency has not been party to any litigation or administrative proceedings in which written allegations were presented alleging the rule to be discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency.

**8. A comparison of the current estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule:**

The economic impact of the rules has not differed significantly from that projected in the economic impact statement (EIS) submitted with the last rulemaking effective February 2008 (copy attached). In that report, it was anticipated that costs associated with administration of these rules would be minimal. As mentioned previously, approximately 49 state employees participate in this program. Currently, the State subsidizes these employees at the rate of \$20 per month. The rules directly affect state agencies and employees and not small businesses or consumers.

**9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:**

No such analysis was submitted to the agency regarding the impact of the rules on business competitiveness.

**10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:**

In the previous Five-year Review Report, the agency stated it would amend R2-1-901 to revise the definition of “pay status.” However, the agency delayed the amendment of this rule to allow for the implementation of the new State Personnel System rules adopted effective September 29, 2012. In July 2015, the agency submitted a letter to the Secretary of State to request a correction to the outdated rule reference. The correction has been incorporated in the 14-2 Code Supplement, posted in June 2016.

**11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:**

After analysis the agency believes that the rules contained in this report impose the least burden and costs to persons regulated by the rules. These rules do not impose a regulatory burden on participants, and provide for the payment of a subsidy. The participants in the program receive a twenty-dollar payment which on average results in a 30% reduction in their commuting costs.

**12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:**

Not applicable; there is no corresponding federal law pertaining to vanpool reimbursement. The federal Clean Air Act authorizes the Environmental Protection Agency (EPA) to establish air quality standards to protect public health and welfare. States are responsible for developing state implementation plans to meet the standards. The requirement for the provision of reimbursing state employees for participating in a vanpool to reduce commuter miles driven and improve air quality is a state requirement only.

**13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037:**

Not applicable. The rules were adopted prior to July 29, 2010, and do not require issuance of a regulatory permit, license or agency authorization.

**14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule:**

The agency plans to amend R2-1-901 to remove the reference to a repealed statute and associated language. Subject to the rulemaking moratorium, the agency anticipates submitting a final rulemaking by December 2017. Rules R2-1-902, R2-1-903, R2-1-904, and R2-1-905 remain effective, and no repeal or amendments are projected.

**Five Year Report**  
**Title 2, Chapter 10, Articles 1, 2 and 4 through 6**  
**Risk Management Division**

Introduction

The department adopted rules as authorized by statute to provide policies and procedures in administering liability insurance for state agencies.

1. General and specific statutes authorizing the rules:

A.R.S. §§41-621 – Provides general authority for the rule

A.R.S. §§ 41-621(Q), and 41-623(A) – Provides specific authority

2. Objective of the rules including the purpose for the existence of the rules:

**R2-10-101 through R2-10-109**

R2-10-101 defines terms and phrases used in the Department's rules whose meanings in this context are not self-evident or are technical in nature. R2-10-102 summarizes the procedures for agencies to follow when reporting a claim made against the state. It also delineates the time frame that is acceptable to report the claim after the incident occurs and how to report the loss to Risk Management. R2-10-103 establishes the responsibility of Risk Management for the investigation of claims and the determination of whether it is self-insured or should be reported to one of the state's excess insurance carriers. In addition, the rule directs that all contracts concerning these claims be made to Risk Management, or the Attorney General's Office or the designated independent counsel. R2-10-104 establishes a time limitation on the reporting of property losses to Risk Management and requires that competitive bids be obtained for replacement or repair of state property subject to Risk Management approval. R2-10-105 establishes the procedure for agencies to follow in the event of an employment discrimination charge. R2-10-106 establishes the valuation basis for personal and real property coverage. The rule also establishes the procedure for determining the method of repair or replacement of covered property and lists the types of property that are excluded from coverage provided by the state's self insurance. R2-10-107 describes the limitations of liability coverage provided to state employees and describes the conditions that must be met before coverage applies. R2-10-108 establishes the conditions under which a deductible of up to \$10,000 may be assessed to an agency for liability payments greater than \$150,000, and what actions the agency may take to have its deductible waived. The rule also emphasizes prompt reporting, preventative actions and other cooperative measures to be taken by the agency with Risk Management's assistance to waive any deductibles and significantly reduce overall losses. R2-10-109 establishes the procedure on how time frames are computed for purposes of claim reporting, eligibility for coverage and response to requirements related to the deductible program.

**R2-10-201 through R2-10-207**

R2-10-201 assures that Risk Management Loss Prevention Consultants will have the opportunity to examine building plans and make preventive recommendations prior to

construction. R2-10-202 requires Risk Management to be consulted when an agency plans on purchasing any specialized equipment that performs hazard control functions. This allows Risk Management to review the intended use of the equipment with the agency and provide recommendations to the agency regarding the purchase and use of the equipment. R2-10-203 requires that all state employees report any suspected or known hazards to their agency loss prevention coordinator. The rule requires an initial assessment to determine if the hazard is correctable at the agency level, or if further action is required by non-agency personnel in responding to the hazard. Any hazard that is not corrected by agency personnel or resources must be reported to Risk Management. R2-10-204 requires that Risk Management review each agency's loss prevention program, evaluate its effectiveness and make recommendations on improving loss prevention practices. This assists the agencies in operating an effective program and allows Risk Management to monitor the loss prevention activities of each agency. R2-10-205 requires each agency to develop a loss control program that specifically addresses the agency's activities and exposures. The objective is to protect state employees from job related hazards and to protect the state from third party liability claims that may be caused by these exposures. R2-10-206 establishes the agency's commitment to loss prevention and identifies the agency employees responsible for the development, implementation and coordination of their program. R2-10-207 establishes the basis for the development of effective loss prevention programs at each state agency. The rule requires each agency to include certain specific elements and to develop procedures for investigating and reporting accidents, maintaining records and preparing emergency plans for reasonably foreseeable perils.

#### **R2-10-401**

R2-10-401 establishes property & liability coverage and limitations pursuant to A.R.S. § 41-621(B) to a) individual providers while caring for a state client, and b) a state client.

#### **R2-10-501 through R2-10-503**

R2-10-501 establishes the conditions for Risk Management to open a claim and provide funding to state agencies for the investigation and remediation of environmental damage to property under the ownership or control of the state. The rule also establishes the types of analysis that will be completed by Risk Management and under what conditions Risk Management will not provide funding. R2-10-502 establishes the selection procedure for the contracting of environmental investigation and remediation. In addition, the rule establishes the role of Risk Management in the selection and justification of hiring an environmental contractor. R2-10-503 provides state agencies with the option of requesting funding from Risk Management for site maintenance of closed hazardous substance and waste sites. In the event the agency does not have the resources to provide follow up inspections on these sites, Risk Management can ensure that additional migration of the hazard does not occur.

#### **R2-10-601**

R2-10-601 establishes the method for computing interest on money held in the Risk Management revolving fund from a judgment against the state that is on appeal. In addition, the rule defines the type of treasury bill, used as the basis for the computation and the time elements that are used in averaging these amounts. These procedures are pursuant to A.R.S. § 41-622(F).

3. Effectiveness of the rules with state and federal statutes and rules, and a listing of the statutes or rules in determining the consistency:

The following rules effectively achieve their objectives:

- R2-10-101 Definitions
- R2-10-102 Reporting Procedures
- R2-10-103 Liability Claim Procedures
- R2-10-104 Self-insured Property Claims Procedures
- R2-10-105 Employment Discrimination Claim Procedures
- R2-10-106 State-owned Property Coverage and Limitations
- R2-10-107 Liability Coverage and Limitations
- R2-10-108 Deductibles and Waivers
- R2-10-109 Computation of Time
- R2-10-201 Submission of Building Plans
- R2-10-202 Purchase of Specialized Hazard Control Equipment
- R2-10-203 Hazard Reporting
- R2-10-204 RM Loss Prevention Consultative Services
- R2-10-205 Development and Implementation of Agency Loss Prevention Programs
- R2-10-206 Agency Loss Prevention Program Management
- R2-10-207 Agency Loss Prevention Program Elements
- R2-10-401 Coverages and Limitations
- R2-10-501 Investigation, Feasibility Study, and Remediation of Release of Hazardous Substances
- R2-10-502 Contracting for Site Investigation, Feasibility Study, Remediation, and Other Related Environmental Work
- R2-10-503 Site Maintenance
- R2-10-601 Computation Procedures

4. Consistency of the rules with state and federal statutes and rules, and a listing of the statutes or rules used in determining the consistency:

The Department believes the following rules are consistent with state and federal statutes and rules: R2-10-101 through R2-10-109; R2-10-201 through R2-10-207; R2-10-401; R2-10-501 through R2-10-503; and R2-10-601.

5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:

The Department is currently enforcing the following rules: R2-10-101 through R2-10-109; R2-10-201 through R2-10-207; R2-10-401; R2-10-501 through R2-10-503; and R2-10-601.

In the five-year review report approved in 2012, the Department indicated that it enforced 23 of 23 rules.

6. Clarity, conciseness, and understandability of the rules:

In the five-year review report approved in 2012, the Department considers the language for the rest of the rules to be clear, concise, and understandable.

The Department considers the substance of R2-10-101 through R2-10-109, R2-10-201 through R2-10-207, R2-10-401, R2-10-501 through R2-10-503; and R2-10-601 necessary to meeting the Department's objectives administering an insurance risk management program for the state.

7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five year review report, including letters, memoranda, reports, written analysis submitted to agency questioning whether the rules are based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rules are discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:

The Department has not received written criticisms regarding the rules during the last five years.

8. A comparison of the current economic, small business, and consumer impact of the rules with economic, small business, and consumer impact statement prepared on the last rulemaking of the rule or, if no economic, small business, and consumer impact statement was prepared on the last rulemaking of the rule, an assessment of the actual economic, small business, and consumer impact of the rules:

The information provided with the last adoption of rules in April 2000 estimated that there would not be any impact on small business or consumers in the state. The rules only affect the internal operations of state agencies and not the public.

The Department further estimated that the effect on the state agencies would be that of loss reduction, provided that the rules promulgated were followed by the agencies. The payment of claims restores the agency to their position prior to the loss.

The Department currently estimates that the rules do not have any impact on small business or consumers in the state, nor has the effect on state agencies changed. The Department has not amended any rules previous to the 5 Year Review Report approved August 7, 2012: There are no impacts on small business or to consumers in the state.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of business in other states:

None

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report:

The Department indicated in the previous five-year review report approved in 2007, that amending R2-10-101, R2-10-401, and R2-10-501 through R2-10-504 was possible in order to address potential clarity issues. After further review of these rules noted in the 2007 five- year review report, the Department decided that no action was necessary and have not experienced issues related to clarity deficiencies within these rules since the report was last approved by Council.

The Department indicated in the 2012 five-year review report that no course of action was necessary for the rules.

11. A determination that the probably benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Department believes that the rules impose the least burden to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

12. A determination that the rules are not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law, indicating whether:

- a. There is a similar regulatory framework governing the same subject matter under federal law,

There is no similar regulatory framework or federal law applicable to the subject matter of the rules.

- b. The rules are more restrictive than a similar requirement in federal law, and

There is no similar requirement in federal law.

- c. There is statutory authority for more restrictive requirements than those in federal law.

Federal law does not apply to these rules.

13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037 indicating whether:

- a. The rule requires issuance of a regulatory permit, license, or agency authorization;

Not applicable

- b. The permit, license, or agency authorization falls within the definition of “general permit” in A.R.S. § 41-1001, if a permit, license, or agency authorization is issued or

Not applicable. Answer provided in 13(a).

- c. An exception applies under A.R.S. § 41-1037, if a general permit is not issued.

Not applicable. Answer provided in 13(a).

14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it necessary to amend or repeal an existing rule, or to make a new rules. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department indicated in the previous five-year review report approved in 2012, that no action was necessary and have not experienced issues related to clarity deficiencies within these rules since the report was last approved by Council.

However, in an effort to comply with the governor’s initiative to remove burdensome rules, the Department received approval for an exemption from the rulemaking moratorium on March 14, 2017. The following rules will be amended: R2-10-101, R2-10-106, R2-10-107, R2-10-108, R2-10-201, R2-10-202 and R2-10-207. The amendments will incorporate changes to definitions, ensure clarity, concise and understandable language on other rules that are being amended and will renumber appropriate section(s) that are being amended. In addition, R2-10-504. Loss Prevention, had been repealed January 11, 2017 as the rule was not burdensome nor unclear, but was duplicative in wording and determined there was no added benefit to state agencies.